



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11375 OF 2025**

Raviprakash R. Sodhani and Anr. ... Petitioners
versus
Ram Swaroop Sodhani and Ors. ... Respondents

Mr. Chirag Mody with Mr. Bhavin Gada, Mr. Deepak Shukla, Ms. Aanchal Singhania, Mr. Praveen Maurya i/by BNS Legal for Petitioners.
Mr. Kamlesh Mishra, for Respondent No.1.
Mrs. Savina R. Crasto, for State.

CORAM: N.J.JAMADAR, J.

**RESERVED ON : 1 OCTOBER 2025
PRONOUNCED ON : 3 OCTOBER 2025**

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
2. This Petition under Articles 226 and 227 of the Constitution of India assails the legality, propriety and correctness of a judgment and order dated 14 August 2025 passed by the Additional Collector – Appellate Authority, whereby the appeal preferred by the Petitioners against the judgment and order dated 6 May 2025 passed by the Maintenance Tribunal, under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (the Act of 2007) came to be dismissed.
3. The background facts leading to this Petition can be stated, as under :
 - 3.1 Respondent No.1 is the father of the Petitioner No.1. Petitioner No.2 is

the wife of Petitioner No.1. Respondent No.5 is the son of Petitioner Nos.1 and 2.

3.2 Respondent No.1, then 86 years of age (senior citizen), approached the Maintenance Tribunal with a complaint under Sections 5 and 23 of the Act, 2007 with the assertions that over a period of time, he had developed the businesses and acquired the properties. The businesses were run under various entities, namely, M/s. Universal Enterprises, M/s. ASBEE Marketing Ltd., and M/s. Universal Associates.

3.2 In the month of July 2021, the senior citizen was diagnosed with a suspected throat cancer. Biopsy was conducted during the period 3 August 2022 to 6 August 2022. While the senior citizen was in physical and emotional distress, the Petitioner No.1 allegedly forced the senior citizen to execute a Deed of Partnership in respect of the firm , M/s. Universal Enterprises, on 2 August 2022, while the senior citizen was still hospitalized. The senior citizen was allegedly forced to retire from the partnership firm. Eventually, the signing authority of the senior citizen was also taken away. The Petitioner No.1, the senior citizen alleged, made the senior citizen to believe that since the interest of the senior citizen in M/s. Universal Enterprises was already transferred in the name of the Petitioners and Respondent No.5, it was necessary to transfer Flat No.B-48, 4th Floor, Tower B, Kalpataru Habitat, Dr. S.S.Rao Road, Parel, Mumbai – 400 012, (the

subject flat) in the name of Petitioner No.1 as the said flat was mortgaged with Kotak Mahindra Bank to secure the loan account of M/s. Universal Enterprises.

3.3 The Petitioners and Respondent No.5, thus, forced the senior citizen to execute a Gift Deed in favour of Petitioner No.1 and Respondent No.5, and, accordingly, a registered gift deed was executed on 24 August 2022 by the senior citizen in favour of Petitioner No.1 and Respondent No.5.

3.4 Post execution of the partnership deed and the gift deed, the senior citizen alleged, there was a perceptible change in the behaviour of the Petitioners and Respondent No.5.

3.5 It was asserted that the Petitioners withdrew the amounts to the tune of Rs.50 Lakhs from the accounts of the senior citizen. Gradually, the Petitioners started to neglect the needs and necessities of the senior citizen. He was subjected to harassment. He was humiliated. He was also deprived of the necessities of life. The senior citizen was confined to one room in his own flat. He was deprived access to two other rooms. Those rooms were kept in a locked state when the Petitioners left the house. No provision was made for the sustenance of the senior citizen when the Petitioners went away from the house.

3.6 The senior citizen tried to explore the good offices of the relatives and a friend of Petitioner No.1. However, there was no change in the behaviour of

the Petitioners. They declined to maintain and cater to the needs of the senior citizen. Thus, a legal notice was addressed on 3 February 2025. As the demands were not met, the senior citizen approached the Maintenance Tribunal.

3.7 The Petitioner No.1 resisted the application by filing a reply. The assertions of the senior citizen were denied. It was contended that the gift deed was executed by the senior citizen out of his own volition and there was no element of fraud, duress or coercion. The documents were executed after through discussion and negotiations among the family members. The Petitioners had indeed taken good care of the senior citizen.

