

THE HON'BLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION NO.15033 OF 2025

ORDER:

The present writ petition is filed seeking the following relief:

“...Writ of Mandamus declaring the impugned order passed by the 3rd respondent in Case N. 61/E/2023 Dated 22.04.2025 served on the petitioner on 30.04.2025 whereby allowing the appeal of the 4th respondent and declaring the gift deed vide document no. 6610 of 2018 dated 06.04.2018 executed by the 4th respondent in favour of the petitioner as null and void as illegal, arbitrary, unconstitutional and contrary to the provisions of the Senior Citizens Act 2007 and consequently by setting aside the impugned order passed by the 3rd respondent, direct the respondents No. 2 and 3 not to give effective to the impugned order by interfering with a peaceful possession and enjoyment of the schedule property mentioned in the gift deed dated 06.04.2018”

2) Heard Sri C. Hari Preeth, learned counsel for the petitioner, Sri Mohammed Imran Khan, learned Additional Advocate General appearing for respondents 1 to 3, and Sri N.Vashishta Venkateswarlu, learned counsel appearing for respondent Nos.4 and 5.

3) Learned counsel for the petitioner has submitted that initially respondent No.4, who is none other than the grand father of writ petitioner, has approached the Primary Authority under

Maintenance and Welfare of Parents and Senior Citizens Act, 2007, *viz.*, Sub-Divisional Magistrate and Revenue Divisional Officer, Keesara Division, Medchal-Malkajgiri District, seeking cancellation of the Gift Deed dated 06.04.2018 executed by him (respondent No.4) in favour of the writ petitioner and also to restore possession of respondent No.4. After considering the entire material on record, the Primary Authority passed order dated 20.12.2022 directing respondent No.4 to approach the Civil Court for redressal of his grievance. Aggrieved by the same, respondent No.4 has filed an appeal before the Appellate Authority *viz.*, District Collector. Vide order dated 06.07.2023 the appellate authority has dismissed the appeal vide Appeal Case No.61/E/2023 confirming the order dated 20.12.2022 passed by the Primary Authority. However, the further appeal preferred by respondent No.4 was entertained by the Second Appellate Authority *viz.*, Commissioner/Director under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (in short 'Act of 2007') and the Rules made thereunder, even without therebeing any application for condonation of delay.

3.1) Learned counsel has further contended that the Second Appellate Authority issued notice dated 10.03.2025, which was served on the petitioner on 13.03.2025, informing the date of hearing of the second appeal as 18.03.2025 at 2.00 pm. Though the petitioner appeared on the said date before the Second Appellate Authority, he was not allowed to be represented by his counsel. As such, the petitioner filed W.P.No.8647 of 2025 before this Court on 19.03.2025 wherein this Court vide order dated 21.03.2025 has granted stay of all further proceedings pending before the Second Appellate Authority. However, the Second Appellate Authority passed order dated 18.03.2025 with antedate in the further Second Appeal and remanded the matter to the First Appellate Authority *viz.*, District Collector for fresh enquiry as per law, even without causing any enquiry or giving opportunity of hearing to the petitioner. Learned counsel has further contended that the First Appellate Authority without reference to the order of the Second Appellate Authority, has entertained the re-appeal filed by respondent No.4 and issued the notice dated 28.03.2025 to the petitioner to appear on 02.04.2025. On the said date, the petitioner has appeared before the First Appellate Authority and

requested to keep the proceedings in abeyance till disposal of W.P.No.8647 of 2025 and also submitted a representation dated 02.04.2025 to that effect. Yet, the First Appellate Authority has passed the order dated 22.04.2025 behind the back of the petitioner duly setting aside the order of the Primary Authority and cancelled the Gift Deed dated 06.04.2018 held by the petitioner and directed the Revenue Divisional Officer to initiate further action, depriving the rights of the petitioner.

3.2) Learned counsel for the petitioner has contended that the First Appellate Authority has passed the order dated 22.04.2025 as if he heard the petitioner on 02.04.2025. Further, the order dated 22.04.2025 was dispatched on 29.04.2025 and served on the petitioner on 30.04.2025. But, the copy of the order dated 22.04.2025 was informed to the Sub-Registrar concerned on 28.04.2025 itself at the instance of the Revenue Divisional Officer and after cancellation of the Gift Deed, the copy of the order dated 22.04.2025 was dispatched to the petitioner. The learned counsel has strenuously contended that the said scenario clearly demonstrates that respondent Nos.2 and 3 are influenced by respondent No.4 and the action of respondents 2 and 3 amounts to

colourable exercise of power and not in accordance with the Act of 2007, more particularly Section 23 thereof.

