

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO. 13629 OF 2026

Ashwin Ramesh Soni,]
Aged about 42 years, Occupation-Business,]
R/at Flat No.1103, Yashashree CHS Ltd.,]
N.M. Joshi Marg, Lower Parel,]
Mumbai – 400 011.] ... Petitioner.

Vs.

1. Ramesh Bachaulal Soni,]
Age: 68 years, Occ-Business,]
R/at – House No.35/45, Bal Hanuman]
Nagar CHS, J.R. Boricha Marg, Opp.]
Kasturba Hospital, Satrasta, Jacob]
Circle, Mumbai – 400 011]

2. Beena Ramesh Soni,]
Aged 60 years, Occ – Housewife,]
R/at – House No.35/45, Bal Hanuman]
Nagar CHS, J.R. Boricha Marg, Opp.]
Kasturba Hospital, Satrasta Jacob Circle,]
Mumbai – 400 011.]

3. Presiding Officer, Maintenance and]
Welfare of Parents and Senior Citizens]
Tribunal-1, having office at Old Custom]
House, Shahid Bhagat Sing Marg, Fort,]
Mumbai – 400 001.]

4. Additional Collector, Appellate Authority]]
for Maintenance and Welfare of Parents and]
Senior Citizens Tribunal, having office at]
Old Custom House, Shahid Bhagat Sing]
Marg, Fort, Mumbai 400 001.]

5. The State of Maharashtra]
Through Law Secretary, having Office]
at Madam Cama Road, Mantralaya,]
Mumbai – 400032] Respondents.

Mr. Bhushan Ulhas Deshmukh, Advocate for the Petitioner

Mr. Rajesh Singh a/w Mr. Rahul Singh and Mr. Iftekhar Sayed,
Advocates for Respondent Nos. 1 and 2.

Ms. Neha S. Bhide, Government Pleader a/w Ms. Pooja Patil, AGP
for State/Respondent No.5.

**CORAM : RAVINDRA V. GHUGE, ACJ &
GAUTAM A. ANKHAD, J.**

RESERVED ON : 1ST JULY, 2026

PRONOUNCED ON : 7TH JULY, 2026

JUDGMENT: (PER GAUTAM A. ANKHAD, J.)

1. Rule. Rule is made returnable forthwith and the matter is heard finally with the consent of the parties.

2. The Petitioner is the son of Respondent Nos.1 and 2, who are senior citizens aged 68 and 60 years, respectively. The present Petition challenges the order dated 13th April, 2026 passed by the Maintenance and Welfare of Parents and Senior Citizens Tribunal-I and Deputy Collector, Mumbai (“**Tribunal**”), in proceedings initiated by

Respondent Nos.1 and 2 under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (“Act”). By the impugned order, the Tribunal partly allowed the Application and *inter alia* declared the registered Gift Deed bearing No. BBE-4-7360-2023 dated 8th May 2023, to be void. The Petitioner was directed to hand over vacant and peaceful possession of flat no.1103, Yashashree Co-operative Housing Society Ltd., N.M. Joshi Marg, Lower Parel, Mumbai – 400013 (“Yashashree flat”) to Respondent Nos.1 and 2 within sixty days. Aggrieved thereby, the Petitioner has filed this Writ Petition.

3. The relevant facts for the purpose of this Petition are briefly stated as follows:-

- (i) Respondent Nos.1 and 2 have four children, namely, the Petitioner and three daughters, all of whom are married and residing with their respective families. After his marriage, the Petitioner initially resided with Respondent Nos.1 and 2.
- (ii) On 25th March, 2005, Respondent Nos.1 and 2 purchased the Yashashree flat, where they resided with the Petitioner.