3.8 The Tribunal, after the appraisal of the application and the reply thereto, and the material on record, was persuaded to return a finding that the gift deed was executed by the senior citizen in the hope that the Petitioner No.1 and Respondent No.5 would take care of the senior citizen and maintain him in his old age. However, the Petitioners had, by their acts and conduct, neglected the senior citizen and did not maintain him and failed to provide amenities, physical needs and necessities of the senior citizen. Hence, by invoking the power under Section 23 of the Act, 2007, the Tribunal declared the gift deed void.

3.9 Being aggrieved, the Petitioners preferred an appeal before the District Collector – Appellate Authority. By the impugned judgment and order dated

14 August 2025, the Appellate Authority dismissed the appeal observing, inter alia, that, there was no error in the order passed by the Tribunal, and, thus, it did not warrant any interference. The Appellate Authority concurred with the view of the Tribunal that, after the execution of the gift deed, the Petitioners neglected and failed to provide for the basic amenities, physical needs and necessities of life to the senior citizen.

3.10 In the intervening period, on 27 July 2025, the order passed by the Tribunal came to be executed. The Petitioners and Respondent No.5 were allegedly forced to vacate the subject flat. The belongings of the Petitioners are, however, yet kept in the two rooms in the subject flat. The Petitioners have, thus, assailed the said order dated 25 July 2025, whereunder the Petitioners were evicted from the subject flat, allegedly in gross violations of the fundamental principles of judicial process. As a notice was issued to the Petitioner No.1 on 27 September 2025 that the belongings of the Petitioners stored in the two rooms of the subject flat would be thrown out, if not removed within two days, the Petition was heard on an urgent basis.

4. I have heard Mr. Chirag Mody, learned Counsel for the Petitioners, Mr. Kamlesh Mishra, learned Counsel for Respondent No.1, and Mrs. Crasto, learned AGP for the State. With the assistance of the learned Counsel for the parties, I have perused the material on record, including the impugned orders.

5. Mr. Mody, learned Counsel for the Petitioners, would urge that, the

impugned orders exemplify the patent abuse to which the ameliorative provisions of the Act, 2007 can be put to. Amplifying the submission, Mr. Mody would urge, the Tribunal did not provide an efficacious opportunity of hearing to the Petitioners. A limited reply was filed by the Petitioner No.1 in person. Without providing a further opportunity to produce the material to demonstrate the falsity in the claim of the senior citizen, the order dated 6 May 2025 came to be passed.

6. Mr. Mody would urge, the order passed by the Tribunal betrays a complete non-application of mind. It is bereft of reasons. After noting the contentions of the parties and extracting Section 23 of the Act, the Tribunal straightaway proceeded to declare the gift deed void without posing unto itself the question as to whether the conditions pre-requisite for the invocation of Section 23 of the Act, 2007 were complied with.

7. Mr. Mody submitted with tenacity that, the Maintenance Tribunal did not at all examine the aspect as to whether the subject flat was transferred on the condition that the donee shall provide the basic amenities and physical needs of the senior citizen. An effort was made to lay emphasis on the fact that there is no recital in the gift deed that it was subject to such condition. Notwithstanding the absence of such specific recital, in the gift deed, Mr. Mody would urge, the application for the declaration of transfer as void would be maintainable. provided the senior citizen establishes before the Tribunal

that the transfer was subject to such condition and there was breach on the part of the transferee. No such material was placed before the Tribunal, and, yet, the Tribunal declared the gift deed void on wholly untenable grounds.

8. To lend support to this submission, Mr. Mody placed reliance on a judgment of the Supreme Court in the case of **Sudesh Chhikara V/s. Ramti Devi and Anr.**¹

9. Mr. Mody further submitted that, the Appellate Authority also committed a gross error in law in not examining the legality, propriety and correctness of the order passed by the Tribunal. Though, numerous grounds were raised and overwhelming material was placed on the record of the Appellate Authority to demonstrate that the twin conditions envisaged by Section 23(1) of the Act, 2007, were not satisfied, the Appellate Authority did not deal with any of those grounds and material. The Appellate Authority concurred with the view of the Tribunal in a mechanical manner. Mr. Mody would urge, a registered instrument cannot be declared void by the authorities under the Senior Citizens Act, 2007, without evaluating the material and satisfying themselves that the conditions stipulated under Section 23 of the Act, were satisfied. Therefore, both the orders, being perfunctory in nature, deserve to be quashed and set aside, submitted Mr. Mody.

10. A severe criticism was advanced by Mr. Mody as regards the manner in

1 2022 SCC Online SC 1684

which the order passed by the Tribunal came to be executed post-haste while the appeal was still subjudice. Though the Petitioners have been forced to take shelter at the relative's place, yet, the belongings of the Petitioners are still lying in the subject flat, submitted Mr. Mody.

