



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 15025 OF 2025 (GM-RES)

BETWEEN:

SMT. JYOTHILAKSHMI T. W/O. RAJU,
AGE ABOUT: 52 YEARS,
RESIDING AT NO.22,
1ST FLOOR, 1ST MAIN ROAD,
12TH CROSS,
KENGARI SATTELIGHT TOWN,
BANGALORE-560060.

... PETITIONER

(BY SRI SHARATH KUMAR SHETTY, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
REVENUE DEPARTMENT,
M.S. BUILDING, DR. AMBEDKAR ROAD,
BENGALURU-560001.
2. THE SPECIAL DEPUTY COMMISSIONER-1
MAINTENANCE AND WELFARE OF PARENTS
AND SENIOR CITIZENS APPELLATE TRIBUNAL,
BENGALURU, NORTH SUB DIVISION,
BEHIND KANDAYA BHAVANA,
BENGALURU-560009.
3. THE CHAIRMAN AND ASST. COMMISSIONER,
THE MAINTENANCE AND WELFARE OF PARENTS
AND SENIOR CITIZENS TRIBUNAL,
BENGALURU, NORTH SUB-DIVISION,
KANDAYA BHAVANA,
BENGALURU-560001.





4. SMT. RANGALAKSHMAMMA
W/O. LATE K.V. THIMMAPPAIAH
AGED ABOUT: 78 YEARS,
NO. 68, 16TH MAIN, 6TH CROSS,
EWS, BTM 2ND STAGE,
NEAR CHAMUNDESHWARI TEMPLE,
BANGALORE-560076.

... RESPONDENTS

(BY SRI BAPANNA BELLIAPPA, AGA FOR R1 TO R3,
SRI S.K.KALLEGOWDA, ADVOCATE FOR R-4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 09.04.2025 MADE IN MSC/CR/45/2023 PASSED BY THE R-3 VIDE ANNEXURE-H.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

The captioned writ petition is filed calling in question the order dated 09.04.2025 passed by the 3rd respondent/Chairman and Assistant Commissioner, Maintenance and Welfare of Parents and Senior Citizens Tribunal, in MSC No.45/2023, whereby the Tribunal has directed eviction of the petitioner from the property bearing No.22 by invoking Sections 4, 5 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act').



2. The petitioner is the daughter of the 4th respondent. It is her specific case that her deceased father had acquired several immovable properties in the name of the 4th respondent-mother and, after the demise of her father, it was the petitioner alone who took care of the 4th respondent till the years 2021-22, while the other siblings never looked after the mother. According to the petitioner, disputes subsequently arose between the parties in relation to the family properties, whereupon the petitioner demanded her share in the properties and sought separate residence. Since the same was allegedly denied, the petitioner instituted a suit for partition in O.S.No.2345/2021, which is presently pending consideration before the competent civil Court.

3. The petitioner further contends that the 4th respondent is financially independent, as she is drawing pension and also receiving rental income of about Rs.85,000/- per month from the properties standing in her name. Despite the same, under the influence of her



brother and the husband of the eldest daughter, the 4th respondent initiated proceedings in MSC No.45/2023 under Sections 4, 5 and 23 of the Act seeking eviction of the petitioner from the subject property. It is alleged that the Tribunal, without proper appreciation of the pleadings and documents produced by the petitioner, proceeded to pass the impugned order directing eviction.

4. The petitioner also refers to pendency of criminal proceedings in C.C.No.13514/2022 initiated by the third daughter of the 4th respondent against the petitioner's husband and son for offences punishable under Sections 447, 448, 324, 504 and 506 read with Section 34 of the IPC, to demonstrate the existence of serious inter se family disputes.

5. It is the specific contention of the petitioner that the property from which eviction is sought, namely property bearing No.22 situated at Valagerahalli Village, is not the property gifted to the petitioner. The petitioner asserts that the gift deed executed by the 4th respondent



pertains to an altogether different property bearing No.33 situated at Nayandahalli Village. The schedule to the partition suit, the injunction proceedings and the gift deed are relied upon to demonstrate that the subject matter property and the gifted property are distinct and different properties.

