



2026:CGHC:3156

AFR

Reserved on : 12.01.2026Delivered on : 20.01.2026**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 87 of 2025**

1 - Ramkishna Pandey S/o Late- Shivprasad Pandey Aged About 56 Years R/o B-19 Kanchan Vihar, Koni, Bilaspur, C.G.

2 - Shrimati Shakuntala Mishra W/o Ashutosh Mishra Aged About 40 Years R/o B-19 Kanchan Vihar, Koni, Bilaspur, C.G.

... Petitioner(s)**versus**

1 - State Of Chhattisgarh Through Collector, Collectorate- Bilaspur, Nehru Nagar, Bilaspur, C.G.

2 - Sureshmani Tiwari S/o Late- Jagdish Prasad Tiwari Aged About 83 Years R/o B-19 Kanchan Vihar, Koni, Presently Residing At- Suwani Prashamak, Dekhbhal Grah, Samaj Kalyan Vibhag, Jirapara Sarkanda, Tehsil- Bilaspur, C.G.

3 - Smt. Lata Tiwari W/o Sureshmani Tiwari Aged About 80 Years R/o B-19 Kanchan Vihar, Koni, Presently Residing At- Suwani Prashamak, Dekhbhal Grah, Samaj Kalyan Vibhag, Jirapara Sarkanda, Tehsil- Bilaspur, C.G.

... Respondent(s)

For petitioners : Mr. Akshat Tiwari and Ms. Sakshi Dewangan
Advocates

For State : Mr. Shobhit Mishra, Dy. Government Advocate

For Caveator : Mr. Vikrant Pillai, Advocate

**Hon'ble Shri Narendra Kumar Vyas, J.****CAV ORDER**

1. The petitioners, by way of the present writ petition, have assailed the order dated 27.12.2024 passed by the learned Appellate Tribunal Collector, Bilaspur constituted under the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007* in Appeal No. 01/B-121/2024-25, whereby the appeal preferred by the petitioners was dismissed and the order dated 12.09.2024 passed by the Maintenance Tribunal-cum-SDO(R), Bilaspur in Case No. 202403072400473/B-121/2023-24 was affirmed. By the said order, the Gift Deed executed by respondents No. 2 in favour of the petitioner No.1 was declared as null and void, and the petitioners were directed to vacate the disputed premises.
2. This Court while granting interim relief to the petitioners on 07.01.2025 has directed the matter to be sent for mediation, pursuant thereto, the mediation centre of the High Court has conducted mediation and sent failure report dated 05.02.2025. Therefore, matter was heard on merits.
3. The brief facts as reflected from the records are that the respondents No. 2 and 3 filed an application under Sections 5 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter 'the Act, 2007') before the Maintenance Tribunal - SDO(R) mainly contending that :-
 - A. Petitioner No. 1 is the nephew of respondent No. 2, and petitioner No. 2 is the daughter of respondents No. 2 and 3.



Respondents No. 2 out of love and affection for petitioner No. 1, executed a gift deed in his favour in respect of the land bearing Khasra No. 200/3, admeasuring 1250 sq. ft., situated at Village Koni, Kanchan Vihar, Bilaspur, on which a house has been constructed over 625 sq. ft. at the ground floor and 223 sq. ft. on the first floor (hereinafter referred to as 'the disputed property'). The respondents had no son and only three daughters, and petitioner No. 1 being the only male member of the family and having taken care of them to their satisfaction, the gift deed was executed on 28.04.2016 in his favour.

B. It is further the case of respondents No. 2 and 3 that petitioner No. 1 had assured them that he would take care of them throughout their life. Respondent No. 2 being a retired employee and having no other shelter, continued to reside in the said property even after execution of the gift deed. Subsequently, petitioner No. 2, despite being married, left her matrimonial home and started residing in the said house along with petitioner No. 1, thereafter both the respondents were subjected to harassment and torture by the petitioners.

C. It is also the case of respondents No. 2 and 3 that by alluring them petitioner No. 1 has taken ATM of respondent No. 2 and withdrawn around Rs. 30 lakhs from the pension and GPF amount of deceased daughter of respondent No. 2, which on coming to their knowledge, they got the ATM blocked from the bank.



