



2025:DHC:6879



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment pronounced on: 14.08.2025

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W.P.(C) 10854/2023, and CM APPLs.42053/2023, 42055/2023

TAJINDER SINGH BAKSHI & ANR.

.....Petitioners

Through: Mr. Pankaj Batra, Advocate.

versus

DALJIT KAUR & ORS.

.....Respondents

Through: Mr. Siddharth Banther, Advocate for R-1.

Mr. Akil Rataeeya, Ms. Aroma Rataeeya, Mr. Harsh Gulia, Mr. Sunny Dagar, Mr. Armaan Rataeeya and Mr. Aditya Vats, Advocates.

Ms. Vaishali Gupta, Panel Counsel (Civil) for GNCTD.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT****CAV 416/2023**

1. Leaned counsel for the respondent no.1 has already entered appearance.

2. Accordingly, the caveat stands discharged.

W.P.(C) 10854/2023

3. The present petition has been filed by the petitioners assailing an order dated 26.07.2023 (hereinafter '*the impugned order*') passed by the District Magistrate West, Government of NCT Delhi in Appeal No. (678)/DCW/2022, whereby, the appeal filed by the respondent no.1 under



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Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter '*the Senior Citizens Act*') assailing order dated 20.12.2019 passed by the Maintenance Tribunal under Section 23 of the Senior Citizens Act, has been allowed and directions have been issued to the Sub-Registrar IIB, Janakpuri, to cancel the registration of the gift deed dated 05.05.2015 bearing Registration No. 5955 in Book No. 1, Vol. No. 562 on page no. 1 to 8, by which, four floors in the property bearing no. WZ-406/3 Plot No. 49 Janak Park Hari Nagar Ghanta Ghar, New Delhi (hereinafter '*the subject property*') were gifted in favour of the petitioner no.2 by respondent no.1.

4. The respondent no.1 is a senior citizen aged around 88 years and has four children – three daughters (not party/ies to the present proceedings) and a son (petitioner no.1). The petitioner no.2 is the wife of petitioner no.1 / daughter in law of respondent no.1.

5. The exclusive title over the subject property was bequeathed upon the respondent no.1 by way of a registered will executed in her favour by her father who died on 29.06.1982. In 2012, a building was constructed on the subject property comprising of 8 flats. Upon completion of construction of the said building, 3 out of the 8 flats were transferred by the respondent no.1 in favour of the builder in lieu of the construction costs and the remaining 5 flats were retained by the respondent no.1.

6. On 05.05.2015, a gift deed came to be executed by the respondent no.1 in favour of the petitioner no.2 with respect to 4 of the 5 remaining flats at the subject property.

7. Thereafter, the respondent no.1 filed a written complaint dated 06.05.2015 with the SHO Janakpuri alleging that the aforesaid gift deed had



been executed by pressurising the respondent no.1. (complaint appended to the present petition as Annexure P5)

8. Subsequently, an application dated 03.06.2015 under Section 23 of the Senior Citizens Act came to be filed by the respondent no.1 before the Maintenance Tribunal seeking cancellation of the gift deed dated 05.05.2015.

9. *Vide* order dated 20.12.2019, the Maintenance Tribunal proceeded to dismiss the aforesaid application filed under Section 23 of the Senior Citizens Act by observing as under –

“On the prayer of conciliation of above said gift deeds executed in favour of the respondent no.2 on the ground of fraud and cheating, the petitioner is failed to prove such conditions/facts mentioned in the above said Gift Deeds. It is further observed that many cases have already pending between the parties in the Civil Courts on the same issues. Moreover, the petitioners are not willing to take any maintenance allowance from the respondents. The Tribunal observed that without any evidence, the Tribunal is unable to decide the ground of fraud and cheating in the above said Gift Deeds.

After heard both the parties and considering all the facts, the Tribunal feels it necessary to pass on Order as follows:

- 1. The Tribunal further directs Respondent No.1 & 2 not to take any rent in lieu of resident in the said property till they are live.*
- 2. The Tribunal further directed the concerned S.H.O., P. S. Janak Puri to depute Beat Officer to visit the premises of the applicant twice in a month to ensure the safety and security of the petitioner.*

Accordingly, the complaint/case is disposed off.”

10. It appears that the aforesaid petition under Section 23 of the Senior Citizens Act came to be rejected by the Maintenance Tribunal on the basis that the respondent no.1 / applicant was unable to prove that the conditions attached to the transfer were mentioned in the gift deed in question. The Maintenance Tribunal also seems to have taken into consideration the fact



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that several proceedings are pending before civil court/s arising out of the same controversy, and that the issue of fraud and cheating alleged to be vitiating the gift deed in question could not be decided without any evidence.

11. Aggrieved by the aforesaid order dated 20.12.2019, an appeal dated 24.01.2020 was filed by the respondent no.1 under Section 16 of the Senior Citizens Act before the District Magistrate West, Government of NCT Delhi (hereinafter '*the Appellate Authority*').

12. *Vide* impugned order dated 26.07.2023, the Appellate Authority proceeded to allow the appeal and set aside the order dated 20.12.2019 passed by the Maintenance Tribunal thereby directing for cancellation of the gift deed dated 05.05.2015. The impugned order passed by the Appellate Authority painstakingly analyses the facts and circumstances of the case and arrives at the following conclusions –

- (i) The respondent no.1 had intended to distribute the flats equally amongst her four children inasmuch as she had gotten her three daughters to purchase separate stamp papers for executing gift deeds and had obtained appointments with the office of the Sub-Registrar for 06.05.2015.
- (ii) The fact that the respondent no.1 had planned to execute gift deed with respect to one flat each in favour of her three daughters on 06.05.2015 and then suddenly a day prior i.e. 05.05.2015 transferred 4 flats in favour of the petitioner no.2, was found to be “suspicious”. Since the registration of the gift deed dated 05.05.2015 in favour of the petitioner no.2 happened hastily inasmuch as the purchase of the stamp paper and the registration of the gift deed occurred in the course



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of a few hours, it can only be concluded that the petitioners attempted to defraud the respondent no.1.

- (iii) The petitioners had failed to provide basic amenities and take care of the basic physical needs of the respondent no.1, as a result of which, the respondent no.1 was living with one of her daughters.
- (iv) The Appellate Authority was unable to accept the contention of the petitioners that the respondent no.1 had transferred the four flats in the subject property to the petitioner no.2 out of her own free will and that the respondent no.1 was later “abducted” by her daughters. The Appellate Authority further reasons that the petitioners had been unable to address the issue as to how the respondent no.1 was allegedly abducted by her daughters “so easily”; why the petitioners did not file a police complaint upon the respondent no.1 being allegedly abducted by her daughters; why the petitioners did not allow peaceful re-entry of the respondent no.1 after her alleged abduction and why the respondent no.1 was required to seek police assistance when she attempted to “reclaim her possessions”. On this basis, it was observed that the respondent no.1 had indeed been defrauded by the petitioners.
- (v) It has been found that the facts in the instant case are distinguishable from the facts in *Sudesh Chhikara v. Ramti Devi and Anr.*, 2022 SCC OnLine SC 1684 inasmuch as the respondent no.1 had specifically made contentions / pleaded as regards the condition/s attached to transfer, before the Tribunal. It has also been observed that the respondents have accepted the said condition in their pleadings filed before the Tribunal by admitting that the transfer of property in



favour of the petitioner no.2 was out of love and care and because the petitioner no.2 took care of the respondent no.1. Since the transfer of property by respondent no.1 was made out of love and affection for the petitioner no.2, she expected, and it was implicit that the petitioner no.2 would continue to care for the respondent no.1. However, the material placed on record and the conduct of the parties shows that the caring did not continue and the petitioners ended up abandoning the respondent no.1 and did not even allow respondent no.1 to have access to her own belongings.

