

**\* HON'BLE SRI JUSTICE C.V. BHASKAR REDDY**

**+ WRIT PETITION Nos. 30597 and 30669 of 2022**

**% Date: 04.03.2025**

**% Writ Petition No.30597 of 2022**

**Between:**

# Ms. Shriya Uppati. ... Petitioner  
AND

\$ The State of Telangana  
Rep. by Collector and District Magistrate  
Hyderabad District  
and others.  
... Respondents

**! Counsel for the Petitioner** : Sri L. Prabhakar, learned  
Senior Counsel representing  
Sri B. Sathish.

**^ Counsel for Respondents 1 to 3 & 5:** Government Pleader for Revenue

**^ Counsel for the Respondent No.4:** Sri P.Venu Gopal, learned  
Senior Counsel representing  
Sri K. Anoop Kumar.

**> HEAD NOTE:**

**? Cases referred**

1. (2022) 17 SCR 876
2. (2022) 12 SCC 815

**HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY**

**WRIT PETITION Nos.30597 and 30669 of 2022**

**COMMON ORDER:**

Since the issue involved in both these writ petitions is intrinsically interconnected, they are taken up and heard together and are being disposed of by this common order.

**2.** Writ Petition No.30597 of 2022, under Article 226 of the Constitution of India, is filed seeking the following relief:

*“...to pass an appropriate writ or direction more particularly one in the nature of writ of certiorari quashing the impugned order dated 31-01-2022 passed by the respondent No.3 in file No.D/6400/2021 as illegal, arbitrary, ultra virus and beyond the scope of its jurisdiction and consequentially to set aside the same and also to set aside the rejection order dated 06-06-2022 passed by the respondent No.1 and by ordering the respondent No.5 to restore back the entry for the two gift deeds dated 23-06-2021 vide registered document No.2450 of 2021 and 3258 of 2021 of S.R.O. Chikkadpally...”*

**3.** Writ Petition No.30669 of 2022, under Article 226 of the Constitution of India, is filed seeking following relief:

*“....to pass an appropriate writ or direction more particularly one in the nature of writ of certiorari quashing the impugned order dated 31-01-2022 passed by the respondent No.3 in file No. D/6400/2021 as illegal, arbitrary, ultra virus the Act and beyond the scope and jurisdiction of the Act and consequentially to also set aside the rejection order dated 06-06-2022 passed by the respondent No.1 in the appeal and further to direct the respondent No.5 to delete and remove the entry of cancellation noted against the two registered Instruments being the two gift deeds dated 23-06-2021 vide registered document Nos.2450 of 2021 and 3258 of 2021 of the office of S.R.O. Chikkadpally Hyderabad...”*

**4.** The petitioner-Ms.Shriya Uppati in W.P.No.30597 of 2022 is daughter and the petitioner No.2-Saneet Uppati in W.P.No.30669 of

2022 is the son of petitioner No.1-Smt.Sabita Uppati in W.P.No.30669 of 2022. The respondent No.4-Smt.U.Lalitha Prasad, in both the writ petitions is the mother-in-law of petitioner No.1-Smt. Sabita Uppati in W.P.No.30699 of 2022 and grandmother of petitioner in W.P.No.30597 of 2022 and petitioner No.2 in W.P.No.30669 of 2022.

**5.** The brief facts that are necessary for the disposal of the present writ petitions are stated as under:

Ms. Shriya Uppati, is the paternal granddaughter of the respondent No.4-Smt.U.Lalitha Prasad and daughter of Late Sri Sanjay Uppati, who is the second son of the respondent No.4, died on 12.11.2020. It is stated that her brother i.e, Saneet Uppati is under the guardianship of Smt. Sabita Uppati. It is further stated that the respondent No.4 after the death of Late Sanjay Uppati has executed registered gift deed vide document No.2450/2021 dated 23.06.2021 *inter alia* transferring all that 75% undivided share of Smt. U. Lalitha Prasad, to Ms. Shriya Uppati in first floor area admeasuring 1346.25 sq.feet out of 1495 sq.ft and second floor admeasuring 1346.25 sq.ft out of 1795 sq.ft and 75% undivided share from the land admeasuring 279.51 sq.yards out of 447.22 sq.yards in Premises No.1-2-365/36/4 situated at Domalguda, Gagan Mahal Road, Hyderabad. It is further stated that Smt. Lalitha

