

2025:BHC-AS:49555-DB



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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5823 OF 2025

1. The Bandra Holy Family Hospital Society
A Public Charitable Trust having registration
No. PTR No. E-1077 (Bom.)
Having address at Andrew's Road,
Bandra (W), Mumbai – 400 050

2. The Bandra Holy Family Hospital
St. Andrew's Road, Bandra (W),
Mumbai – 400 050
(being Temporary Guardian on Good
Samaritan Basis of)
Mrs. Mohini Puri
Age – 76 years,
Present situs at:
Bed No. 500-06/500 A(ICCU+)
Having her permanent address at A/4,
Meghdoot Building, Linking Road,
Next to McDonald's, Bandra (W),
Mumbai – 400 050

... Petitioners.

V/s.

1. The State of Maharashtra
(Through the Senior PI/IO
Bandra West Police Station
Bandra(W), Mumbai 400 050

2. Senior Citizen Tribunal,
Office of the Sub-Divisional Officer,
9th Floor, Administrative Building
Bandra (E), Mumbai – 400 051

3. Amit Puri
Having address at A/4,
Meghdoot Building, Linking Road,
Next to McDonald's, Bandra (W),
Mumbai – 400 050

... Respondents

Mr. Pradip Chavan a/w. Adv. Yogesh Naidu, Adv. Wesley Menezes, Adv. Sabiya Kazi i/by Adv. Anukul Seth and Adv. Delilah Jefferey, Advocates for the Petitioners.

Dr. Birendra Saraf, A.G. a/w. Smt. M.M.Deshmukh, Acting PP a/w. Mr. Ashish I. Satpute, APP for the Respondent -State.

Adv. Gauri Joglekar i/by Meraki Legal for the Respondent No.3

Dr. Anupama Sardana, Medical Superintendent Sister Sheeja and Mr. Denzil (CFO) present.

API A.B. Kamble, Bandra PS.

Sr. PI, R. Salunkhe, Bandra PS.

**CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.**

RESERVED ON : 11th NOVEMBER, 2025

PRONOUNCED ON : 17th NOVEMBER, 2025

JUDGMENT [Per : RANJITSINHA RAJA BHONSALE, J] :-

1) This is a case which shocks the conscience of the Court and strikes an emotional chord as the Court is called upon to look into a matter, where a son has failed to look after and care for his own ailing mother and instead, thought it appropriate to give precedence to raise and pursue legal remedies. A very unfortunate and sad situation has arisen, where a frail and ailing 76 years old mother/patient is left under the care of a hospital, neglected by an able son on the purported basis that, the treating hospital is allegedly guilty of medical negligence. The mother remains alone, under the care of the Hospital, deprived by the son of emotional and moral support

which is most required by parents/senior citizens, when indisposed.

2) On 24th August 2025, Mrs. Mohini Puri, a 76 years of lady and mother of the Respondent No.3, was admitted by the Respondent No.3 to the Emergency Department of Petitioner No. 2 hospital, for imbalance and weakness. On the initial examination, it was revealed that, the patient having height of 5 ft weighed only 45 kgs which was indicative of mal-nourishment. The patient was diagnosed with acute right middle cerebral artery (MCA) territory infarct with mass effect of the right lateral ventricle. The Petitioner No. 2 Hospital has been taking care of the medical needs of the patient since August 2025. The Respondent No.3 after making initial payments, on the ground of medical negligence has refused and failed to make the balance payment of the medical bills and also refused to take discharge of his mother/patient from the Petitioner No.2 Hospital. The outstanding bill, as contended to be payable is about Rs 16,00,000/ -.

3) In this background, the Petitioners interalia seek appropriate writ, order or directions to the Respondent No.1 i.e Senior Police Officer, Bandra Police Station to take charge of the patient Mrs. Mohini Puri and shift her to her own residence. The Petitioners seek directions to the Respondent No.1 and Respondent No.2/Senior Citizens Tribunal to take steps as permitted and in accordance with the law.

4) The Petitioner No.1, The Bandra Holy Family Hospital Society is a Public Charitable Trust which runs and administers the Petitioner No.2 i.e.

The Bandra Holy Family Hospital (Hospital).

SUBMISSION OF THE PETITIONERS

5) Mr Pradip Chavan, the learned Advocate for the Petitioners, submitted that: -

5.1) On 24th August 2025, Mrs. Mohini Puri (patient) was admitted by her son i.e Respondent No.3 in the Petitioner No.2 Hospital. The patient, was in malnourished condition, extremely weak and weighed only 45 kgs.

5.2) The Respondent No.3 has only paid an amount of Rs. 4,25,000/-, and an amount of Rs.16,00,000/- is due and payable to the hospital. The Respondent No.3 has refused to take discharge and take the patient/his mother to her own house. Respondent No.3 with view to avoid making payments of the balance amount of Rs.16,00,000/-, raised untenable/baseless allegations of medical negligence against the Petitioner No.2 Hospital.

5.3) The Respondent No.3 has at all times been un-cooperative, extremely difficult with the treating doctors, nurses and support staff. Respondent No.3 since the first week of October, 2025, avoided dialogue and continued to make false/baseless allegations including that of medical negligence against Petitioner No.2.

5.4) The patient was appropriately monitored, managed, treated and cared by Doctors and para-medical staff of the Petitioner No.2 and was stabilized. Health and condition of the patient improved to such an extent that by 4th October 2025 she did not require any further indoor admission.

5.5) From 24th August 2025 to 4th October 2025, the Respondent No.3 did not co-operate, with the Doctors and the Petitioner No. 2 Hospital and refused to sign medical consent forms, delayed critical procedures such as Trichostomy and interfered with clinical management of the patient, which endangered the patient's life. The Respondent No.3 conducted himself in a rude/intimidating manner, engaged in a persistent hostile and abusive behaviour towards the Nuns, Doctors and nurses and staff of the Petitioner No.2 Hospital. Respondent No.3 would leave the hospital premises without ensuring that any other relative/person is available and attending to the patient.

5.6) The Respondent No.3, picked up arguments with the hospital staff, threatened and obstructed the staff in carrying on their duties. On 21st September 2025, the Respondent No.3 also misbehaved with one of the treating doctor who was a primary treating physician of the patient.

5.7) At the request of the Respondent No.3, Petitioner No.2 Hospital arranged an alternate physician of his choice i.e. Dr. J.P. Jadwani, a senior consultant physician in Critical Care Medicine and Cardiology. Over a period of three days, the patient was handed over and transferred under the care of Dr. J. P. Jadwani.