- (vi) There was an implicit condition attached to the transfer of property by the respondent no.1 in favour of the petitioner no.2 thereby satisfying the twin conditions for attracting Section 23 of the Senior Citizens Act laid down in *Sudesh Chhikara* (supra).
- (vii) Upon specifically questioning the respondent no.1, the Appellate Authority found that there was no substance in the contention of the petitioners that the respondent no.1 had been pressurised into initiating proceedings under the Senior Citizens Act.

13. Learned counsel for the petitioners submits that the impugned order is liable to be set aside inasmuch as the necessary precondition/s for invoking Section 23 of the Senior Citizens Act as laid down in *Sudesh Chhikara* (supra) have not been satisfied in the present case.

14. It is submitted that in terms of the decision in *Sudesh Chhikara* (supra), the twin conditions attached with the transfer of property must be pleaded in the petition under Section 23 of the Senior Citizens Act and be established. However, neither the said conditions were pleaded in the petition filed by the respondent no.1 under Section 23 of the Senior Citizens



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Act nor did it form part of the gift deed dated 05.05.2015, which was an unconditional gift deed duly accepted by the transferee.

15. It is also submitted that the Appellate Authority failed to take into consideration the stand of the respondent no.1 which has been recorded in the order dated 20.12.2019 as well as the rejoinder recorded before the learned Maintenance Tribunal, that the respondent no.1 does not require maintenance from the petitioners and that she is the one who has been maintaining the petitioners.

16. It is submitted that the Appellate Tribunal lacks the jurisdiction to enquire into issue/s of force, fraud, coercion and misrepresentation inasmuch as the same falls within the domain of the Civil Court. It is submitted that in terms of Section 23 of the Senior Citizens Act, the deeming fiction thereunder is contingent upon the twin conditions mentioned therein. Reliance in this regard is placed on a judgment dated 30.01.2023 of the Calcutta High Court in *Himangshu Mondal v. Sachirani Mondal* [Case No. C.O. 1891/2021].

17. Learned counsel for the petitioners submitted that if the terms for revocation of a gift deed are not mentioned thereunder, the same cannot be revoked. Reliance in this regard is placed on the judgment in *N. Thajudeen v. Tamil Nadu Khadi and Village Industries Board 2024 SCC OnLine SC 3037*.

18. It is submitted that the impugned order is liable to be set aside inasmuch as the gift deed in question could not have been cancelled by the Appellate Tribunal inasmuch as the condition/s for revocation of the gift deed is not mentioned therein and as such, there was no oral agreement to this effect prior to the execution of the gift deed.



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19. Learned counsel for the petitioners also submitted that pursuant to Section 123 and 126 of the Transfer of Property Act, 1882, the terms and conditions for revoking a gift deed must be “written terms and conditions” and a pleading to that effect in the petition under Section 23(1) of the Senior Citizens Act, is a pre-requisite.

20. It is submitted that a pleading made in the petition under Section 23(1) of the Senior Citizens Act forms the basis for exercise of jurisdiction by the Maintenance Tribunal and the burden is on the applicant to establish the existence of the twin conditions attached to the transfer of the property under Section 23 of the Senior Citizens Act.

21. Learned counsel for the respondent no.1 draws the attention of this Court to the conduct of the petitioners. It is submitted that subsequent to the petition under Section 23 of the Senior Citizens Act being filed by the respondent no.1, the petitioners executed a sale deed dated 19.01.2016 and 10.05.2016 with respect to two of the four flats transferred by the respondent no.1 in the favour of the petitioner no.2 and executed an agreement to sell dated 03.06.2016 for the third flat, without intimation to the Court. Furthermore, the fourth flat was put on rent. It is submitted that the aforesaid sale deeds and agreement to sell are under challenge before the learned trial court.

22. Learned counsel for the respondent no.1 submits that the suffering of the respondent no.1 at the hands of the petitioners has been mentioned in the 12 letters sent by her to the Presiding Officer of the Maintenance Tribunal and the same have been annexed as annexure P-8 (colly) to the present petition.



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23. It is submitted that the condition that a son needs to take care of his mother cannot be expected to be documented as an “express condition” and the basis for such a condition is required to be inferred from the pleadings as an “implied condition”. It is submitted that the petitioner no.1 has admitted to ‘taking care’ of the respondent no.1 and the same ought to be construed as an implied condition that such care would continue throughout the lifetime of respondent no.1 and thereby need not be expressed as a written condition.

24. Learned counsel for the respondent no.1 draws a comparison between the facts in the present case with the facts in *Sudesh Chhikara* (supra). It is submitted that while the Supreme Court in *Sudesh Chhikara* (supra) had observed that the petition under Section 23 of the Senior Citizens Act did not contain a pleading as regards the transfer of property therein being subject to the condition of the transferee providing ‘basic amenities’ and taking care of the physical needs of the senior citizen therein, the application under section 23 of the Senior Citizens Act filed by the respondent no.1 in the present case contains such a pleading in prayer ‘b’ of the said application.

25. It is also submitted that in addition to prayer ‘b’ of the aforesaid application under Section 23 of the Senior Citizens Act, the respondent no.1 had also sent a representation dated 14.05.2016 to the Presiding Officer of the Maintenance Tribunal stating that the petitioners took advantage of the poor physical and medical condition of the respondent no.1 subsequent to the death of her husband (father of the petitioner no.1) in the garb of the false promise to take care of the respondent no.1. Furthermore, attention is also drawn to another representation dated 08.07.2015 sent by the respondent no.1 to the Presiding Officer of the Maintenance Tribunal seeking that directions be issued to the petitioners to deliver the personal



belongings of the respondent no.1 including her dentures, clothes, medical card, ID cards, cash etc.

26. Learned counsel for the respondent no.1 submits that the condition for taking care of the senior citizen need not be express and can be gathered from the pleadings. In this regard, reliance has been placed on the judgment dated 10.04.2024 in *Nitin Rajendra Gupta v. Deputy Collector, Mumbai* [W.P.(C) 590/2023]; judgment dated 01.09.2023 in *Mohammed Dayan v. District Collector, Tiruppar District and Others* [W.P.(C) 28190/2022]; judgment dated 06.03.2025 in *S. Mala v. District Arbitrator & Others* [W.A. 3582/2024] and *Urmila Dixit v. Sunil Sharan Dixit* (2025) 2 SCC 787.

REASONING AND CONCLUSION

27. At the outset, it is relevant to take note of the relevant statutory provision under which the application had been filed by the respondent no.1 before the Maintenance Tribunal seeking that the gift deed dated 05.05.2015 be declared as void. The said provision reads as under –

“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-section (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.”



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28. A perusal of the language of Section 23(1) of the Senior Citizens Act clearly sets out that the transfer of property by a senior citizen, by way of a ‘gift deed or otherwise’, is deemed to be vitiated by fraud, coercion or undue influence and thereby can be declared as void by concerned Tribunal provided that (i) the transfer of property should have been made subject to a condition that the transferee shall provide “basic amenities and basic physical needs” to the senior citizen / transferor and (ii) the transferee fails to fulfil such a condition.

29. In the present case, the gift deed dated 05.05.2015 does not contain any explicit recital stipulating / incorporating a condition that the petitioners shall continue to maintain or take care of the basic amenities and physical needs of the respondent no.1 pursuant to transfer of property. The same only refers to “love and affection” as basis on which the transfer was effectuated by the respondent no.1.

30. Thus, the question that arises for consideration in the present proceedings is whether the “conditions” stipulated under Section 23 of the Senior Citizens Act (that the petitioners would continue to maintain and / or take care of basic amenities and basic physical needs of the senior citizen) can be implied or inferred.

31. At the outset, it is necessary to consider the scope, purport and import of Section 23 of the Senior Citizens Act. Time and again it has been emphasized that the beneficial nature of a legislation must guide the interpretation and application of the statutory provisions therein.

