



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE G.S. AHLUWALIA

ON THE 5th OF SEPTEMBER, 2024

WRIT PETITION No.25471 of 2024

GOVIND LODHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Brijendra Swaroop Sahu – Advocate for the petitioner.

Shri Mohan Sausarkar – Government Advocate for the respondents/State.

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ORDER

This petition under Article 226 of Constitution of India has been filed seeking following relief(s):-

1. It is, therefore, prayed that this Hon'ble Court may kindly be pleased to issue a writ of certiorari to quash or set aside impugned order dated 15.06.2023 vide Annexure P/1 passed by the respondent No.1 to the extent of liability of the petitioner for payment of amount of maintenance to applicant Hakki Bai, in the interest of justice.
2. It is, therefore, prayed that this Hon'ble Court may kindly be pleased to issue a writ of mandamus whereby the amount maintenance for livelihood of Hakki Bai would be recovered from her three sons i.e. respondent No.3 and respondent No.5 and 6, in the interest of justice.
3. It is, therefore, prayed that this Hon'ble Court may kindly be pleased to call for the relevant record pertaining to case of the petitioner for bare perusal of this Hon'ble Court.



4. Any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case including cost of the litigation may kindly be awarded in favour of the petitioner.
2. It is submitted by counsel for petitioner that Additional Collector, Narsinghpur by order dated 15/06/2023 passed in case No.1/Appeal/Year 2023-24 has affirmed with modification the order dated 09/03/2023 passed by SDO Gadarwara/ Tribunal in revenue case No.690/B-121/2022-23, by which the application filed by respondent No.4 / Smt. Hakki Bai under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (in short 'Act, 2007') has been allowed.
3. It is submitted by counsel for petitioner that Smt. Hakki Bai filed an application under Section 16 of Act, 2007 against the petitioner and her other sons. It was her contention that she had distributed the land to her sons by executing separate sale-deeds and her sons had promised that they would maintain her, but now they are not making payment of the same. Accordingly, by order dated 09/03/2023, SDO Gadarwara directed for payment of Rs.3,000/- per month by each of her sons, in all Rs.12,000/- per month
4. Being aggrieved by the said order, petitioner preferred an Appeal and Additional Collector, Narsinghpur passed the order dated 15/06/2023 by which the maintenance amount of Rs.3,000/- per month payable by each of the sons including petitioner and respondents No.3, 5 & 6 has been reduced to Rs.2,000/- per month.
5. Challenging the orders passed by Courts below, it is submitted by counsel for petitioner that 8 acres of land was divided by Smt. Hakki Bai amongst her three sons and not a single piece of land was given to petitioner by his mother Smt. Hakki Bai. Therefore, he is not liable to make payment of maintenance to her. His elder brother Kashiram has



also given an affidavit to the effect that in the year 2017 his mother had given 1 ½ acres of land to her son Netraj and grandson Chandrakant by executing sale-deed. It is submitted that since the mother of petitioner has not given even the smallest piece of land to him and his financial condition is not such to bear the expenses of his mother, therefore order dated 09/03/2023 passed by SDO Gadarwara be set aside.

6. Heard learned counsel for the petitioner.

7. The question of payment of maintenance to parents is not dependent upon the fact that how much property has been given to the children. It is the duty of children to maintain their parents. If petitioner is aggrieved by unequal distribution of land, then he has remedy to file a Civil Suit but he cannot run away from his liability to make payment of maintenance to his mother.

8. Under these circumstances, this Court is of considered opinion that the Courts below did not commit any mistake by directing the sons of Smt. Hakki Bai to pay maintenance to her. Although SDO/ Tribunal had awarded Rs.12,000/- per month to be paid in equal proportion i.e. Rs.3,000/- by each of her sons but the same has been reduced to Rs.8,000/- per month and each of her son is liable to pay Rs.2,000/- per month.

9. Considering the price index as well as price of the goods of daily needs, this Court is of considered opinion that monthly maintenance of Rs.8,000/- to be paid in equal share by all her four sons cannot be said to be on higher side.

10. Accordingly, petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

S.M.