3.3) Learned counsel has further contended that the Gift Deed dated 06.04.2018 does not have any pre-condition of maintenance of respondent No.4. Further, after execution of the said Gift Deed, the writ petitioner has developed the property i.e. demolished the old building and constructed G+2 floors with his own funds and by obtaining loans worth Rs.4 crores. Learned counsel has further submitted that after the death of his wife on 16.11.2004 and son on 09.09.2017, respondent No.4 continued the joint family for sometime and thereafter in the year 2018, respondent No.4 had transferred the ownership of the subject property in favour of the petitioner and at the instructions of respondent No.4, the petitioner had also paid Rs.10,00,000/- to C.Ashok Kumar (elder son of respondent No.4 i.e. paternal uncle of the petitioner herein) towards his share of 123.5 sq. yards and got executed a Memorandum of Understanding in his (petitioner's) favour duly signed by C.Ashok Kumar, his son and daughter.

3.4) Learned counsel by placing reliance on ***Sudesh Chhikara v. Ramti Devi*** vide judgment dated 06.12.2022 has contended that the Hon'ble Supreme Court has categorically held that the pre-condition as contemplated under Section 23 (1) of the Act has to be complied to set aside the gift deed. Such element of pre-condition is unavailable in the subject gift deed. Therefore, it is prayed to allow the writ petition by setting aside the order dated 22.04.2025 passed by respondent No.3 in Case No.61/E/2023.

4) Per contra, the learned Additional Advocate General, while narrating the facts of the case, has contended that as the writ petition is filed seeking to set aside the order dated 22.04.2025 passed by respondent No.3, the present writ petition is not maintainable in respect of respondent No.2. It is strenuously contended that the order dated 18.03.2025 is not antedated and not passed on 21.03.2025 as alleged by the petitioner.

5) On the other hand, learned counsel appearing for respondent No.4 has contended that originally the father of respondent No.4 had purchased the vacant land admeasuring 247 Sq. Yards comprising in plot Nos.25 and 26 situated at Kothapet Village,

Hyderabad East Taluq, Hyderabad, through Registered Sale Deed bearing document No.1726/1968 dated 15.04.1968. Thereafter, the brothers of respondent No.4 have released their share in the said plot in favour of respondent No.4 vide Release Deed bearing document No.1187/1977 dated 29.04.1977. Further, respondent No.4 had two sons namely C. Ashok Kumar and C.R. Shiva Kumar, out of whom, C. Ashok Kumar is having one son and one daughter while C.R.Shiva Kumar had 2 sons and a daughter. While so, C.R. Shiva Kumar died on 09.09.2017 leaving behind him his widowed wife (respondent No.5 herein), two sons and one daughter viz., C.Srinivas (writ petitioner herein), C.Sandeep and C.Sheela and all of them remained as members of the undivided joint family. While so, taking advantage of advanced age of respondent No.4 and his emotional dependency, the writ petitioner promised to take care of respondent No.4 and provide effective support and maintenance for the rest of life. Basing on said assurance, respondent No.4 had executed a Gift Deed in respect of the subject property in favour of respondent No.4, as suggested by the writ petitioner. Learned counsel has strenuously contended that when the subject property belongs to undivided joint family, the question of executing a gift

deed exclusively in favour of writ petitioner does not arise and respondent No.4 was made to execute such a gift deed by adopting wrongful and deceitful practice by the writ petitioner. Further, the alleged MOU executed on 02.09.2018 is at a later point of time to execution of gift deed dated 06.04.2008 and the same is an unregistered document. Therefore, the same cannot be relied upon by the petitioner and the said MOU is invalid in the eye of the law. Learned counsel has further contended that there is no reason for respondent No.4 to exclude respondent No.5 and other family members and exclusively choose the writ petitioner to be the sole beneficiary of the property, but for his promise to take exclusive care of respondent No.4 and the said assurance is the implicit condition for execution of gift deed in favour of the writ petitioner.

5.1) Learned counsel has strenuously contended that the writ petitioner had approached the Sub-Registrar, Uppal, Medchal-Malkajgiri District on 11.05.2025 by placing a copy of the order dated 07.05.2025 passed by this Court in W.P.No.15033 of 2025 and sought for suspension of revocation of gift deed though the said authority i.e. Sub-Registrar, Uppal, Medchal-Malkajgiri District is not a party to the said writ petition and thereby played

fraud on the said authority. The same has been confirmed by the Sub-Registrar, Uppal, vide letter dated 18.06.2025. By drawing the attention of this Court to the object of Act No.56 of 2007, learned counsel has prayed this Court to dismiss the writ petition with exemplary costs for the trauma to which respondent No.4 is subjected to and also considering the fact that the petitioner has approached this Court with unclean hands and suppressed the real facts.

