HC-KAR

NC: 2026:KHC:61329
WP No. 28559 of 2024

CNR: KAHC010604392024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT PETITION NO. 28559 OF 2024 (GM-RES)

BETWEEN:

1. SRI. SANNEGOWDA
   S/O LATE SUBBEGOWDA
   AGED ABOUT 50 YEARS

2. SRI. MAMATHA
   W/O SRI. SANNEGOWDA
   AGED ABOUT 40 YEARS

   BOTH RESIDING AT
   C/O SRI SRINIVAS
   BEHIND KSRTC BUS DEPOT
   RAMANATHPURA
   RAMANATHPURA HOBLI
   ARAKULUGUDU TQ
   HASSAN DISTRICT-573 133

...PETITIONERS

Digitally signed by PREMCHANDRA M R
Location: HIGH COURT OF KARNATAKA

(BY SRI. RANJAN RAMESH, ADVOCATE FOR
SRI. CHANDRAKANTH R GOULAY, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER
   AND APPELLATE AUTHORITY
   MAINTENANCE AND WELFARE
   OF SENIOR CITIZENS ACT
   AND DISTRICT MAGISTRATE
   HASSAN DISTRICT
   HASSAN-573 201

2. THE ASST. COMMISSIONER
SAKALESHPURA SUB DIVISION
SAKALESHPURA
HASSAN DISTRICT-573 127

3. SRI. H. KALLEGOWDA
S/O LATE HONNEGOWDA
DHUMMU GRAMA
DODDAMUGGI HOBLI
ARAKULUGUDU TQ
HASSAN DISTRICT-573 102

…RESPONDENTS

(BY SRI. M. SRINIVAS KUMAR, HCGP FOR R1 & R2;
SRI. H.R. SHRIDHARA MURTHY ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RELEVANT RECORDS AND SET ASIDE THE ORDER DTD 11.07.2024 PASSED BY THE R-1 VIDE ANNEXURE-C IN CASE MEG(HINARA/28/2023-24) AS ARBITRARY ILLEGAL AND VOID.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL ORDER

The petitioners are before this Court challenging the order dated 11.07.2024 passed by the respondent No.1-Deputy Commissioner and the Appellate Authority under the Maintenance and Welfare of Senior Parents and

Citizens Act, 2007 (hereinafter referred to as "the Act" for short) at Annexure-C.

2. The submission of the learned counsel for the petitioners is that they have purchased the land measuring 35 guntas from the respondent No.3 through a registered sale deed dated 01.03.2021, which is produced as Annexure-A. The purchase of the said property was for sale consideration of Rs.1,30,000/-. The respondent No.3 has acknowledged the receipt of Rs.1,30,000/- under the sale deed. The respondent No.3 herein is the senior uncle of petitioner No.2. When things stood thus, the respondent No.3 had approached the respondent No.2 invoking the provisions of Section 23 of the Act requesting for annulment of the sale deed dated 01.03.2021 executed by him in favour of the petitioners herein on the ground that the petitioners have obtained the registration of sale deed by playing fraud and misrepresentation and the respondent No.3 had executed the sale deed in view of the

assurance of the petitioners that they would take care of the respondent No.3 during his entire lifetime.

3. The Assistant Commissioner has rejected the appeal on the ground that the property was conveyed through a registered sale deed and therefore, in exercise of power under Section 23 of the Act, the sale deed cannot be annulled. Aggrieved by the order passed by the Assistant Commissioner, the respondent No.3 had approached the respondent No.2 invoking the provisions of Sections 16 and 23 of the Act. The respondent No.1-Deputy Commissioner holds that the sale deed executed by respondent No.3 in favour of the petitioners cannot be cancelled and the said relief can only be obtained at the hands of the jurisdictional Civil Court. However, invoking the powers under Section 9(2) of the Act directed the petitioners herein to pay maintenance of Rs.10,000/- per month to the respondent No.3. The respondent No.1 has also observed that insofar as the annulment of the sale

deed is concerned, the respondent No.3 is required to approach the competent Civil Court.

4. The instant writ petition is filed by the petitioners being aggrieved by the direction issued by the respondent No.1 for payment of maintenance of Rs.10,000/- per month in favour of respondent No.3.

5. The learned counsel appearing for the petitioners submit that the direction issued by the respondent No.1 for payment of maintenance of Rs.10,000/- in favour of the respondent No.3 is without authority of law and contrary to the provisions of the Act. In as much as, there is no obligation on the part of the petitioners to pay any maintenance in favour of the respondent No.3, since the respondent No.3 is the senior uncle of the petitioners and would not come within the definition *"relative"* in terms of Section 2(g) of the Act. Therefore, it is the submission of the learned counsel that the order impugned is liable to be quashed.

6. Per contra, the learned counsel appearing for the respondent No.3, however, submits that the petitioners have obtained the sale deed at Annexure-A from the respondent No.3 with the assurance of they maintaining and taking care of the respondent No.3 during his lifetime. However, after the execution of the sale deed, the petitioners have refused to take care of the respondent No.3. It is in the said circumstances, the respondent No. 3 had to approach the respondent No.2 for the annulment of the registered instrument. Though, the respondent No.2-Assistant Commissioner has rejected the petition filed by the respondent No.3, however, the Deputy Commissioner in an appeal filed by the respondent No.3 has directed payment of maintenance of Rs.10,000/- by the petitioners to the respondent No.3. Therefore, prays for dismissal of the writ petition.

7. After having heard the learned counsel hearing for the petitioners and learned counsel of the respondent No.3 and on perusal of the averments made in the writ

petition, so also the orders passed by the respondent Nos.1 and 2, it is clear that the sale deed dated 01.03.2021 executed by respondent No.3 in favour of the petitioners is for the sale consideration and the payment of sale consideration of Rs.1,30,000/- is acknowledged while executing the sale deed. Though, the sale deed was executed on 01.03.2021, even assuming that the petitioners have obtained the said sale deed by misrepresentation or by playing fraud, the respondent No.3 has not challenged the same till 2023. However, only in the year 2023, he had approached the respondent No.2 for annulment of the sale deed, which has been rightly rejected by the respondent No.2.

8. The respondent No.1 in an appeal filed by the respondent No.3, though, declined to exercise the power to annul the registered sale deed rightly holding that it had no jurisdiction to pass that kind of a declaratory direction, yet proceeded to exercise the power under Section 9(2) of the Act and directed the petitioners to pay maintenance of

Rs.10,000/- p.m. In the light of the fact that the respondent No.3 is the senior uncle of petitioner No.2, there is no legal obligation on the petitioners to maintain or take care of respondent No.3 or payment of maintenance as directed by respondent No.1. The relationship between the petitioner No.2 and respondent No.3 does not come within the definition of either "*parent*" *or "relative*". Therefore, the order passed by the respondent No.1 directing the petitioners to pay maintenance of Rs.10,000/- p.m., is without jurisdiction and contrary to the provisions of the Act.

9. In the light of the above, the impugned order passed by the Deputy Commissioner cannot be sustained and required to be set at naught.

10. In the result,

(i) The writ petition is ***allowed***.

(ii) The order dated 11.07.2024 passed by the respondent No.1 in proceedings

No.MAG(HiNaRa/28/2023-24 at Annexure-C is hereby quashed.

(iii) However, the order passed in this writ petition would not come in the way of the respondent No.3 initiating any other legal proceedings in accordance with law as against the petitioners herein insofar as adjudication of his alleged claim that the sale deed was obtained by the petitioners by playing fraud or misrepresentation.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB
List No.: 1 Sl No.: 52