Prasad has executed another registered gift deed vide document No.3258/2021 dated 23.06.2021 in favour of Ms. Shriya Uppati and also in favour of Master Saneet Uppati being represented by Sabita Uppati *inter alia* transferring all that 75% of undivided share of the donor to the donees on the constructed stilt floor area admeasuring 1786.05 square feet from out of 2381.40 square feet, first floor area admeasuring 1786.05 square feet from out of 2381.40 square feet, 2<sup>nd</sup> floor area admeasuring 1786.05 square feet from out of 2381.40 square feet, 3<sup>rd</sup> floor area admeasuring 1786.05 square feet from out of 2381.40 square feet and fourth floor area admeasuring 1786.05 square feet from out of 2381.40 square feet and 75% undivided share of land, i.e., 270.82 square yards out of 433.33 square yards in premises No.1-2-365/36/5 & 9 situated at Domalguda, Gagan Mahal Road, Hyderabad-.

**6.** While the matter stood thus, it is stated that differences arose between Smt.Sabita Uppati, Smt.U.Lalitha Prasad (R.4) and her remaining sons. The respondent No.4 has filed a complaint against Smt. Sabita Uppati alleging that by playing fraud, coercion and undue influence, she got executed registered gift deeds in favour of her minor sons. Basing on the said complaint, a case in Crime No.394/2021 dated 12.10.2021 was registered on the file of Chikkadpally Police Station, for the offences under Sections 420,

406, 109 r/w Section 24 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short "Senior Citizens Act") and the same is pending for investigation. It is further stated that the respondent No.4 has initially executed gift deed vide document No.2112/2016 dated 03.06.2016 in favour of her elder Son-U. Chakravarthy and subsequently the said gift deed was cancelled vide cancellation deed bearing document No.113/2019 dated 27.07.2019. Questioning the said cancellation, it is stated that said U. Chakravarthy has instituted a suit vide O.S.No.357/2019 on the file of IX Additional Chief Judge, City Civil Court, Hyderabad, and the same was decreed in terms of compromise and thereafter, the subject two registered gift deeds dated 23.06.2021 were executed by respondent No.4 in favour of her grandchildren i.e, Ms.Shriya Uppati and Master Saneet Uppati, (who were students) out of love and affection. It is further stated that the respondent No.4 at the instance and with undue influence of her other sons, started interfering with the gifted properties, which necessitated Smt. Sabitha Uppati, mother of petitioners to institute a suit vide O.S.No.5078/2021 on the file of XXII Junior Civil Judge, City Civil Court, Hyderabad, seeking bare injunction. It is stated that the respondent No.4 also instituted suit vide O.S.No.477/2021 on the file of II Additional Chief Judge, City Civil Court, Hyderabad, against the petitioner and her brother represented by Smt. Sabitha Uppati for cancellation of the

gift deeds dated 23.06.2021. While-so, on 18.04.2022, the respondent No.4 has withdrawn the suit vide O.S.No.477/2021 on the premise that the respondent No.3-Revenue Divisional Officer-cum-Special Tribunal constituted under the provisions of the Senior Citizens Act, 2007 has passed an order dated 31.01.2022 in File No.D/6400/2001 cancelling the gift deeds executed in favour of the petitioners. It is stated by the petitioners that having come to know that the respondent No.4 by playing fraud and suppressing the pendency of civil suit instituted for very same relief, has obtained orders dated 31.01.2022 from the respondent No.3-Special Tribunal, they made an application vide File No.G/RTI/4506/2022 dated 19.07.2022 under the Right to Information Act, 2005 requesting to furnish information relating to copy of the orders passed in File No.D/6400/2001 dated 31.01.2022 and the same was furnished by the respondent No.3-Special Tribunal. It is further stated that as the said order was passed without following the procedure as prescribed under the provisions of the Senior Citizens Act, even though the petitioners were majors on the date of institution of the suit by the respondent No.4 and without impleading the petitioners as party respondents and only making mother of petitioners as party respondents. Ms. Shriya Uppati, filed an appeal on the file of respondent No.1-Appellate Tribunal-cum-Collector and District Magistrate and the same was dismissed vide order dated 06.06.2022

