
PROTECTING THE ELDERLY: JUDICIAL AND LEGISLATIVE RESPONSES TO PROPERTY TRANSFERS UNDER THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

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ABSTRACT

This research paper critically examines the contemporary judicial and legislative landscape surrounding the protection of senior citizens in India, with a particular focus on the legal validity of property transfers as governed by the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Building upon the detailed analysis of the Bombay High Court's recent ruling in "*Raviprakash R. Sodhani and Anr. v. Ram Swaroop Sodhani and Ors. (2025)*," the study investigates how Indian courts have embraced a purposive, elder-centric approach while interpreting **Section 23¹** of the Act, ensuring that transfers undertaken in anticipation of care or maintenance are not exploited by neglectful donees. The paper situates this case within broader doctrinal developments, explores procedural innovations through Maintenance Tribunals, and critically engages with policy implications, international perspectives, and social realities affecting vulnerable seniors. Ultimately, the research advocates for strengthened legislative presumptions, improved procedural safeguards, and greater public awareness, arguing that the realization of the constitutional promise of dignity and welfare for elders demands both robust legal remedies and sustained social engagement.

Keywords: Senior Citizens' Rights, Property Transfers, Maintenance Tribunal, Legislative Safeguards, Elder Neglect

¹ *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007*, <https://www.indiacode.nic.in/bitstream/123456789/2033/1/200756.pdf> (last visited Oct. 5, 2025).

Case Citation:

“Raviprakash R. Sodhani and Anr. v. Ram Swaroop Sodhani and Ors.”

Writ Petition No. 11375 of 2025, Bombay High Court, Judgment pronounced on 3 October 2025, N.J. Jamadar, J.

1.1. Facts of the Case:

The present writ petition arises from a fraught intra-family conflict cantering on the welfare and proprietary rights of a senior citizen, reflecting common dilemmas increasingly witnessed in contemporary Indian society. The dispute is emblematic of the broader social transitions affecting the Indian joint family and the increasingly precarious situation of elderly citizens.

The petitioners, being the son and daughter-in-law of the respondent (an 86-year-old senior citizen), challenged a set of orders passed by the Maintenance Tribunal and the Additional Collector (Appellate Authority) under “**Section 23**” of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (“Senior Citizens Act”). The Tribunal, followed in appeal by the Appellate Authority, had declared void a registered Gift Deed executed by the senior citizen in favour of the petitioners and had ordered their eviction from the disputed flat.

The salient facts:

The senior citizen, after being diagnosed with throat cancer and while hospitalized, was allegedly pressured by his son into executing a Deed of Partnership, retiring from his business, and further, into registering a Gift Deed of his residential flat (valued property) in favour of the petitioners and their son (respondent no. 5).

Following these transactions, the conduct of the petitioners allegedly shifted: the elderly father was systematically isolated, humiliated, neglected, and denied amenities to the extent that he was confined to a single room in his own home, the other rooms being kept locked by the petitioners whenever they left.

The senior citizen sought conciliation through relatives, but this proved futile; eventually, a legal notice was served and an application was filed before the Maintenance Tribunal alleging neglect, withdrawal of access to personal funds by the petitioners, and denial of basic needs.

The Maintenance Tribunal, after summary proceedings, ruled in favour of the senior citizen, invoking “**Section 23**” of the Senior Citizens Act to declare the Gift Deed void and ordered the eviction of the petitioners; this was upheld in appeal.

The petitioners, aggrieved by these proceedings, moved the Bombay High Court under its writ jurisdiction, arguing procedural irregularities, absence of explicit recitals of maintenance in the Gift Deed, and improper summary execution of the Tribunal’s order even while the appeal was pending.

1.2. Legal Issues:

The case presented three principal legal issues:

- 1.2.1. Interpretation of Section 23, Senior Citizens Act: Whether an instrument of transfer (here: a Gift Deed) requires an express provision/recital obligating the transferee to maintain the transferor for Section 23 to operate, or whether an implicit expectation of care suffices.
- 1.2.2. Scope of Summary Procedure: Whether the Tribunal and Appellate Authority erred in the application of summary procedures, denying adequate opportunity to the petitioners and failing to properly assess material evidence.
- 1.2.3. Nature and Effect of Protective Legislation: Whether the underlying legislative objective of the Senior Citizens Act justifies an expansive, pro-welfare interpretation even at the cost of formal property and contract law norms that typically govern civil transactions.