6. The petitioner contends that the Tribunal has proceeded on an erroneous assumption that the present property was gifted to the petitioner subject to a condition that she would maintain and take care of the 4th respondent-mother and that, upon breach of such condition, the gift stood liable to be cancelled under Section 23 of the Act. The petitioner would point out that the gift deed does not contain any clause obligating the petitioner to maintain the donor as a condition precedent for enjoyment of the gifted property. On the contrary, the deed specifically recites that the "Donee shall not be subject to any interference from or by the Donor or any other persons from whom the Donor derived title." It is



therefore contended that the very foundation on which Section 23 of the Act has been invoked is factually erroneous and legally unsustainable.

7. The petitioner further contends that she was permitted by the 4th respondent herself to occupy the first floor portion of property bearing No.22 along with her husband and son in order to assist and take care of the ailing mother. In support of the said contention, reliance is placed on the pleadings in the injunction suit instituted by the petitioner, wherein it is specifically pleaded that, owing to the poor health condition of the 4th respondent, the family members had requested and persuaded the petitioner to stay in the first floor premises and take care of the mother.

8. The petitioner also relies upon portions of the objections filed before the Tribunal to contend that the 4th respondent is being influenced by her brother, who allegedly intends to secure control over the remaining properties through testamentary arrangements. It is



further contended that the 4th respondent has sufficient financial means, medical benefits under the BHEL Retired Employees Contributory Health Scheme and rental income and, therefore, the proceedings under the Act are not genuinely for maintenance, but are intended to settle civil disputes relating to property.

9. The petitioner places reliance on the judgment of the Bombay High Court in ***Jitendra Gorakh Megh v. Additional Collector*** rendered in ***W.P.(L) No.31614/2025*** to contend that though the Act is a beneficial legislation intended to protect senior citizens, the provisions thereof cannot be invoked as a mechanism for summary eviction in the absence of fulfilment of the statutory requirements. It is contended that, in the present case, no claim for maintenance was either made or adjudicated and, therefore, the order of eviction is dehors the scheme of the Act.

10. Per contra, the 4th respondent-mother, while admitting the relationship between the parties and



ownership of the subject properties, contends that the petitioner is unlawfully occupying property bearing No.22 despite having already been conferred the benefit of another property through a gift deed. It is contended that out of three properties, one property has been gifted exclusively to the petitioner and another property has been gifted jointly to the other daughters, whereas the present property has not been gifted to anybody and is required for the residence of the 4th respondent herself.

11. The 4th respondent admits that she had initially permitted the petitioner to reside in the subject premises. However, it is her case that the permission was purely permissive in nature and stood revoked owing to the conduct of the petitioner and the mounting family disputes. It is therefore contended that the petitioner's continued occupation has become unauthorized.

12. The 4th respondent further contends that several civil suits instituted by the petitioner, including



O.S.Nos.1311/2021, 2345/2021, 3585/2025 and 3628/2025, are pending consideration and demonstrate the acrimonious relationship between the parties. It is also contended that the petitioner is herself receiving rental income of Rs.20,000/- per month from the property gifted to her and therefore cannot insist upon continued occupation of the subject premises.

13. The 4th respondent also raises a preliminary objection with regard to maintainability of the writ petition by contending that Section 16 of the Act provides a right of appeal only to a senior citizen or parent aggrieved by an order of the Tribunal and not to the children or relatives against whom proceedings are initiated.

14. Reliance is placed by the 4th respondent on the judgment of the High Court of Punjab and Haryana in ***Justice Shanti Sarup Dewan (Retd.) v. Union Territory, Chandigarh 2014 Supp CivCC 320*** to contend that senior citizens ought not to be relegated to protracted civil proceedings for recovery of possession



from children or relatives and that the very object of the Act is to ensure peaceful and dignified living to senior citizens.