32. The Supreme Court in *Urmila Dixit* (supra), while construing the provisions of the Senior Citizens Act referred to the judgment of *K. H.*



Nazar v. Mathew K. Jacob, (2020) 14 SCC 126, in which it has been held as under:-

“11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation. [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335]

13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances the remedy should be adopted. [Indian Performing Rights Society Ltd. v. Sanjay Dalia, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction. [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48 : (2008) 237 CLR 285], Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly.”

33. Taking note of the dicta laid down in **K. H. Nazar** (supra) and the Statement of Objects and Reasons of the Senior Citizens Act, the Supreme Court in **Urmila Dixit** (supra) held as under: -

“14. Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be



interpreted and a construction that advances the remedies of the Act must be adopted.

15. Before advertent to the provisions of the Act, we must be cognizant of the larger issue that this case presents i.e. the care of senior citizens in our society. This Court in Vijaya Manohar Arbat v. Kashirao Rajaram Sawai [Vijaya Manohar Arbat v. Kashirao Rajaram Sawai, (1987) 2 SCC 278 : 1987 SCC (Cri) 354] highlighted that it is a social obligation for both sons and daughters to maintain their parents when they are unable to do so.

16. In Badshah v. Urmila Badshah Godse [Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51] , this Court observed that when a case pertaining to maintenance of parents or wife is being considered, the Court is bound to advance the cause of social justice of such marginalised groups, in furtherance of the constitutional vision enshrined in the Preamble. Recently, this exposition came to be reiterated in Rajnesh v. Neha [Rajnesh v. Neha, (2021) 2 SCC 324 : (2021) 2 SCC (Civ) 220 : (2021) 1 SCC (Cri) 749] .

34. Further, in ***Urmila Dixit*** (supra), the Supreme Court also referred with approval, the observations laid down in ***Ashwani Kumar v. Union of India***, (2019) 2 SCC 636, wherein it has been observed as under:-

“3. The rights of elderly persons is one such emerging situation that was perhaps not fully foreseen by our Constitution-framers. Therefore, while there is a reference to the health and strength of workers, men and women, and the tender age of children in Article 39 of the Constitution and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want in Article 41 of the Constitution, there is no specific reference to the health of the elderly or to their shelter in times of want and indeed to their dignity and sustenance due to their age.

4. Eventually, age catches up with everybody and on occasion, it renders some people completely helpless and dependent on others, either physically or mentally or both. Fortunately, our Constitution is organic and this Court is forward looking. This combination has resulted in path-breaking developments in law, particularly in the sphere of social justice, which has been given tremendous importance and significance in a variety of decisions rendered by this Court over the years. The present petition is one such opportunity presented before this Court to recognise and enforce the rights of elderly persons—rights that are recognised by Article 21 of the Constitution as understood and interpreted by this Court in a series of decisions over a period of several decades, and rights that have gained recognition over the years due to emerging situations.”



35. In *Sudesh Chhikara* (supra), a judgment strongly relied upon by the petitioner, it has also been acknowledged that the Senior Citizens Act “has been enacted for the purpose of making effective provisions for the maintenance and welfare of parents and senior citizens”.

36. Undoubtedly, and concededly, if a gift deed makes an explicit and express reference to the condition/s of maintenance of the concerned senior citizen, it is open for the senior citizen to invoke the beneficent provisions of Section 23 of the Senior Citizens Act, in the event of infraction of the said conditions. This Court finds no cogent rationale for denying the same dispensation to a senior citizen if the said conditions are not expressly set out, but can be inferred or implied from attendant circumstances. The same would be consistent with the beneficent objects and purposes of the Senior Citizens Act.

37. It would be apposite to refer to the observations of the Supreme Court in *Sudesh Chhikara* (supra) which are as under:-

“12. Sub-section (1) of Section 23 covers all kinds of transfers as is clear from the use of the expression “by way of gift or otherwise”. For attracting sub-section (1) of Section 23, the following two conditions must be fulfilled:

a. 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

b. the transferee refuses or fails to provide such amenities and physical needs to the transferor.

13. 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. *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. *Careful perusal of the petition under Section 23 filed by respondent no. 1 shows that it is not even pleaded that the release deed was executed subject to a condition that the transferees (the daughters of respondent no. 1) would provide the basic amenities and basic physical needs to respondent no. 1. Even in the impugned order dated 22nd May 2018 passed by the Maintenance Tribunal, no such finding has been recorded. It seems that oral evidence was not adduced by the parties. As can be seen from the impugned judgment of the Tribunal, immediately after a reply was filed by the appellant that the petition was fixed for arguments. Effecting transfer subject to a condition of providing the basic amenities and basic physical needs to the transferor - senior citizen is sine qua non for applicability of sub-section (1) of Section 23. In the present case, as stated earlier, it is not even pleaded by respondent no. 1 that the release deed was executed subject to such a condition.*

16. *We have perused the counter affidavit filed by respondent no. 1. Even in the counter, it is not pleaded that the release was subject to such a condition. It is merely pleaded that the appellant had no intention to take care of her mother. Thus, the order of the Maintenance Tribunal cannot be sustained as the twin conditions incorporated in sub-Section (1) of Section 23 were not satisfied. Unfortunately, the High Court has not adverted to the merits of the case at all."*

38. From the above observations, it is evident that even though the relevant conditions (*viz.* that the senior citizen would be looked after) were not specifically mentioned in the concerned gift deed, the Supreme Court embarked upon consideration of the relevant pleadings before the Tribunal to ascertain whether any reference was made therein to such pre-conditions.

39. Thus, the fact that the conditions were not explicitly set out in the gift deed, did not foreclose the matter. The judgment recognises that it is permissible to look at attendant circumstances, including the pleadings in the



proceedings under the Senior Citizens Act, to ascertain whether the existence of the conditions is made out.

40. No doubt, in the facts of *Sudesh Chhikara* (supra), the Supreme Court found that the twin conditions incorporated in sub-section (1) of Section 23 of the Senior Citizens Act were not satisfied, hence, the relief was denied to the senior citizen. However, the said judgment does not lay down a blanket proposition, as sought to be contended on behalf of the petitioners, that absence of any express incorporation of the “conditions” referred to in Section 23 (1) of the Senior Citizens Act, in the gift deed, would by itself foreclose the matter and shut the door on the senior citizen.

41. Even in *Urmila Dixit* (supra), the relevant conditions were not expressly incorporated in the gift deed in question. Instead, reliance is sought to be placed on attendant circumstances viz. conditions incorporated in a separately executed “vachan patra” / promissory note. Taking note of the same, it was held as under:-

“22. Adverting to the facts at hand, we find that there are two documents on record. One, a promissory note dated 7-9-2019 which records that the promisor (respondent) shall serve the appellant and her husband till the end of their life, and in the absence of him fulfilling such obligation, the subsequent deed can be taken back by the appellant. Second, the gift deed dated 7-9-2019 also records a similar condition i.e. the donee maintains the donor, and the former makes all necessary provisions for the peaceful life of the appellant donor. Both these documents were signed simultaneously.

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 [Sudesh Chhikara v. Ramti Devi, (2024) 14 SCC 225 : 2022 SCC OnLine SC 1684] 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 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 a beneficial legislation.”