1.3. Arguments Advanced:

1.3.1. Petitioners

The arguments advanced by the petitioners’ counsel were as follows:

Voluntariness and Absence of Fraud: The Gift Deed was made voluntarily and without coercion or fraud. The execution of both the Partnership Deed and Gift Deed were the result of family discussions and mutual understanding.

No Express Condition: The Gift Deed did not mention, as a condition, that the petitioners would provide maintenance or basic needs. Therefore, the statutory precondition under Section 23(1) was not satisfied, as interpreted in certain Supreme Court decisions.

Denial of Opportunity: The Maintenance Tribunal, functioning under a summary procedure, did not afford them adequate opportunity to rebut or produce counter-evidence, nor did it provide reasoned orders, thus rendering the proceedings perfunctory and violative of natural justice.

Premature Execution: The expeditious execution of the Tribunal's order, including eviction, despite the pendency of appeal, was characterized as hasty and unjust.

1.3.2. Respondents

Counsel for the respondent senior citizen restated the following:

Implicit Condition in Familial Gifts: Transfers within families, especially when executed in the twilight years of a parent's life, are always made with an implicit hope and expectation that the donee would care for the elder. In this case, the circumstantial evidence, including the vulnerability of the transferor and the close timing of cancer treatment, made this expectation particularly strong.

Proof of Neglect: The record manifestly established withdrawal of monetary resources from the senior citizen, social and physical isolation, and deprivation of basic needs.

Beneficial Legislation: Given the legislative intent of the Senior Citizens Act, the Tribunal and courts must interpret Section 23 in a manner that advances the protection and welfare of the vulnerable, eschewing the technicalities of conventional property law.

1.4. Legal Aspects and Legislative Comment: The Senior Citizens Act, 2007²

1.4.1. Legislative Intent and Protective Structure

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was a legislative

² *Maintainance-and-Welfare-of-Parents-and-Senior-Citizens-Act-2007.Pdf*, <https://socialwelfare.goa.gov.in/wp-content/uploads/2025/04/Maintainance-and-Welfare-of-Parents-and-Senior-Citizens-Act-2007.pdf> (last visited Oct. 5, 2025).

response to the rapid withering of the joint family system and its associated support structures. The Statement of Objects and Reasons point to increased distress among elderly persons, particularly widows and the indigent, and the inadequacy of pre-existing remedies like Section 125 CrPC (Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023) to provide swift, effective relief.

1.4.2. The Act provides, inter alia:

Chapter II (Sections 4-10): Legal recognition and mechanism to claim maintenance not only for indigent parents, but for all senior citizens unable to maintain themselves from their own resources.

Section 4: Imposes a statutory duty on children and heirs to maintain their parents and senior relatives, including provision of necessary amenities and care.

Chapter V (Sections 21-23): Measures for the protection of the life and property of senior citizens, including police and administrative responsibility.

Section 23: Empowers the Maintenance Tribunal to declare void any transfer (by gift or otherwise) by a senior citizen subject to the condition of maintenance, if the transferee fails in this obligation, deeming such transfer as vitiated by fraud, coercion, or undue influence.

1.4.3. Progressive Doctrine and Judicial Construction

In practice and as underlined in this judgment the courts have adopted a purposive, beneficiary-centric interpretation of the Act. The definition of "maintenance" is expansive (Section 2(b)), and the Act confers overriding effect over other statutes (Section 3).

1.4.4. Section 23(1), which lies at the centre of the present dispute, reads as follows:³

“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

³ SC: *Interpretation Of Section 23(1) Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 To Send A Wrong Signal To Society*, <https://www.legalserviceindia.com/legal/article-10028-sc-interpretation-of-section-23-1-maintenance-and-welfare-of-parents-and-senior-citizens-act-2007-to-send-a-wrong-signal-to-society.html> (last visited Oct. 5, 2025).

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.”

