



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 28171 OF 2023 (GM-RES)

BETWEEN:

H.V.LINGAPPA
S/O LATE K.N.VEERAPPA,
AGED ABOUT 73 YEARS,
R/O HIREBELAGULI VILLAGE,
HALEKOTE HOBLI,
HOLENARSIPURA TALUK -573 211
HASSAN DISTRICT

...PETITIONER

(BY SRI. S.V.PRAKASH, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER
HASSAN DISTRICT,
HASSAN- 573 201
2. THE ASSISTANT COMMISSIONER
HASSAN SUB DIVISION,
HASSAN -573 201
3. NAGARATHNAMMA
W/O H.V.LINGAPPA
AGED ABOUT 68 YEARS,
R/O HIREBELAGULI VILLAGE,
HALEKOTE HOBLI,
HOLENARSIPURA TALUK -573 211





HASSAN DISTRICT

...RESPONDENTS

(BY SRI.MAHANTESH SHETTAR, AGA FOR R1 & R2
SRI.H.P.LEELADHAR, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 17.10.2023 PASSED BY THE R1 IN PROCEEDINGS NO. 12, 14/2022-23 PRODUCED AS PER ANNEXURE-Q TO THE WP CONFIRMING THE ORDER DATED 28.7.2022 PASSED BY THE R2 IN PROCEEDINGS NO. 14/2021-22 PRODUCED AS PER ANNEXURE-N TO THE WP TO THE EXTENT DIRECTING TO ISSUE JOINT KATHA IN THE JOINT NAMES OF THE PETITIONER AND R3 HEREIN IN RESPECT OF THE LAND MEASURING 2 ACRES 39 GUNTAS COMPRISED IN SY.NO.30/3 OF HIREBELAGULI VILLAGE, HALEKOTE HOBLI, HOLENARSIPURA TALUK AND HASSAN DISTRICT.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



ORAL ORDER

The present writ petition is filed seeking the following prayers:

"WHEREFORE, the petitioner most respectfully prays that, the Hon'ble Court may kindly be pleased to:-

a) Issue a writ in the nature of certiorari and quash the order dated 17.10.2023 passed by the 1st respondent in proceedings No.ಎಂ.ಎ.ಜಿ.ಹಿ.ನಾ.ರ 12, 14/2022-23 produced as per Annexure-Q to the writ petition confirming the order dated 28.07.2022 passed by the second respondent in proceedings No. ಹಿ.ನಾ.ರ 14/2021-22 produced as per Annexure-N to the writ petition to the extent directing to issue joint Katha in the joint names of the petitioner and third respondent herein in respect of the land measuring 2 acres 39 guntas comprised in Sy.No.30/3 of Hirebelaguli village, Halekote Hobli, Holenarsipura Taluk and Hassan District;

b) Pass such other suitable orders as this Hon'ble court deems it appropriate in the attendant circumstances and facts of the case;

c) Award the cost of this proceeding."

2. The petitioner and the 3rd respondents are husband and wife. They lived as husband and wife for 35 years and in the wedlock they were blessed with two daughters and a son. All of them are married and living their respective lives.



3. It is the case of the petitioner that he was working as a conductor in KSRTC and was drawing a meager salary and with that he was taking care of the family. Upon attaining the age of superannuation, the petitioner retired from the services of KSRTC as a conductor and received a sum of Rs.12,00,000/- towards retirement benefits. It is his case that the son and respondent/wife snatched the said amount and the petitioner became penniless. He was under the fond hope that he would be taken care of by them, but the son instigated the mother to quarrel with the petitioner and ultimately the petitioner was thrown out of his house. He has taken a rented house and he is struggling hard to make both ends meet. The petitioner inherited the landed properties from his ancestors. When he was not permitted to cultivate the land to eke out his livelihood, he instituted OS.No.350/2013 on the file of Additional Civil Judge and JMFC, Holenarsipura against his two daughters, respondent/wife and son. Even after service of notice, as they remained absent they were placed *ex-parte* and a judgment was passed.