42. In ***Gandhimathi v. The Sub Divisional Magistrate/Revenue Divisional Officer, Salem and Ors.***, MANU/TN/0208/2024, the Madras High Court considered the issue as to whether a settlement deed or a gift deed whereby the transfer was effectuated by the senior citizen could be declared as void even in the absence of specific recital / incorporation of the twin conditions referred to Section 23(1) of the Senior Citizens Act. In that context, it was observed as under:-

*“15. With reference to Section 23 of the Senior Citizens Act, this Court has elaborately considered the issues in the case of Mohamed Dayan vs. District Collector [(2023) 4 LW 613]. The consideration for such settlement deeds executed by the senior citizens in favour of any person is out of love and affection. In other words, the love and affection, being the consideration for execution of the Settlement Deed, the condition to look after the senior citizen **is to be construed as implied**. Consideration, being the essence of contract under the Indian Contract Act and in such nature of cases, consideration would be on “love and affection”, the scope of Section 23 of the Senior Citizens Act, is to be interpreted pragmatically, so as to ensure that non-mentioning of any such condition in the Settlement Deed would not take away the right of the senior citizen to file a petition under the Senior Citizens Act, to cancel the Settlement Deed on the ground that the beneficiaries of the Settlement Deed is not looked after the interest of the senior citizen. Ultimately, the object of the Senior Citizens Act is to ensure life, protection and livelihood of the senior citizens. Therefore, the provisions are to be interpreted in the context of the objects sought to be achieved under the Senior Citizens Act.*

16. The Act provides for more effective provisions for the Maintenance and Welfare of Parents and Senior Citizens guaranteed and recognised under the Constitution. Therefore Section 23 of the Senior Citizens Act, cannot be interpreted blindly to mean that the non-mentioning of any condition in the Settlement Deed would deprive the senior citizen from approaching the Competent Authority under the Senior Citizens Act. The principles of constructive interpretation is to be adopted, while interpreting the welfare legislation, which is enacted to protect the livelihood of the senior citizen in our country.



17. Section 23 of the Senior Citizens Act, contemplates “where any senior citizen who, after the commencement of this Act, has 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”.

43. Again, a Division Bench of the Madras High Court in ***S. Mala v. District Arbitrator & District Collector and Others***, 2025 SCC OnLine Mad 1764, held as under:-

“31. The phrase “subject to the condition that the transferee shall provide the basic amenities” in the statute is not meant to imply that such a condition must be explicitly stated in the Gift or Settlement Deed. The interpretation of this provision is broader. It should be understood in the context of the second part of the provision, which states that the transfer may be deemed to have been made under fraud, coercion, or undue influence, if the transferee fails to provide the agreed-upon care. The condition to provide for the senior citizen's maintenance is implied, based on the relationship between the senior citizen and the transferee, typically one of familial love and affection.

32. In other words, the Act acknowledges that property transfers from senior citizens, especially to children or close relatives, are often motivated by love and affection. The senior citizen's decision to transfer property is not merely a legal act but one made with the hope of being cared for in their old age. This love and affection become an implied condition in the transaction, even if the transfer document itself does not explicitly state it. If the transferee does not provide the promised care, the senior citizen can invoke Section 23(1) to have the transfer annulled.

33. The law does not require an express condition in the document for maintenance. Instead, it recognises that love and affection serve as the consideration for the transfer and that this implicit condition is enough to invoke the provision in case of neglect. The Tribunal, in such instances, is empowered to declare the deed null and void, based on the violation of this implied condition.

34. The Act's overarching goal is to safeguard the security and dignity of senior citizens. In cases where familial conduct fails to live up to expectations and the senior citizen's welfare is not protected, Section 23(1) ensures that the senior citizen can seek legal relief.



35. Thus, Section 23(1) emphasizes the protection of senior citizens from exploitation or neglect after they have transferred property in trust, often based on love and affection. The law provides an important safeguard, recognising that these transfers are typically made with an implicit understanding that the senior citizen will be cared for in their old age. If the transferee fails in this duty, the transfer can be annulled, ensuring that the senior citizen's dignity and security are upheld.”

44. In reaching the conclusion, the Division Bench of the Madras High Court relied upon the observations of the Supreme Court in *S. Vanitha v. Commr., Bengaluru Urban District*, (2021) 15 SCC 730, *Sudesh Chhikara* (supra) and *Urmila Dixit* (supra).

45. Further, a coordinate Bench of this Court in *Sunny Paul v. State (NCT of Delhi)* 2017 SCC OnLine Del 7451, held as under:-

“37. In the present case, though the allegation of the respondents No. 2 and 3 is of the trespass and forcible occupation of the property by the petitioners, yet even if it is presumed, as alleged by the petitioner No. 1, that he had been permitted to stay in the property, then also it would amount to transfer of the property in question. Needless to state, that even this permissive use amounts to transfer and that too on the condition that petitioner No. 1-son would not harm them physically or mentally. In fact, in the Indian context, there would be a presumption that the transfer was subject to petitioner No. 1-son providing all the basic necessities and looking after the physical needs of the senior citizens. Since the Maintenance Tribunal has found that the petitioner No. 1-son has committed acts of physical assault and mental cruelty on the senior citizens, the pre-conditions mentioned in Section 23 stand satisfied.”

(emphasis supplied)

46. A Division Bench of this Court in *Sunny Paul v. State of NCT of Delhi and Others*, 2018 SCC OnLine Del 11640, while upholding the aforesaid judgment, observed as under:-

“11. Having heard the learned counsel for the parties, the issue which has been decided by the learned Single Judge is whether the Act of 2007 provides for a remedy to Senior Citizens/parents of monetary maintenance by the children/relative and/or does it provide for eviction of adult children in case of parental abuse. The said question has been



answered by the learned Single Judge by referring to various judgments as relied upon by both the parties. It is noted that in the impugned order, the learned Single Judge has also answered the question whether a claim for eviction before the Maintenance Tribunal is maintainable under Section 23 of Act of 2007 and that too on allegations of forcible ouster and in the absence of a claim for maintenance. The learned Single Judge concluded that Sections 4 and 23 are separate and distinct remedies. In other words, the claim for maintenance is not a condition precedent for passing an order of eviction under Section 23 of the Act of 2007. He referred to two judgments of the Punjab & Haryana High Court in the case of Promil Tomar v. State of Haryana (supra) and Justice Shanti Sarup Dewan, Chief Justice (Retired) v. Union Territory, Chandigarh (supra) in coming to the aforesaid conclusion. We have also considered the aforesaid aspect. On a perusal of the provisions of the Act of 2007, it is seen that the same has been enacted to provide for effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matters connected therewith or incidental thereto. The necessity of framing the Act is because of the erosion of joint family system resulting in the elderly parents and senior citizens getting neglected by the children including lack of physical and financial support from them. Section 3 of the Act of 2007 gives the overriding effect over any other enactment/instrument. Chapter II of the Act deals with the maintenance of parents and senior citizens. Section 4 of the Act enables a senior citizen including parent who is unable to maintain himself from his own earnings or out of the property owned by him to make an application under Section 5 for his/her maintenance so that he/she can lead a normal life. Chapter V of the Act of 2007 deals with protection of life and property of senior citizens. Section 23(1) under Chapter V confers a power on the Tribunal to declare transfer of property in certain circumstances as void. Section 23(2) inter-alia stipulates that a senior citizen has a right to receive maintenance out of an estate and if 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. There is nothing in Section 23, which pre-supposes an application for maintenance as a prerequisite for seeking a relief under it. The scope of Section 23 is to declare the transfer of property by a senior citizen with an intent that the transferee shall provide the basic amenities and physical needs to the transferor and if such transferee refuses or fails to provide such amenities and physical needs, in such an eventuality, the transfer of property can be declared void by the Tribunal. A senior citizen may be contended if the transfer of property effected is treated as void so as to enable him to maintain himself from the estate, for which a senior citizen may not seek maintenance. So the



plea of the learned counsel for the appellant that in the absence of a claim for maintenance by the respondent Nos. 2 and 3, a petition under Section 23 shall not be maintainable, is without any merit. Further, the Delhi Government had initially framed Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, which have been amended in the year 2016, whereby Sub Rule 3(1)(i) has been incorporated to Rule 22 of the Rules. The same reads as under:—

“(i) A senior citizen may make an application before the Dy. Commissioner/District Magistrate(DM) of his district for eviction of his son and daughter or legal heir from his self-acquired property on account of his non-maintenance and ill-treatment.

xxxxxxxxx”

12. The said Sub Rule has undergone an amendment in the year 2017 to the following extent:—

“(i) A senior citizen/parents may make an application before the Deputy Commissioner/District Magistrate of his district for eviction of his son and daughter or legal heir from his property of any kind whether movable or immovable, ancestral or self-acquired, tangible or intangible and include rights or interests in such property on account of his non-maintenance and ill-treatment.”

