HC-KAR

NC: 2026:KHC:63027
WP No. 6018 of 2024

CNR: KAHC010108642024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 13TH DAY OF NOVEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA**

**WRIT PETITION NO. 6018 OF 2024 (GM-RES)**

**BETWEEN:**

GUNASHREE H B
D/O BHEEMARAJU
AGED 23 YEARS,
R/O NO.238A,
NEMMADI NILAYA, 10TH CROSS,
HEMAVATHI NAGAR,
TEJOOR MAIN ROAD,
HASSAN TOWN
HASSAN DISTRICT

...PETITIONER

(BY SRI. MARADI RANGANATHA G.K., ADVOCATE FOR
SRI. KUMARASWAMY S., ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
M S BUILDING, DR AMBEDKAR ROAD,
BANGALORE - 560 001

2. THE DEPUTY COMMISSIONER HASSAN
OFFICE OF DISTRICT MAGISTRATE / D C OFFICE,
HASSAN TOWN AND DISTRICT

3. THE CHAIRMAN
TRIBUNAL OF MAINTENANCE AND WELFARE OF
PARENTS AND SENIOR CITIZENS AND
THE ASSITANT COMMISSIONER,
SUB DIVISION AT HASSAN,
HASSAN TOWN AND DISTRICT

4. THE TAHASILDAR
OFFICE OF HASSAN TALUK,
HASSAN TOWN AND DISTRICT

5. MANJEGOWDA
S/O LATE ANNEGOWDA
AGED ABOUT 72 YEARS,

6. SUNANDAMMA
W/O MANJEGOWDA
AGED ABOUT 67 YEARS,

RESPONDENTS NO.4 TO 6 ARE
R/O YAREHALLI VILLAGE,
KASABA HOBLI,
HASANA TALUK
HASSAN DISTRICT

7. BHIMARAJU
S/O LATE MANJAPPA
AGE 50 YEARS
R/O NO.238A, NEMMADI NILAYA
10TH CROSS, HEMAVATHI NAGAR
TEJOOR MAIN ROAD
HASSAN TOWN
HASSAN DISTRICT

…RESPONDENTS

(BY SRI. M. SRINIVAS KUMAR, HCGP FOR R1 TO R4
SRI. N. SHIVAKUMAR, ADVOCATE FOR R5 AND R6
SRI. BHIMARAJU, R7 SERVED BUT UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER PASSED BY THE R-3 DATED 11.07.2023 IN CASE NO.HI.NA.RA.23/22-23 (SANKAYE.HI.NA.RA.23/22-23) WITH LACKED INHERENT JURISDICTION WHICH IS ENCLOSED HEREIN AS ANNX-A.

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

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

## ORAL ORDER

The petitioner is before this Court challenging the order dated 11.07.2023 at Annexure-A, passed by the Assistant Commissioner, i.e., respondent No.3 under the provision of Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, herein, whereby a direction was issued to restore the khata in respect of the property measuring 1 acre 21 guntas in Survey No.419/5 of Handinakere

Village, Kasaba Hobli, Hassan Taluk and District, in favour of respondent Nos.5 and 6.

2. The petitioner is the grand-daughter of respondent Nos.5 and 6. Respondent No.7 is the son-in-law of respondent Nos.5 and 6 and the father of the petitioner.

3. The case of the petitioner is that respondent No.5 executed a registered gift deed dated 18.07.2007 in favour of the mother of the petitioner. The mother of the petitioner, Smt. Shubha, died on 29.01.2010. After the lapse of more than 15 years, respondent No.5 approached respondent No.3-Maintenance Tribunal contending that the gift deed dated 18.07.2007 was executed on the assurance given by the mother of the petitioner that she would take care of respondent Nos.5 and 6 during their lifetime.

4. After the death of the mother of the petitioner, the revenue entries in respect of the aforesaid property were transferred to the name of respondent No.7, who is the father of the petitioner. It was contended that neither the petitioner nor respondent No.7 had taken care of respondent Nos.5 and 6,

who are senior citizens. Therefore, the khata transferred in the name of respondent No.7 was required to be annulled and the revenue entries shall be mutated in the names of respondent Nos.5 and 6. The respondent No.3-Tribunal of Maintenance and Welfare of Parents and Senior Citizens, after issuing notice to respondent No.7, who was arrayed as a respondent before the Tribunal, passed the impugned order directing the revenue authorities to transfer the revenue entries in favour of respondent Nos.5 and 6. Being aggrieved by the said order, the petitioner, who is the daughter of respondent No.7 and grand-daughter of respondent Nos.5 and 6, has filed the instant writ petition.

5. The solitary contention of learned counsel for the petitioner is that the gift deed executed by respondent No.5 is dated 18.07.2007, whereas the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, came into force with effect from 29.12.2007. Therefore, the provisions of the said Act cannot be made applicable to the gift deed, which was executed much prior to the coming into force of the Act. Hence, the petition filed by respondent Nos.5 and 6 before respondent

No.3 itself was not maintainable and, consequently, the impugned order cannot be sustained.

6. Learned counsel appearing for respondent Nos.5 and 6, on the other hand, submits that respondent Nos.5 and 6 are senior citizens and have no means to lead their lives. Their other two children are also not taking care of them. It is under these circumstances that, having no other option, respondent Nos.5 and 6 have approached respondent No.3 seeking the aforesaid reliefs.

7. Learned counsel further submits that, if the impugned order is set aside, respondent No.3-Assistant Commissioner may be directed to reconsider the claim of respondent Nos.5 and 6 for grant of maintenance under the 2007 Act.

8. As noticed supra, the gift deed was executed much prior to the coming into force of the 2007 Act. Therefore, the invocation of the provisions of the 2007 Act is erroneous and the order passed by respondent No.3 cannot be sustained. The

2007 Act has no retrospective effect so as to cover registered instruments executed prior to the enactment.

9. The request made on behalf of respondent Nos.5 and 6 for remanding the matter to respondent No.3 also cannot be considered, inasmuch as the petition filed by respondent Nos.5 and 6 before respondent No.3 was not one seeking grant of maintenance. The relief sought was for protection of their right to cultivate the subject land and for transfer of the revenue entries. Since it is held that the provisions of the 2007 Act have no application to a gift deed executed prior to the coming into force of the enactment, the proceedings cannot be remanded to respondent No.3. However, it is open for respondent Nos.5 and 6 to approach respondent No.3-Maintenance Tribunal by filing a fresh petition seeking appropriate reliefs against respondent No.7, the petitioner herein, as well as their other daughters, seeking maintenance and provision for accommodation.

10. In the result, the following:

**ORDER**

i. The writ petition is ***allowed***.

ii. The order dated 11.07.2023 passed by respondent No.3-Assistant Commissioner at Annexure-A is ***quashed***.

iii. Liberty is reserved to respondent Nos.5 and 6 to approach respondent No.3-Maintenance Tribunal, in accordance with the provisions of the 2007 Act, seeking appropriate reliefs so far as awarding maintenance and provision for shelter.

iv. In the said proceedings, it is necessary for respondent Nos.5 and 6 to implead their other daughters, namely, Smt. Netravathi and Smt. Veena.

v. With the aforesaid observations, the writ petition is ***disposed of.***

**Sd/-**
**(T.P.VIVEKANANDA)**
**JUDGE**

SMC
List No.: 1 Sl No.: 26