5.8) By 4th October 2025, the patient was fit for discharge and could be taken to her own house. The patient's ICU stay has been forcefully extended as the Respondent No.3 has refused to take the patient home.

5.9) Due to non-cooperation by the Respondent No.3, Petitioner No.2 hospital left with no other alternative, filed complaint on 4th October 2025 with Senior Police Inspector, Bandra West Police Station/Respondent No.1. All necessary and relevant factual details have been stated in the said complaint.

5.10) The Respondent No.3, instead of taking discharge and making payments of the outstanding bills, interalia, raised allegations of medical negligence vide his Advocate's Notice dated 4th October 2025, received by the Petitioner No.2 Hospital on 6th October 2025 and 7th October 2025. The notice is a clear afterthought.

5.11) From 4th October 2025, the Respondent No.3 avoided taking calls of the doctors and staff of Petitioner No.2, and was irregular in visiting the patient. Though the discharge procedure was completed, a detailed Discharge Card dated 6th October, 2025 was prepared along with detailed home care plan, the Respondent No. 3 refused to take discharge. On 7th October 2025, the Respondent No.3 gave a letter informing the Petitioner No.2 Hospital that, he would be unavailable for the next few days but was contactable on a call. The request, being made on the alleged ground that he had taken ill.

5.12) On 8th October 2025 and 16th October 2025, Respondent No.3 was informed that continued admission of the patient when not required, would expose her to a hospital acquired infection.

5.13) The Respondent No.3 vide his Advocate's notice dated 17th October, 2025 once again raised/repeated the allegations of medical

negligence and non-supply of original medical documents/case papers for seeking a second opinion. The Respondent No.3 categorically refused to take discharge and shift the patient home. The hospital was threatened with legal action, if it attempted to discharge the patient.

5.14) On 22nd October 2025, Petitioner approached Respondent No.1 and Respondent No.2, informing them of the negligent conduct of and the abandonment of the patient, by the Respondent No.3. That, serious cognizable offences were committed by the Respondent No.3 and requested Respondent Nos. 1 and 2 to take action/steps in accordance with law. No concrete steps have been taken.

5.15) On 1st November, 2025 the Petitioner approached the Respondent No.1 and sought necessary police assistance for safely transferring the patient from hospital to her home with the Respondent No.3 son. That, after Respondent No.1 contacted Respondent No.3, a meeting was conducted at the Hospital on 1st November 2025. The Respondent No.3 was again informed that the patient is at risk of getting a hospital acquired infection.

5.16) On 1st November, 2025, Respondent No.3 stated that, he would need all the original case papers of the patient to first take a second opinion. That it would require 15 days after taking second opinion to take discharge of the patient. Petitioners have at all times been ready to give photocopies of the medical papers. Original papers can be given only at the time of discharge and after the outstanding payments are made.

5.17) The conduct of Respondent No.3 amounts to completely abandoning the patient/his mother. On 22nd October 2025, the Senior Citizen Tribunal was called upon to take suo-moto cognizance of the matter under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The address and contact details of the Respondent No.3 were provided.

5.18) By letter dated 29th October 2025, Senior Inspector of Police, Bandra Police Station was requested to immediately inquire into and take appropriate action in accordance with the law against the Respondent No.3. No steps have been taken by the said Respondent..

5.19) The Petitioner No.2 has taken best possible care and provided all medical facilities to the patient. That, an amount of Rs.16,00,000/- is outstanding as of today. Despite the said fact, it is the Petitioner who has approached this Court seeking directions interalia for shifting the patient, keeping in mind well being of the patient.

5.20) The patient can be shifted to her house and will need proper home care. Details of the home care required, have been explained to the Respondent No.3. Due to the lack of consent and non co-operation of the Respondent No.3, the patient cannot be shifted out of the ICU. Mr. Chavan submitted that, a hospital ICU bed cannot be kept blocked and occupied due to the abandonment of the patient by the Respondent No.3. ICU beds are required for the patients needing intensive treatment in emergency situations.

5.21) The patient is stable, can be discharged. Respondent No.3 has refused to take patient with him and has also not paid for the medical treatment which has been administered. The Respondent No. 3 is now disputing the line of treatment and under the pretext of taking a second opinion is avoiding to make payments and also avoiding to take discharge of this matter.

5.22) Petitioner No.2 has approached this Court as a temporary guardian of the patient Mrs. Mohini Puri on good samaritan basis. The patient is a senior citizen/a parent under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

5.23) Mr. Chavan submitted that, the patient, in her present medical condition is a person with disability and covered under The Rights of Persons with Disabilities Act, 2016. All the provisions of the Rights of Persons with Disabilities Act, 2016 are applicable in the present case.

5.24) He therefore submitted that, in the facts and circumstances of the case appropriate directions be issued to the Respondents so as to ensure that, the patient is taken care and looked after. Mr. Chavan lastly prayed that, the Petition be allowed.

SUBMISSION OF RESPONDENT NO.3

6) Advocate Gauri Joglekar appearing for the Respondent No.3 submits that:-

6.1) The Respondent No.3 is disputing the line of treatment administered to his mother. Respondent No.3, through his advocates has issued legal notice dated 4th October, 2025 to the Petitioners wherein Respondent No.3 contended that, this is the case of medical negligence and that the Petitioner No.2 was trying to forcibly discharge the patient.

6.2) The Respondent No.3 wants to take a second opinion. The Petitioner No.2 hospital is not providing all the original documents for taking second opinion.

6.3) The Respondent No. 3 be provided with original medical case papers and be allowed to take doctors of his choice to the Petitioner No.2 Hospital for getting a second opinion about the patient.

6.4) The Respondent No.3 is not in a position to pay medical bills for the treatment administered. Respondent No.3 has also filed a complaint with Maharashtra State Human Rights Commission on 3rd November 2025.

SUBMISSION OF RESPONDENT NOS. 1 AND 2

7) Taking into consideration the issues and question of law involved in the Petition. On 10th November 2025, we had orally requested the learned Advocate General Dr. Birendra Saraf for the State to assist the Court. He accordingly appeared on 11th November 2025 and submitted that:-

7.1) If the Respondent No.3 has any grievance about the Petitioner No.2 Hospital in respect of the medical facilities/medical care provided by them, then it would only be proper and prudent for the Respondent No. 3 to

first seek a discharge, take his mother home and then raise his issues/take steps against the Petitioner No.2 Hospital, before the appropriate Authority in accordance with the law.