13. The said Sub Rule 3 has been incorporated in Rule 22 of the Rules to give effect to Section 23 of the Act and not to Section 4 of the Act. So, it follows that it is not necessary that to invoke Section 23, one has to seek maintenance under Section 4.

14. The learned Single Judge is right in relying upon the judgments in the case of Promil Tomar (supra) and Justice Shanti Sarup Dewan, Chief Justice (Retired) (supra) by holding as under:—

36. The Courts have repeatedly acknowledged the right of the senior citizens or parents to live peacefully and with dignity. In Promil Tomar (supra) the Punjab and Haryana High Court has held that peaceful living for the senior citizens in their property is the apparent objective of the Maintenance Act.

37. In the present case, though the allegation of the respondents No. 2 and 3 is of the trespass and forcible occupation of the property by the petitioners, yet even if it is presumed, as alleged by the petitioner No. 1, that he had been permitted to stay in the property, then also it would amount to transfer of the property in question. Needless to state, that even this permissive use amounts to transfer and that too on the condition that petitioner No. 1-son would not harm them physically or mentally. In fact, in the Indian context, there would be a presumption that the transfer was subject to petitioner No. 1-son providing all the basic necessities and looking after the physical needs of the senior citizens. Since the Maintenance Tribunal has found that the petitioner No. 1-son has



committed acts of physical assault and mental cruelty on the senior citizens, the pre-conditions mentioned in Section 23 stand satisfied.

38. There is nothing in the language or purported intent of Section 23 of the Act 2007 to indicate that the Tribunal has the power to declare a transfer of property void if and only if the senior citizen is seeking maintenance under the Act from the opposite party.

39. In Justice Shanti Sarup Dewan (supra), the Punjab & Haryana High Court passed an eviction order under the Act, 2007 where not only no maintenance had been sought by the senior citizen, but in fact the senior citizen had volunteered to pay Rs. 10,000/- as monthly maintenance to his son.

40. Consequently, Section 4 and Section 23 are separate and distinct remedies and the claim for maintenance is not a condition precedent for passing an eviction order under Section 23 of the Act, 2007.”

(emphasis supplied)

47. Thus, the absence of any express reference to the pre-conditions referred to in Section 23(1) of the Senior Citizens Act does not preclude the senior citizen from taking refuge under the beneficent provisions thereof, if the existence of the said conditions can be said to be implied or implicit or established in the light of the attendant facts and circumstances.

48. In the present case, the concerned senior citizen transferred substantial part of her property (*viz.* four flats) to the petitioner no.2. It is true that the gift deed only referred to the said transfer being made on account of “natural love and affection” for the Donee/petitioner no. 2, being her daughter in law. However, from the attendant facts and circumstances, as noticed in a very detailed and well considered order passed by the appellate authority, it is evident that it was an implicit condition that the daughter in law would continue to care for the respondent no.1 (senior citizen).

49. In the present case, appellate authority has found that the petitioners failed to provide basic amenities and / or take care of the needs of the respondent no.1, as a result of which, the respondent no.1 was compelled to



live with one of her daughters. There are also unsavoury allegations as to the manner in which the petitioners got the gift deed executed in favour of the petitioner no.2.

50. During the course of proceedings before the Maintenance Tribunal, the respondent no.1 sent various letters to the Presiding Officer regarding the suffering / treatment meted out by the petitioners against the respondent no.1. Some of the aforementioned letters are reproduced hereunder:-

Before the Presiding officer of Tribunal for Maintenance & Welfare
of Parents and Senior Citizens Rampura, Delhi

श्रीमान जी

मैं दलजीत कौर पत्नी स्वर्गीय सरदार त्रिलोचन सिंह बक्शी आयु 78 वर्ष ने दिनांक 29.06.2015 को एक एपलिकेशन जिसका रजिस्ट्रेशन नं० 35(2586) है जिसके सिलसिले में मैं अपनी रोजमर्रा की जिन्दगी में आ रही कठिनाईयों का समाधान आपसे निवेदन करती हूँ।

दिनांक 05.05.2016 की शाम को मैं अपने बेटे और बहु द्वारा (तजिन्द्र सिंह व वरेन्द्र कौर) मेरे से जबरदस्ती डरा धमका कर मेरी प्रापर्टी मेरी बंधु वरिन्द्र कौर के नाम करवा लेने की कम्प्लैण्ट पुलिस में करने के बाद खाली हाथ जैसे तैसे डर के मारे अपनी छोटी बेटी अमरजीत कौर के घर आ गई और तबसे यही पर रह रही हूँ मुझे अपने पुराने घर में अपने बेटे के साथ रहने में बहुत डर है। मेरे पास नातो पहनने के लिये कोई और कपड़े न कोई मेरा अण्डर गार्मेन्ट ना कोई पर्सनल किस्म का कोई सामान न दवाईया ना कोई prescription है यहा तक कि मेरे दांत भी मुझे दो ढाई महीने से मेरे बेटे ने नहीं दिये है। कहते है कि अगर घर में घुसी तो तुम्हारी टांग तोड़ देंगे और यह सभी सामान मांगने पर जवाब मिलता है पुलिस से



ले लो जिनसे तुमने कम्प्लेंट करी है मै B.P. Diabities और heart patient हँ और अन्दाज से दो ढाई महीने से दवाई ले रही हूँ।

मेरी विनती है कि मेरा अति जरूरी सामान मुझे तुरन्त दिलवाया जाये जिसका विवरण नीचे दे रही हँ।

सामान का विवरण

1. दांतो का सेट
2. मेरे डाक्टरो की दवाई की परचिया (prescription)
3. मेडिकल कार्ड और दीन दयाल हास्पिटल के पर्चे
4. मेरी सभी बैंको की (Punjab National Bank PSB Yest Bank IDIB Bank HDFC Bank IOB) आन्धा बैंक की पास बुक चेक बुक तथा अन्य कागजात
5. मेरी जनकपार्क हरिनगर की प्रापर्टीज के सभी originals documents
6. मेरे पति की प्रापर्टी बी-17ए जनकपुरी के साथ ओरिजनल पेपर्स
7. मेरे सारे original ID Card, Aadhar Card PAN Card, voter I card etc.और बैंक लाकर की चाबी
8. मेरे गहने एक सोने का कडा चार सोने की चूडिया एक जोडी डायमण्ड के टापस एक जोड बालिया एक डायमण्डछ की रिंग जो मुझे इस समय याद है।



9. नगद लगभग 14-15 हजार
10. मेरी और मेरे पति की पेन्शन की फाईल और बहुत सारे दस्तावेज व पेपर्स जो मुझे इस समय याद नहीं है।
11. मेरे सारे कपडे और पहनने का अन्य सामान

इन सबके अलावा मेरा अनगिनत जरूरी व कीमती सामान व कागजात जो मेरे बेडरूम मे पडे है। मेर अलमारी और उसकी चाबी भी मेरे कमरे मे रहती है। जो सब घर वाले जानते है इसलिये मेरा कमरा सामान निकलवाने के बाद सील कर दी जाये।

जो मेरी जनक पार्क हरि नगर प्रापर्टीज जिनकी मैंने cancellation of Gift Deed की अर्जी दी है उन प्रापर्टीज से जितना भी securities deposit और किराया आ रहा है उसमे से मुझे कभी भी एक पैसा भी आज तक नहीं मिला। कृप्या मुझे वो सब securities deposit और किराया की रकम दिलवाई जायें

प्रार्थना

1. मेरा सामान मुझे जल्द से जल्द दिलवाया जाये।
 2. मेरी प्रापर्टीज से वसूले गये securities deposit और किराया की रकम मेरे बेटे बहु से दिलवाई जाये
 3. मेरा कमरा ताले से बन्द किया जाये
- मै आपकी अति आभारी रहूँगी।