6) In reply, the learned counsel for the petitioner has submitted that soonafter obtaining the copy of the order dated 07.05.2025 passed in W.P.No.15033 of 2025, the petitioner has approached the Sub-Registrar, Uppal, along with a copy of the order and submitted a representation to the said authority requesting not to cancel the registered gift deed. However, respondent No.4 conveniently has removed the first page of the order copy attached to the representation made by the petitioner to the Sub-Registrar and made a false statement as if the petitioner had altered the copy of the order and the direction is given to the Sub-Registrar and the same is absolutely false. Learned counsel has further contended that only apprehending that any forcible oral instructions from the

higher authorities will have to be obliged by the Sub-Registrar, the petitioner made a representation by submitting the copy of this Hon'ble Court order making the Sub-Registrar, Uppal, as a party in the representation submitted by the petitioner. Respondent No.4 made false allegations as if the petitioner had altered the cause title by making the Sub-Registrar, Uppal, as party to the order and committed fraud only to prejudice this Hon'ble Court and to get the writ petition dismissed, which cannot be countenanced and appreciated.

7) This Court has taken note of the submissions made by respective counsel and perused the material on record.

8) Before entering into the adjudication of the matter, this Court feels it necessary to reiterate that it is well settled principle of law that a beneficial legislation must receive a liberal construction in consonance with the objectives of the Act concerned seeks to serve.

9) One of the main contentions of the petitioner is that the gift deed dated 06.04.2018 does not contain any pre-condition of maintenance of respondent No.4. To adjudicate upon this issue,

this Court deems it apt to refer to certain judgments holding the field:

a) The Hon'ble Supreme Court in its recent judgments in ***Urmila Dixit vs. Sunil Sharan Dixit***¹ has interpreted Section 23(1) of the Act to hold that ***express condition in the deed may not be required*** and non-maintenance of a senior citizen *per se* would result in invoking the implied condition for which such gift or settlement deed has been executed by the senior citizen out of love and affection, which is relatable to human conduct. Relevant portion of the said judgment reads as under:

“23. The appellant has submitted before us that such an undertaking stands grossly unfulfilled, and in her petition under Section 23, it has been averred that there is a breakdown of peaceful relations inter se the parties. In such a situation, the two conditions mentioned in *Sudesh Chikkara v. Ramti Devi* [(2024) 14 SCC 225] must be appropriately interpreted to further the beneficial nature of the legislation and not strictly which would render otiose the intent of the legislature. Therefore, the Single Judge of the High Court and the tribunals below had rightly held the gift deed to be cancelled and since the conditions for the well-being of the senior citizens were not complied with. We are unable to agree with the view taken by the Division Bench, because it takes a strict view of the beneficial legislation.

24. Before parting with the case at hand, we must clarify the observations made vide the impugned order qua the competency of the

¹ (2025) 2 SCC 787

Tribunal to hand over possession of the property. In *S. Vanitha v. Commr.* [(2021) 15 SCC 730], this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under Section 23, cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.”

b) In the case of ***Radhamani and others v. State of Kerala***², the learned Single Judge of the Kerala High Court has considered Section 122 of Transfer of Property Act, 1882. In paragraph No.11 of the judgment, it is observed that “*Section 23 of the Senior Citizens Act, 2007, does not contemplate that the condition should form part as recital in the deed of transfer. It only refers that there should be a condition for such transfer. This condition can be either express or implied. If there is no express recital in the deed, the Tribunal has to look around circumstances to find out whether conduct otherwise dispel the intention of donor to revoke. The consideration for executing a gift deed or settlement deed is based on human conduct, caring and conscientious. Transfer admittedly is out of love and affection. Any donor in a gift deed would expect in a natural course of human conduct that donee continues to behave in*

² 2015 SCC OnLine Ker 33530

same manner as behaved before execution of the deed. The love and affection influenced for execution of the deed certainly must be enduring and without any barrier.” It is further stated that,

“.... It is to be noted that the special scheme in terms of Senior Citizens Act, 2007 could declare certain transfer as void, taking note of the fact that by taking advantage of the emotionally dependent senior citizens, relatives grab the property on the pretext of providing emotional support. Therefore, legislature thought such transaction could be declared as void as the conduct leading to transaction was based on malice or fraud. Therefore, condition referred in Section 23 has to be understood based on the conduct of the transferee and not with reference to the specific stipulation in the deed of transfer. Thus, this Court is of the view that ***it is not necessary that there should be a specific recital or stipulation as a condition in the transfer of deed itself.*** This condition mentioned in Section 23 is only referable as a conduct of the transferee, prior to and after execution of the deed of transfer. Thus, challenge based on the ground that there is no reference in the recital of deed that transferee will provide basic amenities and physical needs to the transferor is of no consequence.”

(emphasis added)

c) The said ratio has also been approved by the Division Benches of High Court of Kerala in ***Subhashini v. District***

Collector³ as well as High Court of Judicature at Madras in **S.Subramanian v. The District Collector, Coimbatore** [Writ Appeal No.195 of 2025 & batch dated 06.03.2025].