4. The son has contested the suit, after a full-fledged trial, a judgment and decree dated 09.10.2015 was passed declaring that the petitioner herein, his wife, two daughters and the son are entitled for 1/5th share each. The same was questioned by the son by filing R.A.No.09/2016, which came to be allowed in part. The judgment and decree passed by the Trial Court granting 1/5th share to the 3rd respondent/wife was set aside holding that the 3rd respondent is not entitled to a share in the suit schedule properties during the lifetime of the husband. Only the father, his son and two daughters are entitled for 1/4th shares each. Thereafter, the petitioner sought division of the properties by filing F.D.P.No.16/2015. In that, the Court Commissioner was appointed and the Court, after hearing the parties, was pleased to accept the partition proposal submitted by the Court Commissioner. It is stated that, in the meantime, the third respondent filed O.S.No.304/2018 on the file of the Additional Civil Judge and JMFC to declare that she and the petitioner herein are joint owners of the land measuring 2 acres 39 guntas comprised in Sy.No.30/3, and the land measuring 21 1/4th guntas of land comprised in Sy.No.48/2A, and the land measuring 11.5 guntas



in Sy.No.134/1C2 of Hirebelagulu Village, Halekote Hobli, Holenarsipura Taluk. In the said suit, an application was filed under Order VII Rule 11(d) of Code of Civil Procedure requesting to rejection of the plaint, and the learned Trial Judge, by Order dated 07.11.2020, was pleased to reject the plaint holding that a suit filed by the third respondent is not maintainable. The 3rd respondent has challenged the same by way of a regular appeal before the Senior Civil Judge and JMFC, Holenarsipura, by filing R.A.No.23/2022 and by judgment dated 04.03.2023, the appeal was dismissed with costs of Rs.5,000/- and thereby confirming the order passed by the Trial Court on I.A.No.3.

5. The respondent/wife filed a petition under Section 125 Cr.P.C in Crl.Misc.No.176/2018 against petitioner herein claiming monthly maintenance. Thereafter, on 20.12.2022 the respondent/wife filed a memo and requested to dismiss Crl.Misc.No.176/2018 until such time the petition filed before the Assistant Commissioner under the Provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is decided on merits.



6. The petitioner, in order to discharge the loan, sold the land by virtue of two sale deeds. Based on the application filed by the wife, the 2nd respondent passed an order granting maintenance and directed to enter the names of both the parties in the Katha. Against that, an appeal was preferred and the appellate authority has confirmed the order of the 2nd respondent. Aggrieved thereby, the petitioner is before this Court.

7. Learned counsel appearing for the petitioner/husband submits that as the dispute is between the wife and husband who are senior citizens, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, has no application. It is submitted that, when a competent Civil Court has held that the 3rd respondent is not entitled to any share in the property, and the same has attained finality, and even the final decree proceedings are concluded, the question of entering the name of the 3rd respondent in the katha would not arise. To decide these kinds of disputes, the 1st and 2nd respondents have no jurisdiction. It is submitted that, when a subsequent suit was filed, the plaint came to be rejected and in the appeal, the



costs were imposed while confirming the order of rejection of the plaint. It is submitted that both the 1st and 2nd respondents have exceeded the jurisdiction conferred on them under the Act. It is submitted that the order passed by the 1st and 2nd respondents needs to be set aside.

8. Learned AGA Sri Mahantesh Shettar appearing on behalf of 1st and 2nd respondent submits that considering the fact that the 3rd respondent is a senior citizen and because of the acts on the part of the petitioner she has been put to a lot of inconvenience and to meet the ends of justice, the 1st and 2nd respondents have passed the order impugned and there is no infirmity in the said order which requires interference at the hands of this Court.