D. It has been contended by respondents No. 2 and 3 that the petitioners have not only cheated them but also committed cruelty by threatening them to kill, and have also threatened them to forcibly evict from the house by throwing out their belongings. In this regard, a complaint was lodged at Police Station Koni on 29/04/2023, and reports were also submitted against petitioner No.1 to the Collector and the Superintendent of Police, Bilaspur for commission of offence under Sections 342, 420, 406, 424, 294, and 506 of the Indian Penal Code. However, since no action was taken, his audacity has increased, and he has again started harassing them, even troubling them for basic necessities like food and water. It has been further contended that the respondents No.1 and 2 are octogenarian aged about 82 and 80 years respectively, and in March 2023, the petitioners forcibly compelled them to reside on the first floor. The room on the ground floor was locked, in which their household articles and valuable gold and silver jewellery worth approximately ₹5,00,000/- (Rupees Five Lakhs) were kept with an intention to illegally grab them. Due to forcibly live on the first floor, the respondents No.2 and 3 are facing great difficulty in climbing up and down the stairs.

E. It has been further contended by respondents No. 2 and 3 that contrary to the terms and object of the gift deed dated 29/04/2016, petitioners No. 01 and 02 are not providing due care or maintenance to the respondents No. 2 and 3.

E. It is also the case of the respondents No. 2 and 3 that after the



Gift Deed dated 29/04/2016, sole possession of the disputed property was not handed over to petitioner No. 01. He was only permitted to reside with them for the reason that, as per the conditions of the gift deed, the petitioner No.1 would take care and look after them and only after the death of the respondents No.2 and 3, he will acquire ownership and possession over the disputed property. Since the conditions and object of the gift deed dated 29/04/2016 have not been complied with, the said gift deed is liable to be cancelled.

F. It is also the case of the respondents No. 2 and 3 that petitioner No. 1 got disconnected the electricity connection of the first-floor of residence, later, after a quarrel and on police instructions, the electricity connection was restored. Subsequently, the landline telephone was smashed and damaged, and the latrine, bathroom, and kitchen have been locked. At the instigation of petitioner No.1, petitioner No.2 abused respondent No.2 hurling filthy abuses, pulled her hair, slapped her on the cheek and ear, causing severe pain in the ear, and also beat her on the back with fists and even vegetable vendors and medicine suppliers were not allowed to enter, and even auto-rickshaw drivers are driven away. The respondents No.2 and 3 themselves are not allowed to go out of the house. In this manner, they are being harassed in various ways. Therefore, they would pray for cancellation of the Gift Deed dated 29/04/2016 and the house be restored to them and the petitioners No.1 and 2 be directed to vacate the disputed house.



4. The petitioners filed a reply to the said application denying the allegations and contending that respondent No. 2 does not possess good character and had attempted to outrage the modesty of his daughter. It was further contended that apart from the disputed property, respondent No. 2 owns land at Salkhan, Tahsil Shivrinarayan, District Janjgir-Champa, as well as lands situated at Village Dhigbas, Tahsil Kunda, and Village Ramnagar, Kajipur, District Pratapgarh, Uttar Pradesh, and therefore has sufficient property and means for their livelihood. It was also asserted that the gift deed does not contain any stipulation regarding maintenance or care of respondents No. 2 and 3 in future, and hence the same cannot be cancelled by invoking Section 23 of the Act, 2007. On these grounds, sought dismissal of the application.
5. The order-sheets annexed by the petitioners reveal that vide order dated 21.03.2024, the petitioners were directed to restore electricity supply in the house and the Tahsildar, Bilaspur was directed to submit an inspection report. Thereafter, by interim order dated 30.05.2024, the petitioners were directed to open the doors of the room on the first floor and ensure supply of electricity, water, food, and medicines to respondents No. 2 and 3. Subsequently, vide final order dated 12.09.2024, the learned Maintenance Tribunal allowed the application, declared the Gift Deed dated 28.04.2016 null and void, and directed the petitioners to vacate the house.
6. Aggrieved thereby, the petitioners preferred a first appeal before



the Collector, Bilaspur, reiterating the averments made in their reply contending that the learned Tribunal failed to consider the provisions of Section 23 of the Act, 2007 in its proper perspective, as there was no stipulation in the gift deed obligating petitioner No. 1 to maintain respondents No. 2 and 3. It was further contended that the allegations levelled by respondents No. 2 and 3 were false, even the Tahsildar was not present on the date of hearing, rendering the order dated 12.09.2024 illegal. It was also asserted that respondents No. 2 and 3 owned properties other than the property in dispute. On these grounds, it was contended that the order dated 12.09.2024 suffered from illegality and perversity and was liable to be set aside.