on the ground that appeal was not filed within a period of 60 days and the appellant is not senior citizen or parent and not satisfied the requirement under Section 16(1) of the Senior Citizens Act. Aggrieved by the said order, W.P.No.30597 of 2022 is filed. The said Writ Petition was listed for admission on 27.01.2022. Thereafter the matter was referred for Mediation and Conciliation on 22.11.2023. When efforts proved to be in vain, this Court granted *status quo* orders on 04.08.2023.

**7.** While-so, Smt. Sabita Uppati, representing her son Master Saneet Uppati has filed W.P.No.30669 of 2022 challenging the very same impugned order dated 31.01.2022 and the consequential order dated 06.06.2022 and for other appropriate reliefs.

**8.** The respondent No.4 filed separate counter affidavits in both the writ petitions. The respondent No.4 has not disputed the relationship and execution of gift deeds in favour of petitioners. It is the case of respondent No.4 that she is aged about 82 years and her daughter-in-law i.e, Smt.Sabita Uppati, is harassing her in her old age and she snatched away the cash, gold, jewellery, Fixed Deposit Receipts, cheque books and property documents and as such, she was constrained to file a complaint vide Crime No.9518/2022 for the offences under Sections 420, 406, 109 IPC r/w Section 24 of Senior Citizens Act. It is stated that inspite of the same, when Smt. Sabita

Uppati, continued her attitude, the respondent No.4 lodged another complaint and the same was registered as a case in Crime No.214/2022 for the offences under Sections 506 r/w 34 IPC and after completion of investigation, charge sheet was filed and the same was taken cognizance as C.C.No.6242/2022. It is further stated that seeking cancellation of gift deeds, respondent No.4 has instituted a suit vide O.S.No.477/2021 on the file of II Additional Chief Judge, City Civil Court, Hyderabad. It is stated that during pendency of said suit, respondent No.4 also instituted a case vide No.D/6400/2021 on the file of respondent No.3-Special Tribunal under Section 23 of the Act and the same was allowed vide order dated 31.01.2022 and thereafter, the respondent No.4 has withdrawn the suit. It is further stated in the counter affidavit that in pursuance of the cancellation of gift deeds, the respondent No.4 decided to settle all her properties and executed a partition deed dated 03.03.2022 vide document No.1279/2022. Questioning the same, the petitioners instituted a suit vide O.S.No.201/2022 on the file of IX Additional Chief Judge, City Civil Court, Hyderabad for cancellation of partition deed and for other reliefs and the same is pending for adjudication. It is further stated that there is no illegality or irregularity in the orders passed by the respondent No.3 and the same being confirmed by the respondent No.1-appellate authority and ultimately, prayed for dismissal of the writ petitions.



**9.** Heard the submissions of Sri L. Prabhakar, learned Senior Counsel representing Sri B. Sathish, learned counsel for the petitioners, Sri P.Venu Gopal, learned Senior Counsel representing Sri K. Anoop Kumar, learned counsel for the respondent No.4, learned Assistant Government Pleader for Revenue for the respondent Nos.1 to 3 and 5 and perused the record.