स धन्यवाद

दलजीत कौर

C-3/61 third floor Janakpuri
New Delhi

दिनांक 08.07.2015



BEFORE THE PRESIDING OFFICER OF THE TRIBUNAL FOR
MAINTENANCE & WELFARE OF PARENTS AND SENIOR CITIZENS
ACT 2007 RAMPURA DELHI

In the matter of application registration No. 35(2566) of
Daljit Kaur Vs. Tajinder Singh Balkingh and Varinder Kaur

श्रीमान जी

मैं दलजीत कौर उपर लिखित अपनी complaint/application No. 35 (2566) dated के सिलसिले में पिछली hearing पर दिनांक 10.07.2015 को जब अपना जरूरी और कीमती सामान व कागजात अपने घर B-1A/69B Janakpuri, से दिलावाने की request लिखित रूप में लाई थी तब मेरे बेटे और बहु ने कहा था कि आप का अपना घर है आप कभी भी आकर ले सकते हैं।

परन्तु उस दिन मेरे रिश्तेदारों को इन दोनों ने फोन द्वारा धमका दिया कि खबरदार कोई मां के साथ आया तो उसकी खैर नहीं देखते हैं कि अपना सामान लेने कैसे इस घर में आयेगी। जिसके डर से कोई भी हमारे साथ मेरा सामानप लाने जाने के लिये तैयार नहीं था।

हार के मैंने थाना जनकपुरी से मदद मांगी जिन्होंने 21.07.2015 को अपने दो कर्मियों को हमारे साथ भेजा

दिनांक 21.07.2015 को पुलिस कर्मियों के बार बार कहने के बावजूद मेरी बहु ने करीब डेढ़ घण्टे तक हमारे लिये धर का दरवाजा



नहीं खोला जब खोला तो हम सीधे बेडरूम में गये जहाँ मैंने देखा कि पूरा सामान के साथ छेड़छाड़ हो रखी थी और मेरी चीजे अपने proper जगह पर नहीं थी। मेरा LCD टीवी और कुछ फर्नीचर अपनी जगह और कमरे से गायब था। मेरी अलमारी की चाबी जो घर में रहने वाले सभी लोग जानते हैं कि मैं अपने बेड के गददे के नीचे रखती हूँ वहाँ से ले ली गई थी। मेरे PSB Bank locker की चाबी भी चुरा ली गई थी। पूरा कमरा छान लेने के बाद भी चाबियाँ नहीं मिली। किसी ने चुरा ली थी। फिर हमने जेल रोड से चाबी बनाने वाले को बुलवा कर सबकी मौजूदगी में अलमारी की चाबी बनवाई।

जिसके खुलने के बाद मैंने देखा कि मेरी अलमारी के अन्दर का दरवाजा खुला था और मेरे सोने और हीरे के गहने लगभग रु 13000 रूपया कैश मेरे और पति के प्रापटीज के कागजात शेयर मेरा हेल्थ कार्ड और मेरे सभी आई कार्ड वगैरा वहाँ से चोरी हो चुका है।

मेरी अलमारी में मेरे कुछ बैंकों के पास बुक, बैंक बुक एफडी पेन्शन आदि तथा और कुछ कागज ही उसमें पड़े हैं। मेरा सारा कीमती से कीमती सामान और कागजात किसी ने मेरी अलमारी से पिछले ढाई महीने में 05.05.2015 से 21.07.2015 के दौरान चुरा लिया है।

जो सामान अपना मैं अपने बेडरूम और अलमारी में रख के/छोड़ कर गई थी (05.05.2015) को उसका विवरण मैंने यही पर



10.07.2015 की हियरिंग पर दिया था। मैं अपने कमरे व अलमारी से मैं 21.07.2015 को लाई हूँ मिला है। उसकी लिस्ट लिखवा के तथा वहा मौजूद से दस्तखत के साथ साथ लगा रही हूँ।

23.09.2015 की रात को मैं अपने कमरे से मिले पेपरस चैक करने पर पाया कि मेरे HDFC बैंक की नई चेक बुक, पास बुक और डिमेट के पेपर भी चोरी हुये पडे है। बाकी शक होने पर मैं 24.07.2015 की सुबह HDFC Bank D Block Janakpuri से पूछताछ करने और स्टेटमेंट निकालने पर पाया कि मेरी यह वाली चेकबुक HDFC की जो मैं अपनी अलमारी के अन्दर अपने बाकी सब बैंको की चेकबुक वगैरा के साथ रखती थी उसे चुरा कर दिनांक 05.06.2015 को रु 70 हजार किसी ने निकलवाये। स्टेटमेंट मे नाम नहीं आ रहास गि क्योंकि पैसे बी 1 की ब्रांच से निकलवाये थे।

यह बताना गलत नहीं होगा कि अगर 05.05.2015 और 21.07.2015 के दौरान मेरी गेर मौजूदगी मे मेरी अलमारी को या उसकी चाबी को किसी घर वाले ने देखा या छुआ नहीं तो उसमे से चेकबुक निकाल कर HDFC बैंक से रु 70,000/-कैसे और कियने निकाले और जब यह सयब करने के लिये अलमारी खोलरीतो मेरे गहने पेपरस वगैरह भी चोरी कर लिये और चाबी गायब कर दी।

मेरी विनती है कि उचित कार्यवाही की जाये और मेरा सामान मुझे जल्द से जल्द दिलवाया जाये और हन्साफ किया जाये।

मेरास अभी भी बहुत सारा सामान कपडे तथा अन्य चीजे जो अभी नहीं लाई जा सकती है मेरे कमरे मे ही पडी है। मेरे कमरे को सील करवाया जाये ताकि और छेड छाड ना हो सके।

धन्यवाद सहित

दलजीत कौर

C-3/61 third floor Janakpuri
New Delh

दिनांक 31.07.2015



BEFORE THE PRESIDING OFFICER OF THE TRIBUNAL FOR
MAINTENANCE & WELFARE OF PARENTS AND SENIOR CITIZENS
ACT 2007 RAMPURA DELHI

In the matter of application registration No. 35(2566) of
Daljit Kaur Vs. Tajinder Singh Balsingh and Varinder Kaur

श्रीमान जी

मैं यह चिट्ठी इसलिये लिख रही हूँ क्योंकि Tribunal में सुनवाई पर मेरे जवाब देने के समय मेरा बेटा व बहु जान कर बीच में उँचा उँचा बोल कर मेरी बात को दबा देते हैं। और मैं रुक जाती हूँ। और उमर के कारण बाकी की बात भूल जाती हूँ तब तक दूसरी बात छेड़ देते हैं।

मुझसे Fraud और जबरदस्ती से मेरी प्रापटीज अपने नाम करवा लेने के पहले और बाद आज तक की कुछ बातें मैं आप से कहना चाहती हूँ जिनसे मुझे बहुत गहरा सदमा लगा और मैं आज तक उबर नहीं पाई हूँ इसमें कुछ बातें मैं सुनवाई में भी आधी अधूरी शायद आपको बता चुकी हूँ।

हरि नगर वाली प्रापटी जब से बनी थी इन्होंने मेरी जिंदगी नरक बना दी है। मुझको पहले दुर्व्यवहार किया गया और फिर fraud से मेरी संपत्तिया अपने नाम करा ली उसकी वजह से ही सब मेरे दुश्मन बन गये हैं



जब मेने पुलिस और सब रजिस्ट्रार आफिस मे शिकायत इनके खिलाफ की तो मुझ पर दहेज से लेकर और कई घिनीने वे बुनियाद इल्जाम लगाने लगे और सारी बुनिया व रिश्तेदारो मे मझे और मेरे मृतक पति को भी नही छोडा बदनाम करने लगे।