11. Per contra, Mr. Mishra, learned Counsel for Respondent No.1, stoutly supported the impugned orders. Mr. Mishra submitted that the very circumstances in which the senior citizen was made to execute instruments while the senior citizen was being treated for the throat cancer and was in extremely vulnerable position, justifies an inference that the gift deed was brought about by fraud and coercion practiced on the senior citizen. This factor must weigh in the decision making process, submitted Mr. Mishra. Since the Petitioners initially completely divested the senior citizen of his rights in the properties and, thereafter, neglected and failed to maintain the senior citizen, the authorities were fully justified in declaring the gift deed void.

12. Mr. Mishra would urge, the dispute in question is required to be determined keeping in view the beneficial nature of the legislation. An interpretation which advances the object of the Act, 2007 is required to be adopted. Therefore, the submissions on behalf of the Petitioners that the authorities have not satisfied themselves about the fulfillment of the conditions under Section 23(1) of the Act, 2007, cannot be countenanced.

13. To buttress these submissions, Mr. Mishra placed reliance on a

judgment of the Supreme Court in the case of **Urmila Dixit V/s. Sunil Sharan Dixit and Ors.**² and a judgment of the Delhi High Court in the case of **Smt. Varinder Kaur V/s. Smt. Kaljit Kaur and Ors.**³

14. To start with, it is necessary to note that, there is not much controversy over the relationship between the parties. Nor the fact that the senior citizen, Petitioners and Respondent No.5 were residing under one and the same roof was in dispute. Incontrovertibly, the subject flat was acquired by the senior citizen. By and large, it could not be controverted that the senior citizen had nurtured and built business entities. The execution of the Deed of Partnership on 2 August 2022 and the Gift Deed dated 24 August 2022, as such, is not in contest. The controversy between the parties revolves around the circumstances in which the aforesaid instruments were executed, whether the execution of those instruments was tainted by vitiating factors and whether the Petitioners and Respondent No.5 failed and neglected to maintain and take care of the senior citizen, after the transfer of properties thereunder.

15. The Act of 2007 was enacted to provide for more effective provisions for the maintenance and welfare of the parents and senior citizens and envisages a regime which facilitates simple, inexpensive and speedy mechanism, inter alia, to claim maintenance for parents and also to protect life and property of

² (2025) 2 SCC 787

³ LPA No.587 of 2025 dated 26 Sept. 2025

the senior citizens.

16. The statement of Objects and Reasons of the Act, 2007 reads 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.”

17. The right of parents and senior citizens to maintenance is recognized under Section 4 of the Act, 2007. Section 5 lays down the procedure, by which an application for maintenance can be filed. Section 8 of the Act, provides that, in holding an inquiry under Section 5, the Tribunal may follow such summary procedure as it deems fit, subject to the rules framed by the State Government. The Tribunal is invested with all the powers of Civil Court as provided under Section 8(2). The Tribunal can pass an order of maintenance under Section 9.

18. The provisions contained in Section 23, with which we are primarily concerned, in the facts of this case, empower the Tribunal to declare the transfer made by the senior citizen void upon the fulfillment of certain conditions. Section 23, subsumed in Chapter V, entitled “Protection of life and property of Senior Citizen”, 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 organization referred to in Explanation to sub-section (1) of Section 5.”

19. A plain reading of sub-section (1) of Section 23 indicates that, it

governs a situation where the property has been transferred by gift or otherwise, subject to the condition that the transferee must provide the basic amenities and physical needs to the transferor. In such an eventuality, if the transferee having obtained benefit under the transfer fails to provide the maintenance, basic amenities and physical needs of the senior citizen, the transfer of property is deemed to have been effected by fraud, coercion or undue influence.

20. Evidently, the deeming fiction of law is created where the transfer of the property of the senior citizen was subject to the condition of providing maintenance, basic amenities and basic physical needs of the senior citizen and there is breach of such obligation by the transferee. In such a case, the Tribunal is empowered to declare the transfer void, albeit at the option of the transferor – senior citizen.

21. Sub-section (2) of Section 23, on the other hand, governs the situation where the senior citizen has right to receive maintenance out of the property. In such a situation, right of maintenance can be enforced against the property or a part thereof, even against the transferee who has a notice of the right or if the transfer is gratuitous. Such a right, however, cannot be enforced against the transferee for consideration and without notice of such right of the senior citizen.