- (iii) On 11th December, 2020, Respondent Nos. 1 and 2 purchased another residential flat, being flat no.B-2308, Monte South Pilatus, Khatau Mill Compound, Byculla, Mumbai – 400008. This flat was jointly purchased along with the Petitioner and Petitioner's wife, with each of them owning 25% share in the said flat.
- (iv) Around the year 2020, serious disputes arose between the Petitioner and Respondent Nos.1 and 2. According to Respondent Nos.1 and 2, with the intervention of family and well-wishers, an understanding was arrived at in or about March, 2023 whereby the Petitioner agreed to look after and maintain his parents in all respect and Respondent Nos.1 and 2 agreed to transfer the Yashashree flat in his favour. In an attempt to restore harmony within the family, Respondent Nos.1 and 2 executed and registered two Gift Deeds dated 8th May, 2023 in respect of both the aforesaid flats. The stamp duty and registration charges for the transactions were borne by Respondent Nos.1 and 2.
- (v) The family arrangement did not last long. Soon thereafter, relations between the parties deteriorated, compelling

Respondent Nos.1 and 2 to vacate the Yashashree flat, which had been their residence. The Monte South flat was then under construction and since it had already been gifted to the Petitioner, the developer refused to hand over its possession to Respondent Nos.1 and 2. Left without any residence, Respondent Nos.1 and 2 instituted proceedings before the Tribunal under Sections 5 and 23 of the Act, seeking cancellation of Gift Deeds for both the flats and consequential reliefs, including restoration of possession of the properties and return of their personal documents, bank passbooks, ATM cards, GST records and other belongings.

- (vi) By the impugned order dated 13th April, 2026, the Tribunal partly allowed the Application. The impugned order directed cancellation of the Gift Deed dated 8th May, 2023 with respect to Yashashree flat and further directed the Petitioner to hand over vacant and peaceful possession of the Yashashree flat to Respondent Nos.1 and 2 within 60 days of the order. No orders are passed for cancellation of the Gift Deed of the Monte South flat. The said flat is not a subject matter of this Petition.

4. Mr. Bhushan Deshmukh, learned counsel appearing for the Petitioner, assails the impugned order mainly on the ground that it does not satisfy the requirements of Section 23(1) of the Act. He submits that the Yashashree flat was, in fact, purchased by the Petitioner from his own funds in the year 2005 and that the subsequent Gift Deed merely restored title to its true owner, i.e., the Petitioner. Respondent No.1 is financially independent, carries on a jewellery business and owns other immovable properties. Thus, the Respondents are neither destitute nor incapable of maintaining themselves. The Tribunal has also failed to record any finding that the Petitioner has actually refused to maintain Respondent Nos. 1 and 2 and therefore the provisions of the Act are not attracted.

5. Mr. Deshmukh further submits that the proceedings before the Tribunal have been initiated at the behest of the Petitioner's sisters with an oblique motive to deprive the Petitioner of the gifted properties. Lastly, the learned counsel submits that the Yashashree flat constitutes the sole residence of the Petitioner, his wife and two children and eviction from it would cause them grave hardship. On all these grounds, it was prayed that the impugned order be set aside.

6. On the other hand, Mr. Rajesh Singh, learned counsel appearing for Respondent Nos.1 and 2, supports the impugned order and

submits that it is well-reasoned and as per section 23(1) of the Act. He submits that both the flats were acquired by Respondent Nos.1 and 2 from their own resources and were voluntarily gifted to the Petitioner solely to preserve family harmony and on the clear understanding that the Petitioner would maintain and care for his aged parents throughout their lifetime. Instead, due to persistent disputes, Respondent Nos.1 and 2 were compelled to leave their own residence, defeating the very object for which the Gift Deeds had been executed. Hence, the Petition ought to be dismissed with costs.

REASONS AND CONCLUSIONS

7. We have perused the record and considered the rival submissions. In our view, there is no merit in the present Petition.

8. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a beneficial and social welfare legislation enacted to provide an expeditious remedy for the maintenance, welfare and protection of senior citizens. The Statement of Objects and Reasons of the Act recognises the gradual erosion of the traditional joint family system and the increasing vulnerability of elderly parents to neglect, abandonment and deprivation of financial and emotional support. The Act, therefore, creates an effective statutory mechanism not only to

secure maintenance, but also to protect the life and property of senior citizens.