**10.** These two writ petitions are filed questioning the proceedings dated 31.01.2022 issued by the respondent No.3 in File No.D/6400/2021 entertaining an application under Section 23 of the Senior Citizens Act for cancellation of registered gift deeds dated 23.06.2021 executed by the respondent No.4 in favour of petitioners vide document Nos.2450/2021 and 3258/2021 and consequential confirmation order dated 06.06.2022 passed by the respondent No.1-appellate authority. The relevant recitals of said gift deeds are extracted as under:

*“1. The Donor is the absolute owner and possessor of the Schedule Property and as such the Donor is entitled to alienate the schedule property by way of gift and the Donor hereby transfers the Schedule Property in favour of the Donees, TO HAVE AND TO HOLD THE SAME ABSOLUTELY FOREVER.*

*2. The Donor herein is the paternal grandmother of the Donees.*

*3. The Donor out of love and affection, towards the Donees had decided and agreed to gift the schedule property, to the Donees by. executing this Gift Deed in her favour.*

*4. The Donor hereby conveys and transfers all her rights along with all the ownership rights and title to be enjoyed by the Donees absolutely and forever and to hold and enjoy the same in capacity of the absolute owner thereof through this Gift Deed and with all powers of transfer,*

*viz., alienation, mortgage, sale, hypothecation for the purpose of raising loans etc.*

*7. The Schedule Property is free from all encumbrances, charges, prior gifts, etc.*

*10. And this Gift Deed shall not be irrevocable at any circumstances.*

**11.** A careful reading of the above recitals would reveal that the donor i.e, respondent No.4 out of love and affection towards her grandchildren i.e, petitioners has executed the gift deeds in their favour of the petitioners, who were students at the time of execution. There is no condition in the gift deeds that the transferee/donee shall provide basic needs to the transferor/donor and failure to provide such necessities by the transferee/donee the transfer of property made in favour of the donee shall be deemed to be declared to be fraud or coercion and liable for cancellation. Even reading of the counter affidavits, would reveal that the respondent No.4 is having differences with mother of petitioners and no role whatsoever has been attributed to the petitioners i.e, granddaughter and grandson. The Senior Citizens Act was enacted with a laudable object for providing maintenance and welfare of senior citizens and parents taking into consideration the modern trends in the joint family system and a large number of elderly people are not being looked after by their family members in providing financial assistance and attending medical emergencies. This legislation empowers the Senior

Citizens to cancel the gift deeds executed by them in favour of their children/near relatives and declare such transactions as void.

**12.** It is apt to refer Section 23 of the Senior Citizens Act, which reads as follows:

*“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.*

**13.** A careful perusal of above provision makes it clear that for invoking Section 23, the following pre-requisites have to be fulfilled i.e, 1) 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 2) the transferee refuses or fails to provide such amenities and physical needs to the transferor. 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.** A reading of the recitals in the gift deeds dated 23.06.2021 would clinchingly establish that no conditions whatsoever attached to the Transfer of Property have been mentioned. The issues raised in this writ petition are no longer *res integra* in view of the decision of the Hon'ble Supreme Court in ***Sudesh Chhikara vs. Ramti Devi and another***<sup>1</sup>, wherein it was observed as under:

*13. 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.*

**15.** In the instant case, the respondent No.4 who said to have differences with her daughter-in-law i.e, Sabita Uppati, (mother of petitioners) has filed criminal cases and also instituted suit vide O.S.No.477/2021 on the file of II Additional Chief Judge, City Civil Court, Hyderabad, for cancellation of gift deeds dated 23.06.2021. Pending adjudication of the said suit, the respondent No.4 also filed a case vide Case No.B/6400/2021 under Section 23 of the Act, making Smt. Sabita Uppati as party respondent. There is no whisper in the cases filed by the respondent No.4 that the petitioners are

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<sup>1</sup> (2022) 17 SCR 876

under obligation to maintain and they failed to discharge their responsibility and transfer of the property in their favour amounts to fraud. Contrastingly, both the petitioners are students and it can be safely presumed that there is no income in the hands of the petitioners for paying maintenance to the respondent No.4 and she has voluntarily, without any undue influence has parted the property in favour of the petitioners with love and affection.