7.2) The Respondent No. 3 inspite of raising the ground of medical negligence, has in fact chosen not to seek discharge from the Petitioner No. 2 Hospital and continued with treatment. The outstanding bills/amounts are not paid and line of treatment is disputed.

7.3) If the contentions of the Petitioner No.2 are correct, then the conduct of the Respondent No.3 could be termed as 'abandonment' under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

7.4) Considering the facts of the present case, the learned Advocate General suggested the following alternative solutions which could be pressed into service, so as to ensure that the patient/senior citizen is taking care of :- viz. (i) the Respondent No.3 can take a discharge of the patient i.e. his mother from the hospital and shift her to the hospital of his choice. In the process of discharge and shifting, the Respondent No.3 if required, can be assisted by the State Government by providing an ambulance for transit and a doctor to ensure that, the medical needs and health of the patient are taken care of in transit. (ii) The Government doctors will medically examine the patient at the Petitioner No.2 Hospital and then shift her to the Government Hospital and take care of her medical needs.

(iii) The Respondent No. 3 can be assisted by the Government to shift the patient to her own residence at Bandra.

7.5) Generally, in most of the cases, when a patient who has relatives/children, as defined under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, is taken by the Government to a Government Hospital and provided medical treatment, the case of abandonment by the relatives/children, clearly stands to be made out and consequences thereof automatically follow. The Respondent No.3 being the son of the patient is covered under section 2(a) of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. He submits that actions for abandonment of senior citizen, will automatically follow.

7.6) In the facts of the present case, if the Government takes charge and responsibility of the patient, directions may be issued against the Respondent No.3 restraining him from dealing with both immovable and movable properties of the patient, including the flat at Bandra mentioned in the cause title, without the leave of this Court.

7.7) Steps have been taken by Respondent No.1 to try and solve the issues between the Petitioner Hospital and the Respondent No.3. Attempts to contact the Respondent No.3 on his mobile phone (98200 70621) on 30th September, 2025 and 3rd October, 2025 could not succeed as the said mobile number was unavailable. That, on 7th October 2025 the Respondent No.3 was informed to remain present at the Petitioner No.2

Hospital for inquiry, but he failed to do so. On 8th October 2025 the statement of Dr. Anupama Sartana was recorded. On 8th October 2025, as the Respondent No 3 was not available, the Respondent No.1 contacted Mr. Manoj Kumar, the watchman of the building, where the Respondent No. 3 resides. He was directed to inform the Respondent No.3 to remain present for inquiry on 9th October 2025. The Respondent No. 3 did not attend the police station on 9th October 2025. Notice/intimation dated 10th October, 2025, was attempted to be delivered to Respondent No.3, through Police Constable Mr. Patil (No.111415). As Respondent No. 3 was not available, he was orally informed on his mobile. On 11th October 2025, the Respondent No. 3 attended the police station. On 1st November 2025, meeting was held at the Petitioner No.2 Hospital where complaints of the parties against each other were discussed. The Petitioner No.2 had specifically informed Respondent No. 3 that if he did not trust the capability and/or treatment administered, he was free to take a discharge of the patient from the hospital.

7.8) In case Respondent No.3, is not willing or refusing to take responsibility and care of his ailing mother/patient, the Government, will step in, to comply with its obligations of providing medical care and facilities to the patient. The consequences as per law will follow against the Respondent No.3 .

8) We have heard the learned Advocates for the Parties, learned

Advocate General Dr. Birendra Saraf for the State and perused the record.

RIGHT TO HEALTH

9) It is well settled law that, the State Government, is duty bound to take care of medical needs and provide medical facilities to the citizens of the country. Right to health and medical care/facilities is a fundamental right which emanates from Article 21 of the Constitution of India and is an integral and intrinsic part of Right to life. Health, right to medical care for a healthy and meaningful life are important facets of the right to life as guaranteed under the Constitution of India. It is inherent in Article 21 of the Constitution of India. The Government has a constitutional obligation and responsibility to provide health facilities, health services and medical facilities in furtherance of Article 21 i.e Right to Life.

10) The Supreme Court in *Paschim Banga Keth Mazdoor Samity and others vs. State of West Bengal reported in 1996) 4 SCC 37*, has observed that:-

"...it is the constitutional obligation of the State to provide adequate medical services to the people. Whatever is necessary for this purpose has to be done. In the context of the constitutional obligation to provide free legal aid to a poor accused this Court has held that the State cannot avoid constitutional obligation in that regard on account of financial constraints. (See: *Khatri (II) v. State of Bihar [(1981) 1 SCC 627: 1981 SCC (Cri) 228]*, SCC at p. 631.) The said observations would apply

with equal, if not greater, force in the matter of discharge of constitutional obligation of the State to provide medical aid to preserve human life.”

and has further observed that-

“Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life and providing medical care and facilities is of paramount importance. Failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment results in a violation of his right to life guaranteed under Article 21.”

10.1) The Supreme Court in *Common Cause (A Registered Society) Versus Union of India and another*, (2018) 5 SCC 1, has held that, when it comes to interpretation of Fundamental Rights, the Court has to adopt a liberal, dynamic, extensive and interpretative approach and needless to add the right to life has to be with dignity is a settled principles of law.

10.2) The Supreme Court in matter of *Vijaya Manohar Arbat Dr v. Kashirao Rajaram Sawai and Anr* reported in (1987) 2SCC 278 has observed that, it is a social obligation of the children i.e for both sons and daughters to maintain their parents when they are unable to do so.

10.3) The Supreme Court in the matter of *Badshah v. Urmila Badshah Godse and Anr*, reported in (2014) 1 SCC 188, 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. The said view has been reiterated by the Supreme Court in the matter of *Rajnesh v. Neha and Another reported in (2021) 2 SCC 324*.

10.4) The Supreme Court in the matter of *S. Vanitha v. Deputy Commissioner Bengaluru Urban District & Ors reported in (2021) 15 SCC 730*, while analysing and interpreting the salient features of the Welfare Act, 2007, has in para 17 of the judgment referred to the Statement of Objects and Reasons of the Welfare Act 2007, to indicate the rationale for the enactment of the law as under:-

“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.”

INTERPRETING SOCIAL/WELFARE LEGISLATION

11) It is also settled law that, in interpreting and construing a welfare, social or beneficial legislation one should endeavour to adopt and accept an interpretation which furthers the aims and objects of the said welfare legislation. A liberal, elastic and broad interpretation is at all times preferable if it furthers the purpose and object of the welfare, social or beneficial legislation.