15. Further reliance is placed on the judgment of the Co-ordinate Bench of this Court in ***Skanda Sharath v. Assistant Commissioner in W.P.No.11710/2019***, wherein it has been held that Sections 4 and 23 of the Act operate in different spheres and that a claim for maintenance is not a condition precedent for passing an order of eviction in aid of protecting the right of a senior citizen to reside peacefully and with dignity. The Co-ordinate Bench, while advertent to the judgments of the Hon'ble Apex Court in ***Income Tax Officer, Cannanore v. M.K. Mohammed Kunhi and Grindlays Bank Ltd. v. Central Government Industrial Tribunal***¹, has held that in the absence of any express prohibition, a Tribunal constituted under a special statute possesses incidental and ancillary powers necessary to render effective relief to

¹ AIR 1969 SC 430,



a senior citizen, including directing restoration of possession.

16. The Assistant Commissioner, while passing the impugned order, has concluded that the property in question was the self-acquired property of the mother and that the same had been permitted to be enjoyed by the petitioner on the understanding that she would maintain and take care of the 4th respondent. The Tribunal has further held that the petitioner having failed to fulfil the said obligation, the 4th respondent was entitled to seek cancellation of the arrangement and recovery of possession.

17. Having heard the learned counsel appearing for the respective parties, the following points arise for consideration:

"i. Whether the 3rd respondent–Tribunal was justified in invoking Section 23 of the Act and



directing the petitioner to hand over vacant possession of property bearing No.22 on the premise that the petitioner had violated the alleged terms and conditions of the gift deed executed by the 4th respondent-mother, though the gift deed on record pertains to a different property and does not contain any maintenance clause?

ii. Whether the impugned order suffers from misreading of the material documents and schedules produced before the Tribunal, particularly in treating the subject property bearing No.22 as the property gifted to the petitioner under the registered gift deed relating to property bearing No.33?

iii. Whether the impugned order of eviction warrants interference under Articles 226 and 227 of the Constitution of India?"



Finding On Point Nos. (i) and (ii):

18. Before adverting to the aforesaid two crucial points formulated by this Court, it would be apposite to briefly advert to the admitted and undisputed facts emerging from the pleadings and documents placed on record.

19. It is not in dispute that the 4th respondent-mother had executed a registered gift deed dated 16.03.2006 in favour of the present petitioner in respect of property bearing No.33 situated at Nayandahalli Village, Kengeri Hobli, Bengaluru South Taluk. The recitals in the gift deed are crucial and therefore relevant recitals are extracted as under:

" WHEREAS the Donor is the sole and absolute owner and is in lawful possession and enjoyment of the property bearing No.33, Khatha No.106, Situated at Nayandahalli Village, Kengeri Hobli, Bangalore South Taluk, Bangalore, present Corporation No. 3, 1st Main Road, Nayandahalli South Layout, 39th Ward of Bangalore Mahanagara Palike, Bangalore, and having acquired the same through a Sale deed registered as document No.7546/91-92, of Book-I,



Volume-462, Pages:47-49, Dated: 28-10-1991, registered in the office of the Sub-registrar, Kengeri, Bangalore.

WHEREAS the Donee is daughter of the Donor herein out of her love and affection towards her daughter, the donor herein is desirous of making gift Southern portion of the above said property which is morefully described in the schedule hereunder to the Donee for her self and to enjoy the same as absolute owner.

NOW THIS DEED OF GIFT WITNESSETH AS FOLLOWS:

In consideration of natural love and affection of the Donor towards the Donee, the Donor transfers to the donee the schedule property described in the schedule hereunder free from all encumbrances to hold the same to the Donee as absolute owner together with all rights of way, liberties, privileges and easements that are attached to or belonging to the schedule property unto to the donee to have, to hold and to enjoy the same for ever.

The Donor has this day put the donee in vacant physical possession of the schedule property and the donee shall hereafter be entitled to enjoy the schedule property conveyed under this deed as absolute owner thereof.

The Donee herein accepts the Gift and transfer of the schedule property conveyed under this deed in her favour.

That the Donee shall get the Katha of the schedule property to her name from the Corporation of the city of Bangalore at her cost."



(emphasis supplied)

20. The recitals in the gift deed, which are extracted supra, unmistakably reveal that the subject matter of the gift deed is property bearing No.33 and not the present property bearing No.22 from which eviction is sought under the impugned proceedings.