**16.** In addition to the above, nowhere it is stated in the counter affidavits that pendency of the suit vide O.S.No.477/2021 on the file of II Additional Chief Judge, City Civil Court, Hyderabad, (filed by the respondent No.4), was brought to the notice of the authority constituted under the Act to decide the validity or otherwise of the registered gift deeds dated 23.06.2021, which is subject matter of adjudication in suit. On the contrary, it is stated that the said suit was withdrawn subsequent to obtaining order dated 31.01.2022 from the respondent No.3 cancelling the registered gift deeds. Nowhere in the order of the Tribunal, it was mentioned that the notices were issued to the petitioners who are admittedly majors as on the date of institution of the case before the Tribunal. In the impugned orders, there is no mention about the suits instituted by the respondent No.4 or by the petitioners. The way in which the respondent No.4 being Senior Citizen prosecuted her cases before parallel forums

suppressing the pendency of the case disentitle her from claiming benefits under the Senior Citizens Act. It is settled law that the Hon'ble Supreme Court in ***K.Jayaram and others vs. Bangalore Development Authority and others***<sup>2</sup>, held that it is imperative that party approaching the court must come with clean hands and put forward all facts before the Court without concealing or suppressing anything. It was further observed that a litigant is bound to state all facts which are relevant to litigation and if he withholds some vital or relevant material in order to gain advantage over other side then he would be guilty of playing fraud with Court as well as with opposite parties which cannot be countenanced. In the instant case, no reasons whatsoever are forthcoming from the respondent No.4 for institution of the case on the file of the respondent No.3-Special Tribunal, when admittedly a comprehensive civil suit is already filed and pending, wherein the petitioners were made as party defendants, who acquired vested rights in terms of the registered gift deeds.

**17.** The Respondent No.3, being a quasi-judicial authority, ought to have followed the procedure and issued notices to the affected/interested persons before entertaining the petition filed by respondent No. 4. However, the record indicates that no such notices were issued to the petitioners, who were majors and in whose favor

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<sup>2</sup> (2022) 12 SCC 815

registered gift deeds had been executed, and against whom no allegations were made. Further, Smt.Sabita Uppati has filed an additional affidavit dated 05.02.2025 before this Court, stating that respondent No.4 is receiving pension as a retired Central Government employee and is also receiving pension of her late husband, amounting to approximately Rs.80,000/- in total. The affidavit further states that she, along with her children, are willing to provide any necessary assistance to respondent No.4 to ensure that she leads a comfortable life with them. The facts of the case present a distressing situation, involving a dispute among close relatives i.e, grandmother and her grandchildren. The Court must balance the paramount interest of the beneficial legislation on one hand and the future career prospects of the petitioners, who are students and the children of respondent No.4's deceased second son, on the other. Upon examining these aspects, this Court comes to a conclusion that respondent No.4 is receiving both her pension and her late husband's pension, which would sufficiently meet her basic necessities. To meet the ends of justice, the petitioners are directed to extend love and affection to the respondent No.4 who is admittedly aged about 82 years with a hope that the litigation between the parties would be resolved amicably.

**18.** For the aforesaid reasons, this Court is of the opinion that cancellation of gift deeds dated 23.06.2021 by the respondent No.3 vide impugned order dated 31.01.2022 and confirmation of the same by the respondent No.1-appellate authority is without jurisdiction and beyond the scope of the Senior Citizens Act. Therefore, the orders impugned in these writ petitions are liable to be set aside.

**19.** Accordingly, both the writ petitions are allowed and the impugned order dated 31.01.2022 passed in File No.D/6400/2021 by the respondent No.3, which was confirmed by the respondent No.1 vide order dated 06.06.2022 are set aside. Consequently, the respondent No.5-Sub-Registrar, Chikkadpally, is directed to delete the entries of cancellation made against the registered gift deeds dated 23.06.2021 bearing document Nos.2450 and 3258 of 2021.

Miscellaneous petitions, if any pending in these writ petitions shall stand closed. No order as to costs.

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**C.V. BHASKAR REDDY, J**

Date: 04.03.2025

Note: LR copy to be marked.

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