11.1) The Supreme Court in the matter of *K.H. Nazar v. Mathew K. Jacob* reported in (2020) 14 SCC 126, while observing that a welfare/beneficial legislation should receive a liberal interpretation which furthers the objects of an Act, has observed in para 11 as under:-

“11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a

purposeful or functional interpretation [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335]...

13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances the remedy should be adopted. [Indian Performing Rights Society Ltd. v. Sanjay Dalia, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] . It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48: (2008) 237 CLR 285], Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly.”

12) Right to life is fundamental right guaranteed under Article 21 of

the Constitution of India. Various welfare legislations have been enacted, keeping the mind the fundamental right of life and other incidental rights which emanate therefrom like the right to health and medical care/facilities. Many provisions have been incorporated in the general laws with an aim and objective to further social causes and welfare. Many social welfare legislation, have been enacted, of which the Petitioner has relied upon and based its case on, viz.(i) The Maintenance and Welfare of Parents and Senior Citizens Act,2007 (Welfare Act, 2007), (ii) The Rights of Persons with Disabilities Act,2016 (Disabilities Act, 2016) and (iii) The Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010 (Medicare Service Persons and Service Institutions Act, 2010). The first two legislations/Acts are clearly Welfare legislations, which need to be interpreted in a liberal manner, in line with the aims and objectives of the respective Acts and by also keeping in mind the ever-changing social dynamics of the society and the need of the hour.

12.1) We feel it necessary to consider for the purposes of the present case, some of the relevant provisions of the Acts.

Relevant provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Welfare Act 2007) are as under:-

12.2) Section 2(a) defines “children” to include son, daughter, grandson, and grand-daughter but does not include a minor. Section 2(b) defines maintenance to include provision for food, clothing, residence and

medical attendance and treatment. Section 2(d) defines "parent" to mean father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen. Section 2(f) defines "property" to mean propert of any kind, whether movable or immovable , ancestral or self acquired, tangible or intangible and includes rights and interest in such properties. Section 2(g) defines the term "relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death. Section 2(h) defines "senior citizens" means any person being a citizen of India, who has attained the age of sixty years or above. Section 2(k) defines "welfare" to mean provisons for food, health care, recreation centers and other amenities necessary for senior citizens.

12.3) Section 3 of the Act provides that, the provision of the Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than the Act, or in any instrument having effect by virtue of any enactment other than the Act. Section 4 provides for maintenance of parents and senior citizens. Sub-clause 4 of Section 4 provides that any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen. Section 5 provides that an application for maintenance under Section 4 can be made by a senior citizen or a parent, as the case may be; or if senior

citizen is incapable, by any other person or organisation authorised by him; or the Tribunal may take cognizance suo-moto. Clause 8 of Section 5 provides that if, children or relative so ordered fail, to comply with the order, the Tribunal may, issue a warrant etc., and may sentence for non payment of any amount of the maintenance and expenses of proceeding, to imprisonment for a term which may extend to one month or until payment if sooner, made whichever is earlier. Section 7 provides for Constituion of Maintenance Tribunal by the State Government. Section 22 (2) of the Welfare Act , 2007 provides that the State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.

12.4) Section 23 is an important section of the Act. It reads as under:-

“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.

12.5) Section 24 of the Act provides for exposure and abandonment of senior citizen which is an offence under Chapter 6 of the Act and reads as under;

“24. Exposure and abandonment of senior citizen.-Whoever, having the care or protection of senior citizen, leaves such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both.”

12.6) Section 25 provides that, every offence under the Act shall be cognizable and bailable and that same shall be tried summarily by a Magistrate.

13) The second legislation relied upon and referred to by the Petitioner is The Rights of Persons with Disabilities Act, 2016 (Disabilities Act). Some, provisions, relied upon for the purpose of the present case are:-

13.1) Section 2(s) defines "person with disability" to mean a person

with long term physical, mental, intellectual or sensory impairment which, in inter-action with barriers, hinders his full and effective participation in society equally with others. Section 2(p) defines a "local authority" to mean a Municipality or a Panchayat, a Cantonment Board and any other authority established under an Act of Parliament or a State Legislature to administer the civic affairs. Section 2(za) defines "rehabilitation" as a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychological environmental or social function levels.

13.2) Section 6 provides for protection from cruelty and inhuman treatment, in as much as the appropriate Government, is to take measures to protect persons with disabilities from being subjected to torture , cruel, inhuman or degrading treatment. Section 7 (1) (a) provides that the appropriate government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents.

13.3) Section 12 of the Act provides for access to justice. Under section 12 Government shall ensure that persons with disabilities are able to exercise the right to access the Court of law, tribunals, authority, commission or a body having judicial or quasi-judicial or investigative powers. Section 13 of the Disabilities Act, provides for Legal capacity in as much as the Government shall ensure that the persons with disabilities have right, equally with others,

to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.

14) The third legislation referred to and relied upon by the Petitioner is the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010 (Medicare Service Persons and Service Institutions Act, 2010). Section 3 provides that any act of violence against a Medicare Service Person or damage or loss to the property in a Medicare Service Institution, shall be prohibited. Section 4 provides that any offender, who commits or attempts to commit or abets or incites the commission of any act of violence in contravention of the provisions of section 3, shall be punished with imprisonment which may extend to three years and with fine, which may extend to fifty thousand rupees. Under section 5 the offences committed under the Act are cognizable and non-bailable and triable by the Court of the Magistrate. Under section 7, the Government is empowered to establish an authority to aid and advise victims of medical negligence.

15) We will now deal with the conduct of parties to the Petition.

15.1) The Petitioners, have approached this Court, as the temporary guardian of the patient Mrs. Mohini Puri and on a good Samaritan basis. The Petitioners have taken care of the patient since 24th August, 2025 and administered medical care and provided the medical facilities and continued

to do so despite the fact that according to them an amount of Rs 16,00,000/- is due and outstanding towards their bills and payable by Respondent No.3. The case of the Respondent No.3, though belatedly, is that of medical negligence. The question of medical negligence is yet to be adjudicated and decided upon. We do not intent to go into the said issue of medical negligence. Having observed, that we would like to place on record fact that the Petitioner No.2 Hospital, despite the fact that it is faced with a case of medical negligence, has and continues to take care of the patient and provides all the necessary medical facilities and care. We may also mention that perusal of the documents and limited medical papers annexed to the Petition, it is seen that the patient has been treated well and stabilized in emergency situations by the Petitioner No.2 Hospital. This in the face of a alleged charge of medical negligence. Prima facie, we cannot find fault with the Petitioners and less with their conduct or the treatment administered.