21. The statement of objections filed by the 4th respondent before this Court further fortifies the said position. The 4th respondent has categorically admitted that, apart from gifting property bearing No.33 to the present petitioner, she has also executed gift deeds in respect of another immovable property jointly in favour of her other two daughters. It is her specific contention that she has retained ownership over the present property bearing No.22 and that the said property has not been gifted or transferred in favour of anybody. The pleadings of the 4th respondent therefore unequivocally indicate that property bearing No.22 continues to stand exclusively in



her name and that she asserts absolute ownership and possessory rights over the said property.

22. The material placed on record, more particularly the schedules annexed to the partition suit, injunction proceedings and the registered gift deed, prima facie demonstrate that the Tribunal has proceeded on an erroneous assumption that the present property bearing No.22 was the very property gifted to the petitioner under the registered gift deed. A careful comparison of the schedules would reveal that the property covered under the gift deed is entirely distinct from the property forming subject matter of the eviction proceedings.

23. However, in the backdrop of these admitted facts, what assumes significance is the stand taken by the petitioner herself before the Tribunal. The written arguments submitted by the petitioner in MSC No.45/2023 contain crucial admissions which cannot be lost sight of while examining the legality of the impugned order. The petitioner has specifically admitted that, owing to the



deteriorating health condition of the husband of the 4th respondent and also the advanced age and ailments suffered by the 4th respondent herself, the petitioner and her husband were requested by 4th respondent to stay in a portion of the schedule property and assist in taking care of the aged parents.

24. The pleadings and written submissions tendered by the petitioner before the Tribunal therefore clearly indicate that her induction into the first floor portion of property bearing No.22 was permissive in nature and traceable to the consent and request of the 4th respondent-mother. The petitioner's own pleadings in the injunction suit further disclose that she continued to reside in the said premises along with her husband and son while attending to the medical and personal needs of the 4th respondent. Thus, the foundational facts emerging from the petitioner's own pleadings unmistakably point towards permissive occupation and not occupation flowing from



any independent proprietary right under the gift deed dated 16.03.2006.

25. The records further reveal that serious disputes have subsequently erupted between the parties. The written arguments filed before the Tribunal disclose that criminal proceedings in C.C.No.13514/2022 have been instituted against the petitioner's husband and son for offences punishable under Sections 447, 448, 324, 504 and 506 read with Section 34 of the IPC and that the said proceedings are pending consideration before the competent Court.

26. Simultaneously, the petitioner has also instituted multiple civil proceedings against the 4th respondent and other family members. The petitioner has filed O.S.No.2345/2021 seeking partition and separate possession by contending that the properties standing in the name of the 4th respondent were, in fact, acquired by her deceased father, who was employed in BHEL, and therefore constitute joint family properties available for



partition. The pleadings further reveal that the petitioner has also instituted O.S.No.1311/2021 seeking injunctive reliefs in respect of the very same property. The material placed before this Court prima facie indicates that in the pending partition suit, the petitioner has secured an interim order restraining the 4th respondent from alienating the suit schedule properties during the pendency of the proceedings.

27. The records further indicate that the gift deeds executed by the 4th respondent in favour of the other two daughters, who are arrayed as defendant Nos.2 and 3 in the partition suit, are also under challenge in the said proceedings. Therefore, the entire conspectus of facts clearly demonstrates that extensive civil disputes concerning title, inheritance, validity of gift deeds and possessory rights are already *sub judice* before competent Civil Courts.



28. It is in the midst of these inter se disputes between the mother and daughter, coupled with pending civil and criminal proceedings, the Tribunal proceeded to invoke the provisions of the Act and directed the petitioner to vacate property bearing No.22.

29. At the outset, this Court finds considerable force in the contention urged by the petitioner that the 3rd respondent-Tribunal has clearly misread the material documents placed on record while invoking Section 23 of the Act. The property which forms the subject matter of the present eviction proceedings is property bearing No.22 situated at Valagerahalli Village, whereas the registered gift deed dated 16.03.2006 executed by the 4th respondent in favour of the petitioner pertains to an altogether distinct property bearing No.33 situated at Nayandahalli Village. The schedules annexed to the gift deed, partition suit and injunction proceedings unmistakably establish that the two properties are separate and distinct immovable properties.