7. The learned Appellate Tribunal, upon reappreciation of the evidence and materials available on record, dismissed the appeal and recorded a categorical finding that the gift deed was executed by respondents No. 2 and 3 looking to the conduct of the petitioner No. 1 of taking care of them with faith, devotion, and dedication and also love and affection shown by him, with an expectation that such conduct would continue in future. The Appellate Tribunal further held that petitioner No. 1 had subsequently failed to provide such care, thereby justifying cancellation of the gift deed. It was also recorded that during inspection conducted by the members of the Appellate Tribunal, the electricity supply to the house was found disconnected. In view thereof, the learned Appellate Tribunal found the



conclusions arrived at by the Maintenance Tribunal to be correct and as such, affirmed the same.

8. Aggrieved by the impugned orders passed by the learned Appellate Tribunal as well as the Maintenance Tribunal, petitioners No. 1 and 2 have filed the present writ petition contending, *inter alia*, that the gift deed was executed voluntarily, without any coercion or undue influence, and does not contain any condition obligating petitioner No. 1 to maintain respondents No. 2 and 3 in future. It has also been contended that the gift deed is unconditional and, in terms of Section 126 of the Transfer of Property Act, 1882, a gift can be revoked only if it is conditional. In the absence of any such express condition in the gift deed, the same is irrevocable. On these grounds, they prayed for setting aside of the impugned order.

9. Respondents No. 2 and 3 have filed their reply contending that the order passed by the Appellate Authority is just, proper, and in consonance with the principles of natural justice and the statutory schemes of law and have been passed after due consideration of the materials available on record, as such, the impugned order neither suffers from perversity nor any illegality warranting interference by this Court. It is further contended that the existence of a condition for maintenance need not necessarily be reflected by an express recital or covenant in the gift deed itself. In support of the said contention, reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Sudesh Chhikara v. Ramti Devi and Another*, 2022 SCC OnLine



SC 1684. It has also been contended that during the pendency of proceedings before the Maintenance Tribunal, the petitioners forcibly ousted respondents No. 2 and 3 from the house in question on 26.02.2024, and since then they are residing in an old-age home at Jorapara Sarkanda, Bilaspur.

10. The petitioners filed a rejoinder reiterating their stand that in absence of any condition in the gift deed obligating petitioner No. 1 to maintain respondents No. 2 and 3 in future, the provisions of Section 23(1) of the Act, 2007 are not attracted. In support of their submission, reliance has been placed upon the judgment of Hon'ble Division Bench of this Court in *Rita Roy v. Maintenance Tribunal and Sub-Divisional Officer (R) and Others*, 2022 SCC OnLine Chh 1470. It has been further contended that the allegations of non-maintenance are retaliatory. According to the petitioners, the dispute arose when respondent No. 2 allegedly attempted to unilaterally sell the property belonging to the mother of petitioner No. 1, namely Smt. Shanti Devi, without her consent. The said property was inherited by her mother upon demise of his grandfather, Jagdish Prasad Pandey, and respondent No. 2 is alleged to have fraudulently sold the same. In respect thereof, petitioner No. 1 has initiated criminal proceedings under Section 156(3) of the Cr.P.C. before the Judicial Magistrate First Class, Pamgarh. On these grounds, it is contended that the application under Section 23 of the Act, 2007 is vitiated by malafides, and prayed for setting aside of the impugned orders.



11. Learned counsel for the petitioners submitted that petitioner No. 1 is the lawful owner of the disputed property by virtue of the registered gift deed. It was contended that Section 23(1) of the Act, 2007 mandates that the transfer must be expressly conditional if the donor intends the donee to maintain him in future. It was further submitted that the learned Tribunal failed to properly appreciate the law laid down by the Hon'ble Supreme Court in *Sudesh Chhikara* (supra). According to the petitioners, the Tribunal did not conduct a proper inquiry to establish failure of maintenance and passed the impugned order dated 27.12.2024 without affording adequate opportunity of hearing and further the composition of the Tribunal was also not in accordance with the Act or rule made therein, as such, the entire proceedings and the impugned orders are *non est* and on this count alone it is liable to be set aside by this Court. It has also been argued that during the pendency of a civil suit involving the same subject matter, present proceedings under Sections 5 and 23 of the Act, 2007 were not maintainable. On these grounds, prayed for setting aside of the impugned orders.