Notably, the section creates a legal fiction: if a property transfer is undertaken on the condition of maintenance and if the donee fails, the law will treat the transfer as voidable due to coercion or fraud even in the absence of direct evidence of such vitiating factors.

This explicit statutory design is informed by the vulnerability of elders and the peculiarities of family relationships, which are frequently governed by implicit expectations rather than formal contractual arrangements.

1.4.5. Judicial Reasoning and Application

Summary of the Court’s Reasoning

Justice N.J. Jamadar of the Bombay High Court, addressing the challenge to the orders of the Tribunal and Appellate Authority, meticulously analysed the facts and applicable law in a stepwise manner:

The Court recognized that traditional familial expectations often operate outside written agreements, especially in parent-child property transactions, as has been recognized in recent holdings including “*Sudesh Chhikara v. Ramti Devi (2022 SCC Online SC 1684) and Urmila Dixit v. Sunil Sharan Dixit (2025 2 SCC 787)*.”

Section 23(1) of the Act was interpreted to not require a formal, explicit condition in the instrument of gift or transfer. Rather, in many cases, especially gifts, the transfer itself, when made by a vulnerable, aging transferor, carries an implicit expectation that the donee will provide for basic needs. Judicial insistence on an express written recital would, the Court held, frustrate the protective purpose of the provision.

The Court examined the timing and context of the transfer: immediately following cancer diagnosis and hospitalization, the withdrawal of the senior citizen from his business and the subsequent gift deed indicated a pattern of divestment under potential emotional distress.

The Court was not persuaded by the petitioners’ procedural complaints (denial of opportunity,

summary proceedings), noting the statutory mandate for an expeditious and summary process, and finding that the real substance of the dispute and the allegations of neglect were placed before and correctly assessed by the Tribunal.

The High Court emphasized that the Act, as beneficial legislation, requires a liberal and purposive interpretation to realize its object, which is protection of the vulnerable elder.

1.4.6. Technically, the Court held:

Express Condition Not Required: In intergenerational gifts, an implied expectation of care and maintenance is sufficient to invoke Section 23, particularly when the facts clearly point to neglect and deprivation after the transfer.

Summary Procedure Sufficient: The procedural structure of the Act, with its summary inquiry (Section 8), was sufficient in this case, given that the petitioners' replies offered only generic denials and failed to engage meaningfully with the specific allegations.

Justification for Relief: The totality of circumstances including the withdrawal of funds, deprivation of the senior citizen's access to his own property, and social isolation—supported the Tribunal's intervention and invalidation of the Gift Deed.

1.4.7. Comparative Judicial Precedent

The judgment is well-aligned with jurisprudence emerging from the Supreme Court and various High Courts:

1.4.7.1. "Sudesh Chhikara v. Ramti Devi (2022 SCC Online SC 1684):"⁴

The Supreme Court underlined that Section 23(1) requires showing the twin conditions of a transfer on the condition of maintenance and subsequent neglect by the transferee; however, it acknowledged the situational flexibility required in interpreting this provision for familial, especially non-contractual, transactions.

⁴ *Sudesh Chhikara vs Ramti Devi* on 14 July, 2022, <https://indiankanoon.org/doc/45659834/> (last visited Oct. 5, 2025).

1.4.7.2. “*Urmila Dixit v. Sunil Sharan Dixit* (2025 2 SCC 787):”⁵

Further reinforced the beneficial, flexible construction of the Act, recognizing implicit expectations as valid in familial transfers.

1.5. Critical Analysis:

1.5.1. Doctrinal Robustness

The High Court’s construction of Section 23 is doctrinally robust for several reasons:

It recognizes and responds to the lived realities of the Indian family, where love, trust, and implicit obligations often underpin property transfers far more than formal recitals or contractual terms.

The approach harmonizes the seemingly conflicting demands of property law (finality of voluntary transactions) and social welfare (protection of the vulnerable), with a clear preference for the latter where statutory intent so demands.

The judgment also reinforces the transformative spirit of the Indian Constitution, which, through Directive Principles (Articles 38, 41, 46), mandates the State to make effective provision for securing the right to public assistance, particularly in old age.