9. Though notice is served on the 3rd respondent and the vakalath is filed on behalf of the 3rd respondent, there is no representation. Hence, this court is proceeding to pass orders on the merits of the matter.

10. Having heard the counsel appearing for the petitioner and learned AGA for respondent Nos.1 and 2, perused the material on record. In the light of the contentions raised before



this court, the only issue that falls for consideration before this court is:

“Whether a complaint filed by the wife against her husband who is a senior citizen, is maintainable under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007”.

11. The Maintenance and Welfare of the Parents and Senior Citizens Act 2007, is enacted to protect elderly people by ensuring that they are properly taken care of by their children and relatives. The purport of the act is to ensure protection of elderly persons from neglect and abuse. The Act is a beneficial legislation intended to safeguard the interest of senior citizens. Section 4 of the Act deals with maintenance of parents and senior citizens and it is appropriate to look at Section 2(g) and Section 4 of the Act which reads thus:

"2. Definitions:-

g. "relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death

4. Maintenance of Parents and Senior Citizens

1. A senior citizen including parent who is unable to maintain himself from his own earning or



property owned by him, shall be entitled to make an application under section 5 in case of –

i. parent or grand-parent, against one or more of his children not being a minor

ii. a childless senior citizen, against such of his relative referred to in clause (g) of section 2

2. The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

3. The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

4. Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen:

Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property."

12. A bare perusal of the object of the Act and also the definitions, particularly section 4 of the Act, makes it crystal clear that the dispute raised in this case is between the petitioner and the 3rd respondent/ wife, doesn't fall under the scheme of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The wife cannot seek the relief under the Act by filing a complaint against the husband who is a senior citizen. The Act is beneficial and protective insofar as senior citizens are concerned, but not adversarial against senior



citizens. The wife does not fall within the class of person entitled to initiate proceedings against the husband. If the wife has any grievance against the husband, there are other remedies available to her. That apart, when the disputes between the parties have attained finality in respect of a particular property, the application filed by the wife before the respondents seeking the relief that her name should be mutated is beyond the powers conferred on respondent Nos.1 and 2 under the provisions of the Act. It is very unfortunate that both the 1st and 2nd respondents exceeded their jurisdiction and entertained this application.

13. The jurisdiction conferred on the respondents Nos. 1 and 2 under the Act is summary in nature, confined to maintenance, protection and eviction in certain circumstances. The Act is not intended to decide complex civil or matrimonial disputes. An authority exercising powers under a particular statute must act within the four corners of the statute and cannot assume jurisdiction which is not vested in it. When a statutory Tribunal travels beyond the purpose and scope of the enactment, the orders are vitiated by jurisdictional error and



are liable to be set aside. The order impugned is liable to be set aside, firstly on the ground that the respondents have no jurisdiction. Secondly, the order of a competent Civil Court, which had attained finality, was overlooked by the respondent Nos.1 and 2. Thirdly, the Act allows senior citizens to reclaim property transferred to children/relatives when they fail to take care of them, when there is specific clause in the deed of transfer. The disputes between the husband and wife cannot be decided under the Act.

14. The Act is protection-focused, but like any other legal tool, it is exploited and used strategically by parties, where there is a family conflict mixed with property and financial expectations. The respondent/authorities under the Act shall be mindful of this while exercising the jurisdiction under the Act and shall ensure that there is no abuse of process.

15. In the light of the above discussion, this Court deems it appropriate to pass the following:

ORDER

- i. The order dated 17.10.2023 passed by the 1st respondent in proceedings No.ಎಂ.ಎ.ಜಿ.ಹಿ.ನಾ.ರ 12,



14/2022-23 by confirming the order dated 28.07.2022 passed by 2nd respondent in proceedings No. ಹಿ.ನಾ.ರ.14/2021-22 is **set aside**.

- ii. Accordingly, the writ petition is **Allowed**.
- iii. All pending I.As if any, in the writ petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

TS
List No.: 1 Sl No.: 54