10) In view of the above settled proposition of law, this Court is of the view that mere non-mentioning of a condition in the gift deed to maintain the executor does not absolve the petitioner from performing his duty to maintain the respondent No.4 to keep the gift deed in force. Therefore, the plea urged by the petitioner in this regard cannot be sustained and is hereby rejected.

11) Insofar as the judgment relied upon by the petitioner in **Sudesh Chikkara's case (referred supra)** is concerned, there is no complaint by the executor of the Gift Deed of non-maintenance whereas in the present case it is the specific grievance of respondent No.4 i.e. executor of the Gift Deed that he is not being maintained properly by the petitioner. As such, the judgment relied upon by the petitioner is distinguishable on facts of the present case and is of no avail to him.

³ 2020 SCC Online Ker 4080

12) Insofar as the contention of the petitioner as regards not providing opportunity of hearing is concerned, as gathered from the material on record, after remanding of the matter by respondent No.2, respondent No.3 sent notices to the parties i.e. petitioner as well as unofficial respondent No.4 herein and the matter was posted for hearing on 02.04.2025. Therefore, it cannot be said that petitioner was not afforded an opportunity of hearing. Further, in his representation dated 02.04.2025 submitted to respondent No.3, the petitioner himself has admitted that he received notice through whatsapp on 28.03.2025 at 1-45 pm to appear on 02.04.2025 at 11-30 am at the office of respondent No.3 and the petitioner also requested respondent No.3 to stay all further proceedings in the matter till disposal of W.P.No.10245 of 2025. Similarly, in representation dated 08.04.2025 also the petitioner had requested respondent No.3 for deferment of proceedings till 02.05.2025 on which date W.P.No.10245 of 2025 was adjourned to, which itself disproves the contention of the petitioner that he was not provided opportunity of hearing to defend his case. It is also pertinent to note that by filing representations before the authorities as well as writ petitions before this Court, one after another, the petitioner is

not allowing the proceedings to come to a logical end and thereby dragging the matter on one pretext or the other. Further, it seems that the authorities were weighed by the fact that respondent No.4 is a supersenior citizen and therefore taken up the matter on day-to-day basis, which cannot be faulted with that too when reasonable opportunity of hearing was provided to the writ petitioner. Hence, the contention of the petitioner in this regard is also not in mere acceptance of this Court.

13) Be that as it may. It is specifically urged by respondent No.4 that by misleading the Sub-Registrar, Medchal, the writ petitioner got revoked the gift deed dated 06.04.2018.

14) A perusal of the letter of the Sub-Registrar, Uppal, dated 18.06.2025 makes it crystal clear that the writ petitioner has submitted an edited version of order of this Court dated 07.05.2025 and misled the said authority. In the said letter, the said authority has clarified that any action, remark or endorsement made based on such falsified document submitted by the writ petitioner was done without full knowledge of truth and under

misrepresentation and that appropriate legal recourse will be pursued as required.

15) Though the learned counsel for the writ petitioner tried to project before this Court that mere change in the array of parties in the cause title does not amount to alteration in the order, this Court is unable to appreciate and accept the same for the simple reason that the even the first page containing the details such as date of order, writ petition number, array of parties, prayer, etc. also forms part and parcel of the order copy.

16) In this backdrop, it is necessary to reproduce the relevant portion of contention/submission of the writ petition in his reply:

“16. I humbly submit that for various reasons, on and off parties are making representations to the Sub-Ordinate Officials even though they are not party to the Writ Petition or Order, since apprehending any forcible oral instructions from the higher authorities will have to be obliged by the Sub-Ordinate authority and just because, in that context when I made a representation by submitting the copy of High Court Order making the Sub-Registrar, Uppal as party in the representation only, by removing the first page of the order copy of the Hon’ble High Court”

17) Thus, the writ petitioner himself has clearly admitted that he made representation to the Sub-Registrar, Uppal, by removing the

first page of the order of this Court, but, however, contends that he has not tampered the order of this Court. As stated supra, first page of the order also forms part and parcel of the Order and the act committed by the petitioner certainly amounts to playing fraud and misleading the authorities, which has to be criticized and reprimanded.

18) Further, as regards the contention of the petitioner that he paid substantial amounts to develop the property and construction of a building in the subject land by obtaining loans, the same cannot be looked into by this Court as it raises a disputed question of fact and the remedy of the petitioner is somewhere else.

19) For the afore-mentioned reasons, this Court finds no merit in the writ petition and the same is liable to be dismissed.

20) Accordingly, the Writ Petition is dismissed.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed. No costs.

PULLA KARTHIK, J

Date : 18-09-2025

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L.R. Copy to be marked.