1.5.2. Social and Policy Impact

The implementation of the Senior Citizens Act has been inconsistent, with several high-profile cases exposing its underutilization. By upholding the Tribunal’s protective order, the Court not only affirms the legislative framework but also signals to lower authorities, families, and society that callousness towards elders will attract strong legal consequences.

1.5.3. Concerns remain regarding:

The effectiveness of summary procedure where either party may not have legal training or access, given Section 17’s exclusion of legal practitioners from Tribunal proceedings.

⁵ Apurva Neel, *Case Summary: Urmila Dixit v. Sunil Sharan Dixit & Ors. (2025) | Maintenance of Senior Citizens*, (Jan. 7, 2025), <https://www.legalbites.in/landmark-judgements/case-summary-urmila-dixit-v-sunil-sharan-dixit-ors-2025-maintenance-of-senior-citizens-1098124>.

The risk (albeit limited) of the Act's misuse by disgruntled elders to punish family members in intra-family disputes not genuinely involving neglect.

Administrative capacity, with Maintenance Tribunals often being under-resourced and lacking uniform infrastructure across states.

Nevertheless, the overall direction is constructive: the welfare-centric interpretation adopted here should improve the efficacy and reach of the Act, provided it is matched by practical improvements in implementation.

1.5.4. International Perspective

Internationally, elder law is developing rapidly. Instruments such as the UN Principles for Older Persons (1991) and regional best practices affirm the obligation of states and communities to protect and care for the aged, with property security being central. India's Act, and the mode of judicial response exemplified in this case, are increasingly in conformity with these evolving international standards.

1.6. Conclusion and Findings:

The High Court's judgment in Raviprakash R. Sodhani affirms that:

Section 23 of the Senior Citizens Act, 2007, is a powerful remedial measure, enabling Tribunals to undo property transfers obtained in anticipation of care where neglect is later proven, and that the absence of explicit recitals in a deed does not preclude protection for the senior citizen.

The law recognizes the unique vulnerabilities of the elderly and the implicit expectations inherent in familial relationships.

The priorities of elder welfare and social justice take precedence over rigid adherence to the formalities of property law, underscoring the transformative vision underlying India's constitutional and statutory frameworks.

1.7. Suggestions:

Enhanced Procedural Safeguards: Maintenance Tribunals, though summary in design, should be encouraged (with state support) to provide trained counsellors and mediators capable

of both fact-finding and family reconciliation, especially in non-adversarial disputes.

State Oversight: Greater state oversight and periodic evaluation of the working of Tribunals, along with appointment of legal aid officers to support elders and prevent procedural injustice, is essential.

Monitoring and Awareness: Intensified awareness and regular state-sponsored campaigns on the rights of elders under the 2007 Act, especially among the legal profession, lower judiciary, and grassroots community workers, can prevent disputes and empower elders to seek redress early.

Legislative Clarification: Parliament may consider clarifying that in all intra-family (particularly parent to child) transfers by senior citizens, unless proved otherwise, an implied condition of maintenance shall be presumed—further simplifying the evidentiary burden on elders.

Interrelation with Civil Law: Jurisdictional coordination between the Maintenance Tribunal and general civil courts should be carefully designed so that property disputes cannot be unduly prolonged or complicated in parallel proceedings.

It is finally suggested that a uniform, rights-based, elder-centric approach supported by practical measures and social awareness will best serve India's growing population of senior citizens and fulfil the constitutional promise of dignity, justice, and welfare for all in their twilight years.

REFERENCES:

- *Raviprakash R. Sodhani and Anr. v. Ram Swaroop Sodhani and Ors., WP No. 11375 of 2025, Bombay High Court, 3 October 2025.*
- *Maintenance and Welfare of Parents and Senior Citizens Act, 2007.*
- *Sudesh Chhikara v. Ramti Devi, 2022 SCC Online SC 1684 (Supreme Court of India).*
- *Urmila Dixit v. Sunil Sharan Dixit, (2025) 2 SCC 787.*
- *Smt. Varinder Kaur v. Smt. Kaljit Kaur & Ors., LPA No. 587/2025 (Delhi High Court).*
- *United Nations Principles for Older Persons (1991).*