15.2) We are completely shocked and in disbelief of the actions and steps taken by the Respondent No.1 in respect of the complaints of Petitioner No.2 including the first complaint dated 4th October, 2025. If attempts to explain the matter to Respondent No. 3 were not successful, it was the duty of the Senior Inspector Bandra West Police Station, Bandra to take steps in accordance with law on the said complaint. It was of paramount importance and urgency to shift the patient is shifted to a Government Hospital and taken care of. There seems to have been inaction and inappropriate/insufficient

action in this regard on the part of Senior Inspector Bandra West Police Station, Bandra. Whatever steps that have been taken by the Senior Inspector Bandra West Police Station, Bandra, according to us, are not sufficient considering the fact that the question involves right to life of a citizen and her medical needs. We are of the opinion that, steps were to a large extent, if not completely, misdirected.

16) Similar is the case with the conduct of Respondent No.2. There seems to be no reply to the complaints of the Petitioner No.2 Hospital. There is only inaction and complete lack of empathy. According to us it was the duty of the Respondent No. 2 to take steps in accordance with provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Respondent No. 2 has failed and neglected to perform its duties. Officers of the Respondent No. 2 are public servants under the Act and are bound to perform their duties envisaged and spelled out under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Respondent No.2, under Section 5(1)(c) has suo-moto powers to take cognizance under the Act. The inaction on the part of the Respondent No.2 defeats the very purpose and object of the Act which is to put in place a suitable, effective and robust mechanism for the protection of life, liberty, health and well being of the parents and senior citizens. According to us, it was the statutory duty of the Respondent No. 2, on being made aware of the facts of abandonment of the patient, to take steps under the Act, for a conduct of the Respondent No.3

which would amount to an offence under the Act. We find that no steps have been taken nor is there any response. The Respondent No. 2 has not even responded or made any attempt to reply to the complaint letters or to connect with the Petitioner No. 2. This is complete dereliction and abdication of their duties. The conduct of the Respondent No. 1 and 2 is nothing but to say least, negligent and deliberate omission to perform their duties under the Act. The conduct of the Respondent Nos. 1 and 2, only displays the apathy with which the said Authorities deal with such sensitive and urgent issues of health and life and in respect of the fundamental rights guaranteed under the Constitution of India.

17) We note that the Respondent No.3 after issuing an Advocate's Notice dated 4th October 2025 alleging medical negligence against the Petitioner No.2, has vide his personal letter dated 7th October 2025 informed the Petitioner No.2, that as he was not keeping well, he has not been able to come regularly and connect with the Doctors. In the said letter, the Respondent No.3 has further, stated that for the next few days also he would come at a little irregular time but will be available on call. This conduct is not that of a prudent person or responsible son. We have observed this, as it is also the case of the Respondent No.3 that apart from him there is no one else to take care of the patient/his mother.

17.1) We have also noted the fact, that the Respondent No. 3 has, vide his Advocate's Notice dated 17th October 2025, again raised the claim of

medical negligence and called upon the Petitioner No.2 to allow an external medical team to examine the patient, provide the original medical papers and give a period of 15 days minimum to thoroughly review the records of the patient and provide the comprehensive assessment of patient's condition. The Respondent No.3 has also stated that he would be compelled to take action as per law if the patient is shifted out of hospital. We find this conduct of the Respondent No.3, as not that of a prudent person. According to us, any prudent person or a son would have at the first instance cleared the outstanding dues or at least the admitted/undisputed charges, sought discharge of the patient, made alternate medical arrangements for the patient/his mother and then raised and/or dealt with his claim of medical negligence, if any.

18) We have been informed that, the Respondent No.3 is a freelance journalist by profession. According to Petitioner No. 2 amount of more than Rs 16,00,000/- is outstanding. The Respondent No. 3 is disputing treatment and consequently payment of said amount. During the course of hearing, the Advocate of the Respondent No.3 was asked to take instructions from the Respondent No.3, as to how much amount the Respondent No.3 would be in a position to deposit with the Registrar of this Court, without prejudice to his claim of Medical Negligence, and take discharge for his mother and take her home. This was done by this Court, to ensure that the patient is taken care of. Some amount is deposited by the Respondent No.3, on a without prejudice

basis. This was done in an attempt and with a objective to sort out the issues and ensure that the patient is taken proper care of. We have been informed, by the Advocate appearing for Respondent No.3, that the Respondent No.3 is not in a position to pay the outstanding amount and would be in a position to pay an amount of Rs.1 Lakh only. We have been further informed that the Respondent No 3 requires 15 days time to seek second opinion. We have also been informed, by the Advocate for the Petitioners, that the house/residence, as mentioned in the cause title of the petition, is in fact in the name of the patient.

19) After considering the record, the correspondence and conduct of the Respondent No. 3 who was present in the Court, we are of the prima facie opinion that there is possibility that the Respondent No.3 does not want to pay entire outstanding amounts due to the hospital and therefore has raised the claim of medical negligence. We say this, because of the conduct of the Respondent No.3 in claiming medical negligence, still continuing to avail of the medical care and facilities provided by the Petitioner No.2, refusing to take discharge and also refusing to make payments. We are also in agreement, with the submission of the learned Advocate General, that the natural conduct for a son/relative, if he/they feel that treatment is not proper, is to first pay the outstanding, take discharge and then seek the available or advised legal recourse against the hospital. It cannot be that, despite improper medical care/treatment as alleged, the son/relatives continues to keep admitted the

patient in the hospital and refuse to pay the bills. It is always open to a son/relative to seek treatment in a Government/State run hospital, where the government provides for the treatment as per the norms. In this case, we have been categorically informed that apart from the payment of Rs.1 Lakh, the Respondent is not in a financial position to pay any further amounts to the Petitioner hospital.

20) On 10th November 2025, we had specifically directed, the learned Advocate appearing for the Respondent No. 3 to enquire if the Respondent No.3 is ready and willing to take the patient/his mother home and attend to the medical needs of his mother. The Respondent No.3 , through his advocate sought some time, to consider the proposal. The Respondent No. 3 was directed to deposit a sum of Rs 1,00,000/- with the Registrar of this Court, without prejudice to his rights and contentions. The same has been deposited.