30. Admittedly, the 4th respondent has not executed any registered deed of transfer in respect of the present disputed property bearing No.22 in favour of the petitioner. On the contrary, the pleadings of the 4th respondent consistently disclose that she has retained ownership over the said property and that the petitioner was only permitted to occupy a portion thereof. Therefore, the reasoning assigned by the Tribunal that the petitioner violated the terms and conditions of the gift deed relating to the present property is factually erroneous and proceeds on a clear misreading of the records.

31. However, the mere fact that the Tribunal has proceeded on an erroneous factual premise would not by itself conclude the matter in favour of the petitioner. The larger question which falls for consideration before this Court is as to whether, in the absence of transfer of the disputed property under a registered document containing a condition to maintain the senior citizen, the Tribunal could nevertheless invoke powers under Section 23 of the



Act and direct eviction of the petitioner from the property belonging to the senior citizen-mother.

32. In this context, it would be apposite to refer to the reported judgment rendered by the Co-ordinate Bench of this Court in ***Skanda Sharath v. Assistant Commissioner in W.P.No.11710/2019***. The Co-ordinate Bench, while examining the scope and object of Section 23 of the Act, has extensively adverted to the principles laid down by the Hon'ble Apex Court in ***Income Tax Officer, Cannanore v. M.K. Mohammed Kunhi***², ***Grindlays Bank Ltd. v. Central Government Industrial Tribunal***³, ***Everest Apartments Co-operative Housing Society Ltd. v. State of Maharashtra***⁴, and ***Manohar Joshi v. Nitin Bhaurao Patil***⁵. The Co-ordinate Bench, while interpreting the width of the powers exercisable by the Tribunal under the provisions of the Act, held that the scope and object of

² AIR 1969 SC 430,

³ 1980 Supp SCC 420,

⁴ (2008) 2 SCC 409

⁵ (2018) 11 SCC 470



Section 23 of the Act cannot be construed in a narrow or pedantic manner so as to defeat the very purpose and object of the beneficial legislation.

33. The Co-ordinate Bench was of the considered view that the Tribunal constituted under the Act possesses all incidental and ancillary powers necessary to render effective relief to a senior citizen or parent and that the summary remedy provided under the Act cannot be rendered illusory by compelling a helpless senior citizen to institute protracted civil proceedings merely because there is no formal transfer of property coupled with a maintenance clause under a registered instrument.

34. While examining the factual matrix in the said case, the Co-ordinate Bench had also taken note of the hostile conduct of the beneficiary-son and the pendency of criminal proceedings between the parties and ultimately held that the son could not be permitted to continue in occupation of the property belonging to the senior citizen. Even in the absence of a registered transfer deed



containing a maintenance condition, the Tribunal was held to possess jurisdiction to direct eviction in order to secure peaceful possession and dignified living to the senior citizen.

35. Keeping in view the law laid down by the Co-ordinate Bench and applying the same to the facts of the present case, this Court finds that the admitted facts clearly reveal that the petitioner was permitted to occupy the first floor portion of property bearing No.22 only on account of the advanced age and deteriorating health condition of the 4th respondent and her husband. The pleadings of the petitioner herself unequivocally disclose that she, along with her husband and son, was requested to stay in the premises in order to look after the aged parents. Therefore, the petitioner's possession over the subject property is clearly permissive in nature and not founded upon any independent title flowing from the gift deed dated 16.03.2006.



36. The records further reveal that the relationship between the parties has completely deteriorated. The petitioner has instituted multiple civil proceedings against her aged mother, including O.S.No.2345/2021 seeking partition and separate possession and O.S.No.1311/2021 seeking injunctive reliefs. The pleadings further indicate that the petitioner has challenged even the gift deeds executed by the 4th respondent in favour of the other daughters.

37. Apart from the pending civil disputes, the material placed before this Court also reveals that criminal proceedings have been initiated against the petitioner's husband and son in C.C.No.13514/2022 for offences involving allegations of criminal trespass, assault, intimidation and abuse. The records prima facie indicate that charge-sheet has also been filed and the proceedings are presently pending trial before the competent Court.



38. The cumulative effect of the pending civil and criminal disputes unmistakably demonstrates that the 4th respondent-mother is no longer in a position to peacefully enjoy possession of her own property and that continuation of the petitioner and her family members in the subject premises has become a source of constant discord and harassment to the senior citizen.