22. For the applicability of the provisions contained in sub-section (1) of

Section 23, two conditions are required to be satisfied. First, the transfer of the property must have been made by the senior citizen subject to the condition that the transferee shall provide the basic amenities and basic physical needs of the transferor. Second, the transferor has refused or failed to provide the maintenance and basic amenities and physical needs of the transferor. If these two conditions are satisfied, the deeming fiction operates i.e. the transfer of the property by the senior citizen shall be deemed to have been made by fraud, coercion or under undue influence.

23. In the case of **Sudesh Chhikara V/s. Ramti Devi and Anr. (supra)**, on which reliance was placed by Mr. Mody, after adverting to the provisions of Section 23(1) of the Act, 2007, the Supreme Court culled out the conditions necessary to empower the Tribunal to declare the transfer void in the following terms :

“12. Sub-section (1) of Section 23 covers all kinds of transfers as is clear from the use of the expression “by way of gift or otherwise”. For attracting sub-section (1) of Section 23, the following two conditions must be fulfilled :

- 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.

13. If both the aforesaid conditions are satisfied, by a legal fiction, the transfer shall be deemed to have been made

by fraud or coercion or undue influence. Such a transfer then becomes voidable at the instance of the transferor and the Maintenance Tribunal gets jurisdiction to declare the transfer as void.

14. 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.” (emphasis supplied)

24. The approach expected of the authorities and the court in the matter of interpretation of the provisions of the Act, 2007, so as to advance the object of the Act, 2007, was delineated by the Supreme Court in the case of **Urmila Dixit V/s. Sunil Sharan Dixit and Ors. (supra)**. The Supreme Court emphasised that the Act of 2007 is a beneficial piece of legislation. It is aimed at securing rights of the senior citizen in view of the challenges faced by them in the evening of their life. The Act, thus, must be interpreted keeping in view the backdrop and construction that advances the remedies of the Act, must be adopted.

25. Consistent with the aforesaid approach, it must be borne in mind that an express recital that the transfer, or for that matter, a gift is subject to the

condition that the transferee shall provide the amenities, needs and necessities of life of the transferor / senior citizen need not be in terms incorporated in the instrument effecting the transfer. Especially, in case of a gift, such condition may appear to be incongruous, as the gift has to be without any consideration and out of natural love and affection. Thus, the first condition, extracted above, need not be specifically incorporated in the instrument of transfer. In a sense, a senior citizen who transfers his property, especially by way of gift, in the evening of his life, expects the transferee - donee to provide for his necessities and physical and emotional support. Such an expectation is implicit in the very act of transfer. Therefore, not much mileage can be drawn from the fact that, in the case at hand, the instruments in question, do not find mention of such condition.

26. In the instant case, the circumstances in which the gift deed was executed by the senior citizen in favour of the Petitioner No.1 and Respondent No.5, in my considered view, assume critical salience. Indisputably, the senior citizen was diagnosed with suspected throat cancer. A deed of partnership came to be executed on 2 August 2022, while the senior citizen claimed that he was hospitalized. Under the said deed of partnership, the senior citizen retired from the partnership firm M/s. Universal Enterprises. The execution of the gift deed on 24 August 2022 was apparently in proximity to the deed of partnership.

27. It could not be controverted that, during the period 3rd to 6th August 2022, the senior citizen was admitted in Apollo Hospital and biopsy was done. The proximity of time of execution of the deed of partnership and the gift deed in favour of Petitioner No.1 and Respondent No.5 to the hospitalization of the senior citizen for the treatment of suspected throat cancer, cannot be said to be inconsequential or immaterial. The physical frailty and emotional vulnerability of the senior citizen, upon being diagnosed with the suspected throat cancer, deserved to be weighed in.

28. It is pertinent to note that, in the reply filed before the Tribunal by the Petitioner No.1, an endeavour was made to play down the element of proximity, by contending that it was a matter of sheer co-incidence that those instruments were executed while the senior citizen was undergoing treatment at Apollo Hospital in the month of August 2022. This explanation of sheer co-incidence does not appeal to human credulity.

29. It would be contextually relevant to note that the affidavit in reply filed on behalf of the Petitioner No.1 before the Tribunal was in the nature of denial only. The allegations of neglect, humiliation and harassment of the senior citizen were not specifically dealt with. In the application before the Tribunal, the senior citizen had made specific and concrete allegations regarding the behaviour of the Petitioners and Respondent No.5, and, also given vivid account of the manner in which he suffered the neglect and destitution at the

hands of the Petitioners.