12. On the other hand, learned Deputy Government Advocate appearing for the State would submit that the order passed by the learned Tribunal and affirmed by the learned Appellate Tribunal is just and proper. He would further submit that the petitioners subjected respondents No. 2 and 3 to cruelty and harassment and, therefore, the respondents are entitled to reclaim the property which had been transferred by way of gift on



account of the earlier conduct and assurances of the petitioners.

The submission advanced by the petitioners that the gift deed, being unconditional, could not be cancelled is misconceived. On these grounds, he would pray for dismissal of the writ petition.

13. Learned counsel for respondents No. 2 and 3 submitted that the appeal preferred under Section 16 of the Act, 2007 before the Appellate Tribunal itself was not maintainable. He would further submit that even in the absence of an express condition in the gift deed, the existence of a condition for maintenance can be established before the Tribunal on the basis of circumstances and conduct of the parties which the respondents No. 2 and 3 have been able to establish successfully before the Tribunal. According to the respondents, the petitioners subjected them to cruelty and neglect, and therefore, the order passed by the Maintenance Tribunal, as affirmed by the Appellate Tribunal, declaring the gift deed null and void does not warrant interference by this Court. In support of his submissions, he places reliance upon the judgments of the Hon'ble Supreme Court in *Urmila Dixit v. Sunil Sharan Dixit and Others* {2025 INSC 20} and *Sudesh Chhikara* (supra), as well as the decision of the High Court of Karnataka in *Sri K. Lokesh v. The Bangalore District Maintenance and Welfare of Parents and Senior Citizens and Others* {WA No. 254 of 2024}.

14. I have heard learned counsel for the parties and perused the record.



15. From the pleadings of the parties, materials placed on record the point emerged for determination by this Court is :-

“Whether the order passed by the Authority and the Appellate Authority are legal and justified and do not suffer from perversity or illegality warranting interference by this Court?”

16. To appreciate the point emerged for consideration, it is expedient for this Court to extract Sections 3,5,7 and 23 of the Act, 2007, which are extracted below:-

Section 3 – Overriding effect of this Act

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Section 5 – Application for maintenance

5. Application for maintenance.

(1) An application for maintenance under section 4, may be made

(a) by a senior citizen or a parent, as the case may be; or
(b) if he is incapable, by any other person or organisation authorised by him; or

(c) the Tribunal may take cognizance suo motu .Explanation.- For the purposes of this section “organisation” means any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force.

(2) The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent and to pay the same to such senior citizen including parent as the Tribunal may from time to time direct.

(3) On receipt of an application for maintenance under sub-section (1), after giving notice of the application to the children or relative and after giving the parties an



opportunity of being heard, hold an inquiry for determining the amount of maintenance.

(4) An application filed under sub-section (2) for the monthly allowance for the maintenance and expenses for proceeding shall be disposed of within ninety days from the date of the service of notice of the application to such person: Provided that the Tribunal may extend the said period, once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

(5) An application for maintenance under sub-section (1) may be filed against one or more persons: Provided that such children or relative may implead the other person liable to maintain parent in the application for maintenance.

(6) Where a maintenance order was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

(7) Any such allowance for the maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as the case may be.

(8) If, children or relative so ordered fail, without sufficient cause to comply with the order, any such Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of proceeding, as the case be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

Section 7 – Constitution of Maintenance Tribunal

(1) The State Government shall within a period of six months from the date of the commencement of this Act may, by notification in the Official Gazette, constitute for each Sub-Division one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section

(2) The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.



(3)Where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

Section 23 – Transfer of property to be void in certain circumstances:-

(1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.

Discussion with regard to composition of the Tribunal

17. From a bare perusal of Section 7 of the Act, 2007, it is manifest that the Maintenance Tribunal is required to be presided over by an officer not below the rank of Sub-Divisional Officer of the State. A perusal of the order dated 12.09.2024 clearly demonstrates that the Tribunal was presided over by the Sub-Divisional Officer (Revenue) along with four other members. As such, the composition of the Tribunal is in accordance with the Act. Further, in exercise of powers under Section 32(b) of the Act, 2007, the State Government has framed rules governing the



constitution and functioning of the Maintenance Tribunal. Therefore, the contention raised by the petitioners regarding improper composition of the Tribunal is misconceived and deserves to be rejected.