39. This Court also cannot lose sight of the admitted fact that the petitioner has already been conferred the benefit of a separate immovable property bearing No.33 under a registered gift deed executed by the 4th respondent as far back as on 16.03.2006. The said gift deed is produced along with the statement of objections and marked as Annexure-R3. The materials on record therefore clearly demonstrate that the petitioner is not a destitute daughter without shelter, but is already the beneficiary of an immovable property conveyed by her mother.



40. In that view of the matter, though this Court is of the opinion that the Tribunal has committed an error in proceeding on the assumption that the present property bearing No.22 was itself the subject matter of the gift deed and that there existed a condition requiring maintenance of the donor, nevertheless, the ultimate conclusion reached by the Tribunal directing eviction of the petitioner from the property belonging to the senior citizen does not warrant interference under Articles 226 and 227 of the Constitution of India.

41. In the light of the law laid down by the Co-ordinate Bench in the case of ***Skanda Sharath (supra)***, this Court is of the considered view that even in the absence of a registered transfer deed pertaining to the present property containing an express maintenance clause, the 4th respondent-mother was still entitled to invoke the provisions of Section 23 of the Act and seek restoration of peaceful possession by evicting the



petitioner who was admittedly inducted into the premises under permissive occupation.

Accordingly, Point No.(i) is answered in the '**affirmative**' by holding that the Tribunal was justified in invoking Section 23 of the Act and directing eviction of the petitioner, notwithstanding the erroneous reasoning assigned with regard to the gift deed. Point No.(ii) is answered '**partly in the affirmative**' and in favour of the petitioner to the limited extent of holding that the Tribunal has indeed misread the documents and erroneously treated property bearing No.22 as the gifted property covered under the registered gift deed dated 16.03.2006. However, such misreading of the documents does not materially affect the legality of the ultimate direction of eviction passed by the Tribunal in the facts and circumstances of the present case. Consequently, the challenge to the impugned order fails.



Finding on Point No.(iii):

42. This Court, having given its anxious consideration to the pleadings, documents and the rival submissions canvassed by the parties, is of the considered view that the impugned order of eviction does not warrant interference in exercise of supervisory jurisdiction under Articles 226 and 227 of the Constitution of India.

43. The records placed before this Court clearly reveal that the petitioner has already instituted O.S.No.2345/2021 seeking partition and separate possession by asserting that all the immovable properties standing in the name of the 4th respondent-mother are, in fact, joint family properties acquired out of the earnings and savings of her deceased father, who was employed in BHEL. The petitioner has specifically asserted in the said suit that though the properties stand in the name of the 4th respondent, they partake the character of joint family/ancestral properties and that she is entitled to a legitimate share therein.



44. The materials on record further disclose that the petitioner has also challenged the gift deeds executed by the 4th respondent in her favour as well as the other daughters and is seeking adjudication of her alleged proprietary rights before the competent civil Court. Therefore, the petitioner has already availed an efficacious civil remedy wherein all questions relating to title, nature of acquisition, validity of gift deeds and entitlement to share are pending adjudication.

45. At the same time, the records unmistakably reveal that the petitioner herself has already received the benefit of a separate immovable property bearing No.33 under a registered gift deed dated 16.03.2006 executed by the 4th respondent, which is produced as Annexure-R15 along with the statement of objections. The existence of the said registered gift deed and the petitioner's admitted possession thereof assumes considerable significance while examining the grievance projected against the order of eviction.



46. The materials further reveal that the relationship between the parties has reached a stage of complete breakdown. The petitioner's husband and son are now facing criminal prosecution in C.C.No.13514/2022 pursuant to allegations involving criminal trespass, assault and intimidation. The records prima facie indicate that charge-sheet has already been filed and the criminal proceedings are pending consideration before the competent criminal Court.

47. Viewed in the backdrop of these admitted facts, this Court is of the view that the cumulative circumstances clearly warranted intervention at the hands of the Tribunal constituted under the Act. Merely because the Tribunal has misread certain documents while assigning reasons would not ipso facto render the ultimate order vulnerable to interference, particularly when the materials on record otherwise justify exercise of powers under Section 23 of



the Act in order to secure peaceful possession and dignified living to the senior citizen-mother.