20.1) On 11th November 2025, after the arguments were concluded, the Advocate for the Respondent No.3 was informed that the Respondent No.3 would be required to give an undertaking that he being the son of the patient, would take proper care of the medical needs of the patient/his mother. The Advocate for the Respondent No.3 requested us to keep back the matter so that she would discuss the aforesaid issues with her client who was present in the Court and explain to him the provisions of the Acts and the consequences of breach of Acts or the undertaking. At her request, matter was kept back at 5.00 p.m. When the matter was called out at 5.00 p.m., the Advocate for the

Respondent No.3 informed this Court that she had explained the provisions of the law, legal implications of his conduct and acts of not attending to or taking care of his mother. Learned Advocate for the Respondent No.3 informed this Court, that the Respondent No.3 has flatly refused to give to this Court, any undertaking to take care of his mother. The learned Advocate submitted that, she has no further instructions from the Respondent No.3 and that he had left the Court premises. The Advocate for Respondent No.3 prayed that, she be discharged from the matter. The said request could not be considered by us as the arguments in the matter were already concluded.

20.2) As noted hereinabove, the Respondent No.3 has refused to take discharge of the patient, refused to give an undertaking to this Court stating that he would take care of patient/his mother and has left the Court room/Court premises without giving any further instructions to his Advocate.

21) In the present case, despite being financially able and employed, and residing in his mother's house, the Respondent No.3 has neglected to look after and take care of his ailing mother/patient. Prima facie, it appears that the Respondent No. 3 has neglected and abandoned his mother, on the frivolous grounds of medical negligence and for seeking a second opinion. The conduct of the Respondent No.3 is not that of prudent person in as much as, if he has a grievance about the line of treatment rendered, he can seek discharge and admit his mother in a hospital of his choice and comfort and then take appropriate action against the Petitioner No.2. The Respondent

No.3, has clearly acted in breach of his pious duties and obligations of taking care of his ailing mother.

22) This conduct and attitude of the Respondent No.3 lends credence to the apprehension, that the Respondent No.3 has abandoned his mother and does not want to take care of her. It also further corroborates with our prima facie opinion that the Respondent No.3 appears to have raised various allegations of medical negligence only to avoid making payments of the outstanding bills to the Petitioner No.2. To say the least, conduct of the Respondent No.3 towards his mother is unpardonable. After considering the facts of the present case and observing the conduct and demeanour of the Respondent No.3, we are of the prima facie view that the case of abandonment is made out against the Respondent No.3.

INTERPRETATION OF STATUTES:

23) The object of the Welfare Act, 2007 is to provide more effective provisions for the maintenance and welfare of the parents and senior citizens guaranteed and recognised under the Constitution of India and for matters connected therewith or incidental thereto. A perusal of the Welfare Act, 2007, would indicate that, a senior citizen or a parent, unable to maintain themselves, is entitled to make an application under Section 4(i) of the Welfare Act, 2007. The parent may make the application against one child or all the children and a senior citizen not having a child, can make an application against a relative.

The Welfare Act, casts an obligation and duty, on the child/children or relative, as the case may be, to look after and maintain the parent/senior citizen, so as to ensure that they lead and live a normal life. A normal life includes a healthy life. Under the Act, the difference between a relative and child maintaining and looking after the parent/senior citizen, is that, only if the relative is in possession of the property of the senior citizen or would inherit property from them, he is obligated to look after them. In short the obligation and duty of a child/children to look after their parents or a senior citizen, is not conditional on being in possession of property of the parent or senior. This obligation is cast on the child by birth and is unconditional. Apart from being a moral and pious duty, it is also a statutory duty imposed by the law.

24) The object of the Welfare Act is to make more effective the rights of maintenance and welfare of parents and senior citizens as guaranteed and recognised by the Constitution of India and matters connected or incidental thereto. This is a welfare and beneficial legislation. We are of the opinion that, to further the objects of the Welfare Act, 2007 and to ensure effective and complete use and compliances of the provisions of the Welfare Act, 2007, the provisions thereof ought to be read together and jointly and in a liberal manner to the benefit of the maintenance, welfare, well being and protections of the rights of the parents and senior citizens.

25) Section 23 deals with declaring certain transfer of properties as void in certain circumstances. Section 23(1) deals with a situation where property has been transferred after the enactment of the legislation by a senior citizen and where the transfer of the property is accompanied by a specific condition to provide for the maintenance and needs of a senior citizen. In such an event, if the transferee fails to provide the maintenance and physical needs, the transfer of the property is deemed to have been vitiated by fraud, coercion or under undue influence. A deeming fiction of the law is created, where a transfer of property, subject to a condition of providing for maintenance and the basic needs of a senior citizen, if not fulfilled, then at the option of the transferor, the transfer can be declared as void by the Tribunal. Section 23 (1) would not be attracted or applicable in the present case.

25.1) Section 23 (2) envisages a situation where a right to receive maintenance, out of the estate exist with senior citizen. Such right of maintenance can be enforced against a transferor, where the property is transferred with knowledge of the right or if the transfer is gratuitous. The right cannot be enforced against a transferee for consideration. Section 23(2), in other words covers a situation, in which the senior citizen has a right to maintenance. Under the Welfare Act, 2007, section 2(f) defines the expression property to include “rights or interests in such property”. The expression transfer is not defined specifically by the legislation and keeping in mind the object of the Welfare Act, 2007, must receive an interpretation which would

advance the beneficent object and purpose of its provisions. Section 23(2) deals with the enforcement of the “right to receive maintenance” which is more complete and comprehensive in its nature.

25.2) Considering the aims and objects of the Welfare Act 2007 and that welfare legislation is to be liberally interpreted to further the objects of the Act, a provision guaranteeing and/or securing a “right to receive maintenance out of an estate” and providing for the enforcement of that right would also mean to include the power to protect the property for the security, needs and well being of the parent/senior citizen. We are of the opinion that the Maintenance Tribunal, will be within its power to ensure that the property is secured and available for the needs and requirements of the parent/senior citizen. This could be done by a restraint order or an order evicting the person i.e child/children or relative from the property of a parent/senior citizen, where there has been a breach of the obligation to maintain the parent/senior citizen. This of course, will be with a view to ensure the well being, maintenance and protection of the Senior Citizen or Parent. Appropriate protective orders including but not limited, injunctions, restraint orders and or eviction orders, would be incidental and a necessity to the enforcement of the right to maintenance and protection in its real and true sense. This is of course, after following the procedure as laid down and after hearing the parties.