30. Mr. Mody, learned Counsel for the Petitioners, attempted to salvage the position by canvassing a submission that the Petitioners could not place the material on record before the Tribunal as no efficacious opportunity of hearing was given. On the contrary, Mr. Mody would urge, before the Appellate Tribunal, the Petitioners had placed voluminous material to show the falsity of the claim of the senior citizen.

31. I am afraid to accede to the aforesaid submission on behalf of the Petitioners. On first principles, it was incumbent upon the Petitioners to produce material before the Tribunal in the first place.

32. A Division Bench of the Delhi High Court in the case of **Smt. Varinder Kaur V/s. Smt. Kaljit Kaur and Ors. (supra)**, while emphasising that the deed in question need not expressly contain the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor, especially in the context of the execution of the gift deed, observed as under :

“29. Human conduct in the context of the Senior Citizens Act is to be understood considering the relationship between the senior citizen and the beneficiaries of the gift deed and if parents decide to settle the property in favour of a son or daughter, then they do so only with love and affection and with a fond hope that they shall be taken care of in their old age and therefore, love and affection being an the implied condition of execution of the gift deed, subsequent non-maintenance of the senior citizen would

attract Section 23(1) of the Senior Citizens Act and the Tribunal in such circumstances is empowered to declare the document as void.

30. If we examine the facts of the instant case in the light of the legal principles as discussed above, the settled legal position which emerges is that for attracting the provisions of Section 23(1) of the Senior Citizens Act, the deed in question need not expressly contain a condition that transferee shall provide the basic amenities and basic physical needs to the transferor, especially in the context of execution of a gift deed.

.....

33. It is true that in the application moved by respondent no.1 under Section 23(1) of the Senior Citizens Act it has specifically not been pleaded that the gift deed in question was executed subject to the condition that the appellant shall provide basic amenities and basic physical needs to respondent no.1, however various letters and applications made by respondent no.1 before the Tribunal clearly, disclose and establish that the reason which impelled respondent no.1 to execute the gift deed in favour of the appellant was a promise and hope that appellant shall take care of the needs of respondent no.1 who is considerably old being 88 years of age.

34. In our considered opinion, while exercising the powers under Section 23(1) of the Senior Citizens Act on an application moved by a senior citizen seeking declaration that the deed is void, the Tribunal is expected to look into all the relevant material and not only the bare contents of the application so made.”

(emphasis supplied)

33. The broad tenor of the senior citizen's case was required to be kept in

view. The material on record unmistakably indicated that it was the senior citizen who had built the businesses and acquired the properties. He was divested of the rights and properties and the monies were withdrawn from the account of the senior citizen, while he was in precarious physical and emotional health. The execution of the instruments, therefore, cannot be considered de hors the attendant circumstances. The neglect and failure on the part of the Petitioners and Respondent No.5 to provide for the basic amenities, physical needs and necessities of life to the senior citizen, post the execution of the aforesaid instruments, is also required to be examined through the aforesaid prism.

34. The senior citizen felt neglected and humiliated after he was divested of his rights in the entities which he built, and the properties he acquired. The claims of the senior citizen could not be controverted before the Tribunal. There is material on record to show that the senior citizen had made efforts at conciliation and to reason with the Petitioner No.1. A notice was addressed before filing the application under Section 5 of the Act, 2007.

35. The veracity of the claim of the senior citizen that, in his home he was confined to one room and the Petitioners and Respondent No.5, kept the two rooms locked whenever they went away, is borne out by the fact that though the Petitioners and Respondent No.5 have been physically evicted from the subject flat, yet two rooms continued to be under lock and key of the

Petitioners and the senior citizen was required to move the authority again to give clear and vacant possession of those two rooms as well.

36. In view of the summary nature of the inquiry which is envisaged by the provisions of the Act, 2007, and especially, in the context of the nature of the resistance put forth before the Tribunal, it does not appear that the Tribunal committed any error in returning a finding that the deeming fiction was attracted.

37. In the aforesaid view of the matter, and having regard to the object with which the provisions have been enacted, in the facts of the case, in my considered view, the senior citizen who now claims to be 88 years of age, is entitled to the protection of his right to property. In exercise of the writ jurisdiction, this Court does not find such perversity or infirmity in the impugned order as would warrant interference. The Petition thus deserves to be dismissed.

38. Hence, the following order :

ORDER

- (i) The Writ Petition stands dismissed.
- (ii) Rule discharged.
- (iii) The Petitioners are granted three weeks time to remove their belongings from the subject flat.

(N.J.JAMADAR, J.)