48. This Court is therefore of the considered opinion that the present case squarely falls within the object and spirit of Section 23 of the Act and that the Tribunal was justified in granting summary relief to the 4th respondent-mother by directing eviction of the petitioner from the subject property.

49. At the same time, it is also necessary to observe that the order of eviction passed under the provisions of the Act would not conclude the petitioner's independent civil rights, if any, which are already the subject matter of adjudication in the pending partition suit. The petitioner is at liberty to prosecute the said proceedings and establish, in accordance with law, that the present disputed property also forms part of the alleged joint family properties and that she is entitled to a share therein. However, unless and until the petitioner succeeds in establishing such right before the competent



civil Court, she cannot resist the claim of the 4th respondent-mother seeking restoration of peaceful possession of the property admittedly standing in her name.

50. For the aforesaid reasons, this Court is of the considered view that the impugned order does not suffer from any jurisdictional error, perversity or patent illegality warranting interference under Articles 226 and 227 of the Constitution of India.

Accordingly, Point No.(iii) is answered in the **negative** and against the petitioner.

51. Though this Court has found that the Tribunal has proceeded on an erroneous factual premise in treating property bearing No.22 as the property gifted to the petitioner under the registered gift deed dated 16.03.2006, the said error in reasoning would not vitiate the ultimate conclusion reached by the Tribunal directing



eviction of the petitioner from the property belonging to the 4th respondent-senior citizen.

52. The object of the Act is to ensure protection, security and dignified living to senior citizens and parents. The provisions of the Act, being a beneficial piece of legislation, are required to receive a purposive and liberal interpretation so as to advance the object sought to be achieved by the enactment. If the provisions of Section 23 of the Act are construed in a narrow and pedantic manner by restricting the jurisdiction of the Tribunal only to cases where there exists a registered transfer deed coupled with an express maintenance clause, the very efficacy of the summary remedy contemplated under the Act would stand defeated.

53. This Court is in respectful agreement with the view taken by the Co-ordinate Bench in ***Skanda Sharath v. Assistant Commissioner(supra)***, that the powers exercisable by the Tribunal under Section 23 of the Act cannot be confined only to cases involving formal transfer



of immovable property subject to a condition of maintenance. The Tribunal, being a statutory forum constituted for protection of senior citizens, possesses incidental and ancillary powers necessary to secure effective relief and restore peaceful possession to a senior citizen who is unable to enjoy his or her property due to hostile conduct of children or relatives occupying the premises under permissive possession.

54. Therefore, transfer of immovable property under a registered document containing an express condition to maintain the senior citizen may not always be a condition precedent for invoking jurisdiction under Section 23 of the Act. Where the facts unmistakably demonstrate that a senior citizen has permitted occupation of the property out of love, affection, care or expectation of support and such occupation subsequently becomes detrimental to the peaceful life and dignity of the senior citizen, the Tribunal would still be justified in exercising powers under the Act to direct restoration of possession.



55. In the present case, the petitioner has already availed her civil remedies by instituting a partition suit wherein she claims independent proprietary rights over the subject properties. The said rights, if any, are yet to be adjudicated by the competent civil Court. Unless the petitioner succeeds in establishing such rights in the pending civil proceedings, she cannot resist the claim of the 4th respondent-mother seeking eviction from the property admittedly standing in her name.

56. For all the aforesaid reasons, this Court finds no ground to interfere with the impugned order passed by the Tribunal. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The writ petition stands ***dismissed***.

(ii) The order dated 09.04.2025 passed by the 3rd respondent-Chairman and Assistant Commissioner, Maintenance and Welfare of Parents



and Senior Citizens Tribunal, in MSC No.45/2023 is upheld.

(iii) It is however made clear that observations made in the present order are confined only to adjudication of the dispute under the provisions of the Act and shall not influence adjudication of rights of parties in O.S.No.2345/2021 or any other pending civil proceedings.

(iv) Pending interlocutory applications, if any, stand disposed of.

(v) No order as to costs.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

ALB
CT:GSM
LIST NO.: 19 SL NO.: 6