25.3) The Maintenance Tribunal, under Section 23(2) read with section 23(3) of the Welfare Act, 2007, will be well within its right, power and authority to pass appropriate orders to secure and protect the properties of the parent or senior citizen and their right of maintenance, for the benefit and social and financial security and well being of the parent or senior citizen. Steps can also be taken pursuant to the action plan, under section 22(2) of the Welfare Act, 2007. A bare perusal of the Welfare Act, 2007, would indicate that the State Government is clearly empowered and will be well within its authority and power, to chalk out a plan to protect life and property of the senior citizens and act in furtherance thereof. Senior citizens, who face issues of being neglected or are not looked after or cared for or at the risk of losing their properties and financial securities at the hands of their children or relatives, ought to be protected. By protecting the financial interest and property of the parents and Senior Citizens, the State Government will in the true sense and spirit comply with and act in furtherance of the Welfare Act, 2007.

25.4) A perusal of the preamble of the Welfare Act, 2007, makes it clear that the Welfare Act, 2007 aims to make more effective and far reaching the provisions for maintenance and welfare of parents and senior citizens. We are of the view, that a social, welfare and or beneficial legislation must be interpreted in favour of the beneficiaries, in this case the patient. A liberal view inching towards the benefit of the patient/senior citizen is ought to be

taken by the Tribunals. Nowadays, parents and senior citizens, face new, different and novel challenges. The same need to be catered for. The Welfare Act, 2007, being a welfare legislation must be interpreted in a liberal manner to advance the aims and objects of the Act. The provisions thereof, must be construed liberally, and to the advantage of the Senior Citizens so as to ensure that it furthers the very social purpose and welfare of the parents and senior citizens.

25.5) Section 5(1)(c) of the Welfare Act, 2007 permits the Maintenance Tribunal to take suo-moto cognizance for considering the grant of maintenance. There is a power vested by the Act to further the objects and purpose of the Act. The Maintenance Tribunal under section 5(1)(c) , 22(2) and 23(2) read with 23 (3), can take effective steps and measures for the overall protection, maintenance and welfare of a parent or a senior citizen. The steps taken have to be in furtherance of the Welfare Act,2007 and in the interest and well being of and for the protection and security of the parent or senior citizen.

26) The right to property of the citizens of this country has a close nexus to right of life within the meaning of Article 21 of the Constitution of India. In *S. Vanitha* (supra), the Supreme Court has observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Protective orders to preserve property so as to ensure economic stability which leads to guarantee complete and full enjoyment of the fundamental right to life and health are a must. In a welfare

and beneficial legislation the power/jurisdiction under section 23 of the Tribunal constituted under the Act, ought to include the power to order protection of property for the safety, social security and economic/financial stability of the parent/senior citizen. Any other narrow or restrictive interpretation of the powers under section 23 would defeat the very purpose and object of the Welfare Act, 2007 which is to provide speedy, simple and inexpensive remedies to the elderly.

27) In our considered view, the possible relief available to Senior Citizens under Section 23 is intrinsically linked with the statement of objects and reasons of the Welfare Act, 2007. The elderly senior citizens of our country, in some cases are not being looked after or cared for either emotionally or medically or both. It is well within and in furtherance of the aims and objectives of the Welfare Act, 2007 to protect the property of the senior citizen when they are abandoned by their own loved near and dear ones. It would be the duty of the State to do so. In doing so the State will only ensure securing and enforcing to its fullest the fundamental right to life including health as guaranteed under the Constitution of India. Such an interpretation will further strengthen and empower senior citizens to independently secure their rights to property and thereby a right to a dignified life. We are of the view that, under the Act the Tribunal is empowered to pass protective orders to ensure protection and preservation of the properties both

movable and immovable of parents and senior citizens, when there is a breach of the obligation to maintain and look after the parents and senior citizen.

28) Considering the peculiar facts of the present case, we are of considered view that the Maintenance Tribunal should suo-moto take up the matter and pass just and appropriate directions under section 23 of the Welfare Act, 2007 to protect and preserve the properties both movable and immovable for the benefit and use of the patient, while she is abandoned and left at the mercy of the State Government, despite the fact that she has a able earning son and owns properties. In the present case section 23(1) is not attracted. Section 23(2) read with 22(2) may be invoked and pressed into service by the Maintenance Tribunal to secure and protect the patient. The patient in the present case, if is neglected and abandoned by her own son has the right to be maintained and taken care of vide her own properties. It cannot be that the patient is neglected and abandoned by her son, taken care of by the State Government and at the same time not entitled to the benefit of her own properties. The Respondent No.3 ought not be permitted to use or enjoy the properties, despite breaching with impunity, the moral, pious and obligatory duty to maintain and take care of the mother/parent especially in the hour of medical need and emergency. We have held that, the Maintenance Tribunal is within its power and authority to pass protective orders to protect all the properties of the patient. As noted earlier, such an exercise of such power by the Tribunal would be to ensure the patients maintenance and well

being. To hold otherwise would not further rather defeat the object behind the Welfare Act, 2007.

29) Under the Disabilities Act, the Government has a duty to ensure that the persons with disabilities are able to exercise their legal rights and able to access the court of law. The Government is duty bound to ensure that the persons with disabilities have and are able to exercise their right to property, control their financial affairs and have access to loans/financial credit. This right would include the right to control, deal with property as per their wish and desire and in their best interest. Considering the object and purpose of the Act and the facts of the present case, we are doubtful if the provisions of the Disabilities Act can be invoked in the present case. In our view, the applicability of the Act, in the facts of the present case is debatable.

29.1) It is even the Petitioners case, that it is only under the present medical condition/clinical setting that the patient is a person with disabilities under section 2(s) of the Disabilities Act and is entitled to rehabilitation as provided under section 2(z) of the Disabilities Act. We are aware that, the Disabilities Act is also a welfare legislation and it needs to be interpreted liberally to further the objects of the Act. There is a possible view and interpretation that, the patient in the present case may be covered by and be a person with disability as defined under section 2(s) of the Disability Act. Inhuman and degrading treatment is a form of neglect and abandonment. The patient being indisposed and disabled due to illness, the abandonment may

be covered under the provisions of section 6, 7, 12 and 13 of the Disabilities Act. This position needs to be considered by the Government and appropriate steps and measures are required to be taken. We are of the view that abuse, exploitation and or inhuman treatment, in any form, would amount to and be included in the meaning of neglect and/or abandonment. In our view, the Government is duty bound to take cognizance of incidents of such abuse, exploitation and inhuman treatment. We leave it upto the State Government to take that call.

30) The Medicare Service Persons and Service Institutions Act, 2010 provides for recourse against persons committing acts of violence against Medicare Service Persons and property of Medicare Service Institutions. The said acts of violence is a cognizable and non bailable offence triable by the Court of the Magistrate. The victims of cases of medical negligence have recourse under section 7 of the Act. Considering the provisions of the said Act, the parties would be at liberty to take appropriate action as advised and in accordance with law.