मेरे साथ 19.05.2015 को जनकपुरी रजिस्ट्रार आफिस मे बदतामीजी की और हाथापाई की पुलिस ने भगाया तो पीछे हटा। तीन महीने से केवल सिचडी वगैरह पर जी रही थी। बहुत कमजोर हो गई थी क्योंकि इन्होने मेरे दांत दवाए व पछिया तक नही दी। हमारे मांगने पर कहते है कि पुलिस से ले लो।

मुझे बार बार धमकी देते थे कि अपनी सारी कम्प्लेंट्स वापस ले लो वरना बहुत बुरा होगा। Tribunal मे complaint करने पर हाथ जोडने लगे कि कमी भी आये आपका घर है पर यहा से जाते ही रिश्तेदारो को फोन करके धमकी दी कि कोई मेरे साथ आया तो मेरे समेत उसकी भी टांगे तोड देंगे। तब हमे police protection लेकर जाना पडा जिस पर मेरे सब गहने कैश प्रापटीज के पेपर्स हेल्थ कार्ड और अन्य कीमती सामान चोरी कर लिया था मेरी अलमारी मे से। और ठहाके लगा कर बहुत खिल्ली उडा रहे है। मेरे पोते को भी इन्होने मेरे खिलाफ कर रखा है। वो कहता है आप अच्छा सुन्दर कफन डालूंगा हम 2 घण्टे तपती गमी मे पुलिस के बावजूद खडा रखा जो ये लोग Tribunal मे बोलते है सब झूठ और फरेब है। यह

कहते है कि हरी नगर के फ्लैट का बिल्डर से कब्जा नही मिला है अभी तक। सच ये है कि मार्च से कब्जे मिले हुये है और फ्लैट किराये पर चडे हुये है। और सब फ्लैट्स के security और किराये से लगभग 4.50 – 5.00 लाख मेरे बेटे और बहु ने हडप लिये है मुझे आज तक एक रुपया तक नही दिया। जबकि मुझे मार्च से मिलना चाहिये था। दोनो कहते है कि देखना तुम्हारे ही पैसे तुम्हारे खिलाफ वकीलो पर खर्च होंगे। बाकी तुम्हारा जीवन नर्क बना देंगे अगले 100 साल भी केस लडते रहो न तुम्हे कुछ मिलेगा ना हमारा कुछ बिगड़ेगा

Rent Agreement इनकी पास बुक और कागजात निकाले जाये तो सबूत मिल जायेगा मुझे मेरी यह सब रकम इनसे दिलावाई जाये।

मेरे गहने कैश सारे प्रापटी के पेपर्स हेल्थ कार्ड आई कार्ड चैक बुक चोरी करली है छाती ठोक ठोक कर हंसते है कहते है कि जो कर सकते हो कर लो अब कुछ नही मिलेगा।

यहां मे Tribunal आकर बडे प्यार और इज्जत से मीठी मीठी बातें करते है यहा पर से निकलते ही इनका असली रूप देखने का मिलता है।

मेरी अलमारी से चेक बुक भी चोरी कर लीं HDFC Bank से दिनांक 05.08.2015 को रुपये 70,000/- निकाले। लगातार धमकाते है कि अपनी सारी कम्प्लेंट वापिस ले लो नही तो टांगे तोड कर



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डाल दंगे। पहले भी और आज तक भी कहते हैं कि मैं कुछ भी कर सकता हूँ। मेरा कोई कुछ नहीं बिगाड़ सकता है। तुम कुछ भी नहीं कर सकोगी। देखते रहो। अगर मेरी छोटी बेटी अमर जीत फौर और उसका पति मुझे ना संभालते और सही रास्ता ना दिखाते तो जाने मुझे क्या हो जाता। सदमा, धोखा बीमारी बर्दाश्त नहीं कर पाती।

अपने लालच स्वार्थ के लिये मेरे साथ धोखा क्रूरता, बुरा व्यवहार, व चोरी करने वाल और उमर मे चोरी बदनामी करने वाले इन चारो पर सख्त कार्यवाही हो और मुझसे धोखे से करवाई गई गिपट डीड को कैंसिल किया जाये यही मेरी प्रार्थना है।

मेने अपने बेटे बहु व पोतो का बहुत गन्दा क्रूर और धिनीना रूप देखा है पिछले महीनो मे मैं तब तक जिन्दा रहूंगी अपनी सारी संपत्ति पैसा गहना अपनी मजी से खर्च करना चाहती हूँ और मेरे बाद इस सब मे से कुछ भी एक रुपया के बराबर भी मेरे बेटे को बहु को उनक परिवार को ना दिया जायें इन्होने मुझे लगातार बहुत मानसिक शारीरिक और अधिक कष्ट दुख और यातनाए दी है यह उसकी सजा है इनको।

दलजीत कौर

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दिनांक 25.08.2015

51. The above communications reveal a deplorable state of affairs where the senior citizen/respondent no.1 seems struggling even to retrieve her basic items of necessity from her previous residential abode. These include the senior citizen's dentures, doctors' prescription, medical card, bank passbook, Id Cards/Adhar Card/Pan Card, jewellery etc. The factual conspectus of the present case reveals a sordid situation where the senior citizen was abandoned soon-after / in the immediate aftermath of the gift deed being executed. This Court is constrained to observe that this is the very mischief which Section 23 of the Senior Citizens Act seeks to redress.

52. It is also noticed that the application filed before the Maintenance Tribunal contained a prayer/relief (prayer-b) whereby the respondent no.1 *inter-alia* sought direction / order to the effect that the petitioners herein be directed to take "all due care" of the respondent no.1 (senior citizen).

53. Further, a perusal of the reply filed by the petitioners in the proceedings under Section 23 of the Senior Citizens Act before the



Maintenance Tribunal reveals that it was the petitioner's case therein that they had been taking care of the respondent no.1.

54. Thus, from the above, it is evident that the issue as to whether the relevant pre-conditions, as set out in Section 23(1) of the Senior Citizens Act were satisfied or not, very much arose in the backdrop of the peculiar factual conspectus and the pleadings that were filed by the parties.

55. In the impugned judgment, the appellate authority has rendered the following findings:-

“76. It is evident from the record and submissions of the appellant that she has four children (three daughters and one son) and she wanted to gift in equal proportion, one flat each to all her four children from her property no.WZ-406/3,Plot No.49, Janankpuri, Hari Nagar, GhantaGhar, New Delhi-110064 and to keep one flat for herself out of total 5 flats. On 30.04.2015, the appellant got her 3 daughters to purchase separate stamp papers for executing Gift Deeds of one flat each in their favour. She even ensured that appointments were duly taken from the Sub-Registrar office for 06/05/2015 for the registrations of the deeds. It shows the appellant's intention to distribute the flats equally.

77. It is also a matter of record that on 05/05/2015, the respondents took the appellant to the Sub-Registrar Office and got executed a Gift Deed for all her four flats in favour of respondent no.2

78. This sequence of events is suspicious because it is not clear as to why on the one hand appellant would carefully plan to execute deeds for one flat each in favour of her daughters on 06/05/2015 and then suddenly one day before she would execute the impugned gift deed thereby transferring all 4 flats in favour of Respondent No-2. In fact, the registration on 05/05/2015 has happened in so much haste (the purchasing of stamp paper and registration taking place in a short time span of few hours only) that there cannot but be only one explanation to this sequence of events that it was an attempt on the part of respondents to defraud the appellant.

79. That the appellant lodged a complaint in P.S. Janakpuri against the respondents on the same day i.e. the date of execution of Gift Deed (05.05.2015) by alleging that the respondents had gotten transferred her four properties in their name by pressurizing her also shows that the registration took place without her will and wishes. Later, appellant painfully narrated all the cruel and dishonest acts of the respondents alongwith relevant supporting documents to the Ld. Tribunal in her



letters dated 08.07.2015, 31.07.2015, 26.05.2016, 17.07.2017, 25.08.2015, 21.01.2016, 30.03.2016, 19.09.2016, 14.05.2016, 26.11.2016 (through Tehsildar), 10.10.2017, 03-06-2019, 14.08.2019, 09.11.2019. These letters clearly show that respondents/transferee refused to provide basic amenities and basic physical needs to the appellant/transferor and hence she had to live with her daughter at her house.