18. Further submission advanced on behalf of the petitioners that, in absence of any express recital in the gift deed obligating the donee to take care of the donors in future, the same cannot be declared as null and void under Section 23 of the Act, 2007, is misconceived. Hon'ble Supreme Court in *Sudesh Chhikara* (*supra*), at paragraph 15, it has been held as under:-

15. When a senior citizen parts with his or her property by executing a gift or a release or otherwise in favour of his or her near and dear ones, a condition of looking after the senior citizen is not necessarily attached to it. On the contrary, very often, such transfers are made out of love and affection without any expectation in return. Therefore, when it is alleged that the conditions mentioned in sub-section (1) of Section 23 are attached to a transfer, existence of such conditions must be established before the Tribunal.

19. Thereafter again in **Urmila Dixit (supra)** Hon'ble Supreme Court has examined the provisions of Section 23 of the Act of 2007 and held as under :-

10. More recently, in *Kozyflex Mattresses (P) Ltd. v. SBI General Insurance Co. Ltd.*(2024) 7 SCC 140, this Court held the definition of a consumer under the Consumer Protection Act, 1986 to include a company or corporate person in view of the beneficial purpose of the Act.

11. While considering the provisions of the Medical Termination of Pregnancy Act, this Court in *X2 v. State (NCT of Delhi)* (2023) 9 SCC 433 , reiterated that interpretation of the provisions of a beneficial legislation must be in line with a purposive construction, keeping in mind the legislative purpose. Furthermore, it was stated that beneficial legislation must be interpreted in favour of the beneficiaries when it is possible to take two views.



12. It is in the above background that we must proceed to examine the Act. The statement of object and reasons of the Act indicates the purpose behind the enactment, as relied upon by this Court in *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District and Ors.*(2021) 15 SCC 730, is: "Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents."

13. The preamble of the Act states that it is intended towards more effective provisions for maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution.

14. Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be interpreted and a construction that advances the remedies of the Act must be adopted.

15. Before advertiring to the provisions of the Act, we must be cognizant of the larger issue that this case presents, i.e., the care of senior citizens in our society. This Court in *Vijaya Manohar Arbat Dr v. Kashirao Rajaram Sawai and Anr.*(1987) 2 SCC 278 highlighted that it is a social obligation for both sons and daughters to maintain their parents when they are unable to do so. 16. In *Badshah v. Urmila Badshah Godse and Anr.* (2014) 1 SCC 188, this Court observed that when a case pertaining to maintenance of parents or wife is being considered, the Court is bound to advance the cause of social justice of such marginalised groups, in furtherance of the constitutional vision enshrined in the preamble. Recently, this exposition came to be reiterated in *Rajnesh v. Neha and Another*(2021) 2 SCC 324.

17. While issuing a slew of directions for the protection of senior citizens in *Ashwani Kumar v. Union of India*(2019) 2 SCC 636, this Court had highlighted:

"3. The rights of elderly persons is one such emerging situation that was perhaps not fully foreseen by our Constitution-framers. Therefore, while there is a reference to the health and strength of workers, men and women, and the tender age of children in Article 39 of the Constitution and to public assistance



in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want in Article 41 of the Constitution, there is no specific reference to the health of the elderly or to their shelter in times of want and indeed to their dignity and sustenance due to their age.

4. Eventually, age catches up with everybody and on occasion, it renders some people completely helpless and dependent on others, either physically or mentally or both. Fortunately, our Constitution is organic and this Court is forward looking. This combination has resulted in path-breaking developments in law, particularly in the sphere of social justice, which has been given tremendous importance and significance in a variety of decisions rendered by this Court over the years. The present petition is one such opportunity presented before this Court to recognise and enforce the rights of elderly persons—rights that are recognised by Article 21 of the Constitution as understood and interpreted by this Court in a series of decisions over a period of several decades, and rights that have gained recognition over the years due to emerging situations.” (emphasis supplied)

21. Furthermore, in Sudesh (supra) for attracting the application of Section 23(1), the following essentials were expounded:

- (a) The transfer must have been made subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor; and
- (b) The transferee refuses or fails to provide such amenities and physical needs to the transferor.