31) We make it clear that in the present Petition we are not at all concerned with the non-payment of the hospital dues or the claim of medical negligence. The issue of non-payment of hospital bills and medical negligence is issue between the Petitioner No. 2 and the Respondent No.3. What we are concerned of is the well being and medical needs of the patient. We are concerned of the abandonment of the patient, her emotional despair, her

mental and emotional state, her medical and overall well being, her medical needs and care and most importantly her right to a dignified and healthy life.

32) Taking the overall view of the matter and considering the facts, circumstances and conduct of the Respondent No.3 we are of the prima facie opinion that the Respondent No.3 has neglected and abandoned his own mother/patient Mrs. Mohini Puri. The conduct of the Respondent No.3 leaves us to believe that a prima facie case of exposure and abandonment of the patient/ senior citizen has been made out. The conduct of the Respondent No.3 in not attending to his mother would amount to act of abandoning the mother. The intentions of the Respondent No.3 have been made clear by him when he left the Court, at a time hearing when he had taken time to consider and reflect over the issues and suggestions of the Court in the matter. As submitted by the Learned Advocate General, if the time comes for the State Government to take over and take care of the patient, then automatically the act of the Respondent No.3 will be squarely covered under Sections 24 and 25 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Respondent Nos. 1 and 2 may have to also consider if the provisions of The Rights of Persons with Disabilities Act, 2016 and/or The Maharashtra Medicare Services Persons and Medicare Service Institutions (Prevention of Violence and Damage or loss to Property) Act 2010 are attracted and offences mentioned therein made out.

33) The Respondent Nos. 1 and 2 would have to consider, if the

Patient would also come under the definition of the person with disabilities under Section 2(s) of the Rights of Persons with Disabilities Act, 2016 and that if on considering her medical condition she would be entitled to rehabilitation, as defined under Section 2(za) of the Rights of Persons with Disabilities Act, 2016. The Maintenance Tribunal and/or the Respondent - State would surely be covered by definition of 2(p) which defines 'Local Authority' under the Rights of Persons with Disabilities Act, 2016. We have also taken note of the fact that under Section 12 of the Rights of Persons with Disabilities Act, 2016 it is duty of the Government to ensure that the persons with disabilities are able to exercise the right to access any Court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability. Further Section 13 of the Act of the Rights of Persons with Disabilities Act, 2016 provides for legal capacity wherein the appropriate Government is duty bound to ensure that the persons with disabilities have right equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.

34) In the present case, we have been informed by the Advocate for the Respondent No.3 and also the Petitioner, that the residential house as mentioned in the cause title of the Petition belongs to the patient Mrs. Mohini Puri. Considering the fact, that in our opinion, the Respondent No.3 has prima facie abandoned his mother and is not attending to her medical needs we are

of the opinion that in order to balance equities and protect the properties of the patient, it would be necessary to also pass certain directions in respect of properties of the patient.

35) Considering the overall facts and circumstances of the case in hand, the conduct of the Respondent No.3 and with a view to balance the equities we pass following directions:-

- (i) The Respondent No.3 is to ensure that his mother/ patient Mrs. Mohini Puri with his consent and under his supervision and medical team of the Bhabha Hospital, Bandra is discharged and shifted to the ICU of Bhabha Hospital, Bandra. This is to be done by the Respondent No.3 before 9.00 a.m. of 18th November, 2025.
- (ii) The Respondent No.3 shall undertake to pay charges for the shifting and also for medicines consumables and other treatment charges as per the policy of the Bhabha Hospital applicable to the patient from the weaker sections/charity patients or as per CGHS rates, which ever is lower. All such charges shall be payable by the Respondent No.3.
- (iii) In the event the Respondent No. 3 does not take steps to comply with the directions in clause (i) and (ii) above, the said non-compliance by Respondent No.3, shall be considered as an exposure and abandonment of the patient

Mrs. Mohini Puri, and the State Government shall and is hereby directed to take patient Mrs. Mohini Puri from the Petitioner No. 2 Hospital and admit her initially to the ICU of the Bhabha Hospital at Bandra or any other Government Hospital as may require.

- (iv) The State Government, before shifting the patient shall ensure that the patients health and condition is checked by Government Medical Team and even during the transit Government Doctors are available in the ambulance. The shifting of the patient will be done under medical advice and supervision of the Government Doctors.
- (v) The State Government shall take all necessary steps to provide required medical care facilities to patient Mrs. Mohini Puri. The same will be at the costs of State Government.
- (vi) The Respondent No. 1 is directed to take immediate steps in accordance with law in respect of the Petitioner No.2 Complaint dated 4th October, 2025 and letters dated 22nd October, 2025 and 29th October, 2025.
- (vii) The Respondent No. 2, is called upon to consider the representations made by the Petitioner No.2 by its letter dated 22nd October, 2025 (Exh-H) to the Petition and take

all necessary and consequential steps in accordance with law including the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 with particular reference to the Section 5 and 23 thereof and other steps/actions in accordance with the law to protect the property and interest of the patient/senior citizen for the well being and care of the patient.

(viii) Pursuant to the order dated 10th November, 2025, an amount of Rs.1,00,000/- has been deposited by the Respondent No.3 with the Registry of this Court. The said amount shall be transferred to the Maintenance Tribunal established under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Tribunal shall pass necessary directions in respect thereof in accordance with law.

(ix) Considering the peculiar facts of the present case, it is directed that the Respondent No.3 shall not deal with the properties of the patient/senior citizen which are to his knowledge, power and/or possession including the residential flat i.e A/4,Meghdoot Building, Linking Road, Next to McDonald's, Bandra (W), Mumbai -400050 in any manner whatsoever without the prior leave of this Court.

- (x) The Respondent No.3 shall within a period of one week from the date of the order, furnish to this Court by way of an Affidavit the details of all the properties both movable and immovable owned and possessed by the Mrs. Mohini Puri and also properties of Mrs. Mohini Puri which are in the use, possession, occupation and knowledge of the Respondent No.3.
- (xi) The Petitioners are at liberty to adopt appropriate legal remedies for recovery of their monetary claim from Respondent No.3 as per the provisions of law.
- 36) Petition is allowed in the aforesaid terms.
- 37) List the Petition on 24th November 2025 for reporting compliance of order.

(RANJITSINHA RAJA BHONSALE, J.)

(A.S. GADKARI, J.)