9. Section 23 of the Act falls under Chapter V – “Protection of Life and Property of Senior Citizen”. For convenience, the same is extracted:

“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.”*

10. Section 23 of the Act embodies the legislative recognition that transfers made by elderly parents in favour of their children or relatives are often motivated by love, affection and the legitimate expectation that they would be cared for in their advancing years. A plain reading of Section 23(1) shows that the Tribunal may declare a transfer void where two essential requirements are fulfilled, namely, (i) the property is transferred by the senior citizen subject to the condition that the transferee would provide the transferor with basic amenities and physical needs; and (ii) the transferee has refused or failed to discharge that obligation. Upon satisfaction of these conditions, the statute creates a legal fiction by deeming the transfer to have been brought about by fraud, coercion or undue influence, thereby entitling the senior citizen to avoid the transfer. Examined in the light of the above statutory framework, we find no infirmity in the impugned order.

11. A perusal of the Gift Deed demonstrates that Respondent Nos. 1 and 2 had gifted the property on the express promise and agreement that the Petitioners shall take care of Respondent Nos. 1 and 2 in all respect after execution of the Gift Deed. The relevant clauses in the recitals of the Gift Deed make this position clear and for convenience are extracted:

- ‘B) The Donors hereby relinquished his rights, title and interest of the said Flat Premise in favour of the Donee forever.*
- C) The Donee shall and will hereafter hold, possess, use, occupy and enjoy the said shares of the said Flat Premise in the aforesaid manner for his own use and benefit without any suit, lawful eviction, interruption, claim or demand whatsoever made by the Donors or any person claiming through or on behalf of the Donors.*
- F) The Donee have agreed and shall take care in all respect of the Donors after the execution of this Gift Deed.’*

The Gift Deed for the Monte South flat also records identical obligation. Thus, the first essential condition of Section 23(1) is fully satisfied in the present case.

12. As regards the second essential requirement under Section 23(1) of the Act, the record demonstrates that the mutual arrangement on the basis of which Gift Deeds were executed completely failed. Instead of ensuring security and care to his parents, the relationship deteriorated to such an extent that Respondent Nos.1 and 2 were compelled to vacate their own residence. This is sufficient for invoking Section 23 of the Act. The Monte South flat, which had also been transferred to the Petitioner, was unavailable to them as the developer declined to hand over possession after the transfer. Consequently, Respondent Nos.1 and 2

were left without the benefit of either property. These facts clearly establish the Petitioner's failure to fulfill the very obligation which constituted the foundation of the gift. We find no perversity or jurisdictional error in the conclusions of the impugned order, which are based on factual assertions.

13. The submission that Respondent Nos.1 and 2 are financially independent or possess other assets is misconceived. The applicability of Section 23 does not depend upon the financial status of the senior citizen. Once the statutory conditions of Section 23 are satisfied, the transfer can be declared as void. Equally untenable is the Petitioner's contention that the Yashashree flat was purchased from his own funds and that the Gift Deeds merely restored title to its true owner. These are bald assertions and contrary to Recitals of the Gift Deed. Such oral pleas cannot be accepted in view of the written document. The Tribunal was, therefore, fully justified in proceeding on the basis of the admitted title of Respondent Nos.1 and 2.

14. The allegation that the proceedings have been instituted at the behest of the Petitioner's sisters is disputed. Such allegations neither detract from the statutory jurisdiction exercised by the Tribunal nor

constitute a ground to interfere with its findings in exercise of writ jurisdiction. The Petitioner's offer to now maintain Respondent Nos.1 and 2 or to accommodate them in the Yashashree flat also does not advance his case. Such belated and subsequent offer cannot revive a transfer which the statute deems to have been vitiated by fraud, coercion or undue influence.

15. This Court, while exercising jurisdiction under Article 226 of the Constitution, does not sit as an appellate court to re-appreciate factual findings in the absence of any manifest illegality or perversity. The Petitioner has failed to demonstrate any jurisdictional error, violation of principles of natural justice or patent illegality warranting interference.

16. We therefore find no merit in the Petition. **The Writ Petition is dismissed.** The Petitioner shall forthwith comply with the directions issued by the Tribunal.

17. **Rule is discharged.**

[GAUTAM A. ANKHAD, J.]

[ACTING CHIEF JUSTICE]

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