22. Adverting to the facts at hand, we find that there are two documents on record. One, a promissory note dated 07.09.2019 which records that the promisor (Respondent) shall serve the Appellant and her husband till the end of their life, and in the absence of him fulfilling such obligation, the subsequent deed can be taken back by the Appellant. Second, the Gift Deed dated 07.09.2019 also records a similar condition, i.e. the donee maintains the donor, and the former makes all necessary provisions for the peaceful life of the Appellant-donor. Both these documents were signed simultaneously.

23. The Appellant has submitted before us that such an undertaking stands grossly unfulfilled, and in her petition under Section 23, it has been averred that there is a breakdown of peaceful relations inter se the parties. In such a situation, the two conditions mentioned in Sudesh (supra) must be appropriately interpreted to further the beneficial nature of the legislation and not strictly which would render otiose the intent of the legislature. Therefore, the Single Judge of the High Court and the tribunals below had rightly held the Gift Deed to be cancelled since the conditions for the well-being of the senior citizens were not complied with. We are unable to agree with the view taken by the Division Bench, because it takes a strict view of a beneficial legislation.



20. From the analysis of the facts and also going through the gift deed, they clearly demonstrate that due to care, love and affection shown by the petitioner No. 1 in favour of respondents No. 2 and 3, the gift deed was executed. Thereafter, looking to the conduct of the petitioners more precisely the contentions raised by respondents No. 2 and 3 and allegations made by the petitioner No.1 against respondent No. 2, particularly, on the question of character of respondent No. 2 who is old age person, there is sufficient material on record to demonstrate that the petitioner No.1 failed to discharge his obligation towards respondents No. 2 and 3 who are old aged persons. Further from the materials, it is quite vivid that though not explicit but implied condition of taking such care would continue throughout the life time of respondents No. 2 and 3 exists, thereby it needs not be expressed as written condition to declare the gift deed to be null and void by invoking provisions of Section 23 of the Act, 2007 in view of the fact that the Act of 2007 is a beneficial legislation and a strict view will defeat its aims and object. Therefore, it is an implicit condition attached to this transfer of property by way of gift which was not fulfilled by the transferee and hence the instant case fully satisfies the two conditions as explained by the Hon'ble Apex court in the case of Sudesh Chhikara (supra) and Urmila Dixit (supra) for attracting Section-23 of the Act. Hence, it is a transfer on account of undue influence which becomes voidable at the instance of the transferor and the Maintenance Tribunal gets jurisdiction to declare the transfer as void. As such, the orders passed by the Tribunal and Appellate Tribunal are not liable to be interfered by this Court.



21. It is also notable that in *Ajay Singh v. Khacheru and Ors.*, (2025) 3 SCC 266, the Hon'ble Supreme Court has taken a view that a writ court shall refrain from reappreciating evidence and arriving at a finding of facts unless the same is perverse in nature or exceeds the jurisdiction of the concerned authority. The relevant portion of the said judgment reads as under:-

"16. It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely."

22. The petitioners are unable to point out any perversity or illegality in the impugned orders or proceedings warranting interference by this Court, accordingly the point of determination framed by this Court is answered against the petitioners and in favour of respondents No. 2 and 3.

23. Accordingly, the writ petition sans merit and is hereby dismissed. The interim order passed by this Court on 07.01.2025 is vacated.

**Sd/-
(Narendra Kumar Vyas)
JUDGE**

Deshmukh



Head Note

A gift deed may be annulled by invoking the provisions of Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, even if the condition is not explicitly stated in the gift deed. A Tribunal has the authority to go beyond the formal wording of the deed to evaluate the true intent from the circumstances, relationships and conduct.

मुख्य टिप्पणी

माता-पिता एवं वरिष्ठ नागरिक भरण-पोषण एवं कल्याण अधिनियम, 2007 की धारा 23 के प्रावधानों के अंतर्गत किसी भी दान विलेख को रद्द किया जा सकता है, भले ही यह शर्त दान विलेख में स्पष्ट रूप से उल्लिखित न हो। न्यायाधिकरण को विलेख के औपचारिक शब्दों से परे जाकर परिस्थितियों, संबंधों और आचरण के आधार पर वास्तविक आशय का मूल्यांकन करने का अधिकार है।