80. The arguments of the respondents that this transfer was made by the appellant out of her own free will and that she was later abducted by the sister of respondent No-1 cannot be relied upon for two reasons. First, because, if the transfers were indeed made by the appellant out of her own free will then why would she lodge a Police complaint the very same day and why would she have taken three other appointments for registration in favour of her daughters for the next day i.e. 06/05/2015, Second, because, it is also not clear that if the appellant had transferred the properties out of love and affection for respondents as claimed by them in their pleadings before the Tribunal as well, then how come they let her get allegedly abducted "so easily" by her daughters and why didn't they file any police complaint regarding the same. Moreover, if this was indeed an abduction then why didn't they allow peaceful re-entry of the appellant when she came to reclaim her possession and why did appellant have to seek police help for the same. These issues could not be addressed in any manner by the respondents in their pleadings or oral arguments and hence it is clear that a fraud was indeed played upon the appellant by the respondents.

81. Another argument of the respondents is that there was no condition in the Gift deed that the said transfer is conditional on grant of maintenance or providing of basic amenities and physical needs and hence this appeal itself is not maintainable under the Act. For making this argument the respondents have also relied upon the judgment of Hon'ble S.C. in the case of *Sudesh Chhikara v. Ramti Devi & Anr.* as referred to hereinabove. This was the main contention on the basis of which even the Ld. Tribunal dismissed the petition of the appellant.

82. In order to address this contention, it is important to refer to the provisions of Section 23 of the Act as reproduced hereinbefore. It is evident from the same that the condition that the transferee shall provide the basic amenities and basis physical needs to the transferor need not necessarily be a written condition as part of the Instrument of Transfer. More often than not, senior citizens rely upon their children to draw up the papers for such transfers and merely sign these papers on trust and oral promises/submissions of their children. It cannot be expected that an old lady aged around 85 years would draw up the papers herself and ensure to insert such conditions in the document. Such conditions are to be interpreted from the circumstances and also the pleadings of the parties.



83. In fact the Hon'ble SC in the case of Sudesh Chhikara v. Ramti Devi & Anr as referred to hereinabove, has also categorically stated that in that case, the transferor did not specifically plead that the release deed was executed subject to a condition that the transferees would provide the basic amenities. The Apex Court also noted that oral evidence was also not adduced in the said case to establish such a condition. The facts of the instant case are however distinguishable because the appellant has specifically pleaded this argument regarding the condition attached to the transfer before this Court. Moreover, even the respondents have indirectly accepted this condition in their pleadings before the Tribunal where they mentioned that this transfer was out of love and care and because the Respondent No-2 took care of the appellant, It is obvious that in case the appellant transferred her properties to Respondent No-2 because of such care and love and affection, then she expected such caring to continue. But as is evident from the material placed on record before this Court and also from the conduct of the parties before this Court, such caring did not continue and instead the respondents completely abandoned the appellant and did not even allow her access to her own belongings.

84. From the above, it is thus clear that there was an implicit condition attached to this transfer which was not fulfilled by the transferee and hence the instant case fully satisfies the two conditions as explained by the Hon'ble Apex court in the case of Sudesh Chhikara v. Ramti Devi & Anr. for attracting Section-23 of the Act. Hence, 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.

85. These facts were not analysed by the Ld. Maintenance Tribunal and the petition of the appellant was summarily dismissed.

86. Finally, this Court specifically questioned the appellant who was personally present during the hearing whether she was under any kind of pressure or influence from the sisters of Respondent No-1. The reply of the appellant was vehement and categorical that she has been defrauded by the respondents and is not under any kind of pressure from anyone and has herself sought the help of her daughters (sisters of respondent no-1) to pursue her legal remedies. Hence, the contention of the respondents that this appeal and other proceedings are being filed by the appellant under pressure do not hold any water.

56. On a perusal of the record, this Court finds that there is nothing perverse in the findings rendered by the appellate authority, so as to warrant



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interference in proceedings under Article 226 of the Constitution of India. On the contrary, this Court is constrained to observe that the facts of the present case clearly bring out the pitiable condition of the respondent no.1 (senior citizen) on account of breach on the part of the petitioners of the conditions referred to in Section 23(1) of the Senior Citizens Act, which were implicitly a pre-condition of the transfer of the senior citizen's property to the petitioner no.2. The concerned senior citizen (the respondent no.1) has been virtually left high and dry after transferring the bulk of her properties to the petitioner no.2 (daughter in law) and has been forced to take refuge in the house of one of her daughters.

57. This Court is mindful of the fact that certain other High Courts, notably a Full Bench of the Kerala High Court¹ has interpreted Section 23 of the Senior Citizens Act differently. The interpretation is to the effect that the application of Section 23 of the Senior Citizens Act requires that the conditions referred to therein (*viz.* obligation to provide basic amenities and basic physical needs to the senior citizen) be expressly stated in the document/s of transfer. This Court is inclined to take a different view inasmuch as (i) the said restrictive definition is not borne out from the dicta laid down by the Supreme Court in *Sudesh Chhikara* (supra) and *Urmila Dixit* (supra) and the guidelines laid down by the Supreme Court for interpreting/applying the beneficent provisions of the Act; (ii) the statutory text of Section 23 of the Senior Citizens Act does not mandate any express recital of the relevant condition/s. Insisting upon an explicit/express stipulation would introduce a requirement which is not borne out from the plain language of the Statute. Such an interpretation would also result in



unwarranted reading down of the beneficial provision. (iii) reading the requirement of express incorporation of the relevant condition/s in the transfer document (gift deed) would also clearly stultify the legislative intent behind the beneficent provision. It would substantially defeat the purpose of the salutary provision/s by restricting its applicability only to such cases where senior citizens have been legally astute enough to insist on incorporation of appropriate express covenants in the transfer document/s (gift deed/s), thereby excluding/denying the applicability of the beneficent provisions to the vast majority of vulnerable elderly / senior citizens. As mentioned in the Appellate Authority's order itself that "*more often than not, senior citizens rely upon their children to draw up the papers for such transfers and merely sign these papers on trust and oral promises/submission their children. It cannot be expected that an old lady aged around 85 years would draw up the papers herself and ensure to insert such conditions in the document. Such conditions are to be interpreted from the circumstances and also the pleadings of the parties*"; (iv) It has been implicitly recognized in ***Sudesh Chhikara*** (supra) and ***Urmila Dixit*** (supra) that Section 23 of the Senior Citizens Act, does not exclude / obviate the possibility of the relevant obligation/s being inferred/implied from the nature of the transaction or the attendant circumstances, even if not explicitly set out in the transfer documents; (v) this Court is unable to adopt an interpretation which would encourage / facilitate unscrupulous transferees to exploit senior citizens by obtaining "gift deeds" without express conditions, while intending abandonment of the concerned senior citizen(s), as has happened in the present case. The protection / remedy provided for in

¹ ***Subhashini v. District Collector***, 2020 SCC OnLine Ker 4080



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Section 23 of the Senior Citizens Act cannot be rendered illusory in such manner.

58. It is also notable that in *Ajay Singh v. Khacheru and Ors.*, (2025) 3 SCC 266, the Supreme Court has taken a view that a writ court shall refrain from reappreciating evidence and arriving at a finding of facts unless the same is perverse in nature or exceeds the jurisdiction of the concerned authority. The relevant portion of the said judgment reads as under:-

“16. It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely.”

For the above reason as well, the impugned order does not warrant any interference.

59. In the circumstances, the present petition is dismissed. The pending applications also stand disposed of.

SACHIN DATTA, J

AUGUST 14, 2025/r, dn, sl