Reserved on 01.07.2026
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2026:AHC:130819-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – C No. -4998 of 2026

Satish Chandra Gupta .....Petitioners(s)

Versus

State of U.P. and 11 others .....Respondents(s)

Counsel for Petitioners(s) : Dharmendra Kumar
Counsel for Respondent(s) : Abhishek Srivastava, C.S.C., Indra Pal Singh Rajpoot, Rajesh Mishra

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AFR

Court No. - 2

HON'BLE J.J. MUNIR, J.
HON'BLE INDRAJEET SHUKLA, J.

(Delivered by Indrajeet Shukla, J.)

1. Heard Mr. Alok Kumar Dwivedi, learned counsel appearing for the petitioner, Mr. Akhilesh Kumar Tripathi, learned Standing Counsel appearing for respondents no.1 to 6, Mr. Indra Pal Singh Rajpoot, learned counsel appearing for respondents no.7 to 10 and Mr. Rajesh Mishra, learned counsel appearing for respondents no.11 and 12.

2. The petitioner, who claims himself to be senior citizen has approached this Court with following main reliefs:-

> *"1. Issue a writ of Mandamus commanding Respondent Nos. 2 to 4 (District Magistrate, Superintendent of Police and Sub-Divisional Magistrate) to*

forthwith provide round-the-clock police protection to the petitioner and his property House No. 373, Kasba Rath, District Hamirpur.

2. Issue a writ of Prohibition restraining Respondent Nos. 6 to 12 from interfering in any manner whatsoever with the petitioner's peaceful possession.

3. Declare that the forged Will and registration of sale deed dated 17.11.2025 are prima facie void, and direct the competent authority to take time-bound legal action in accordance with law.

4. Direct a time-bound inquiry (within 15 days) into the failure of the District Magistrate, Superintendent of Police, Sub-Divisional Magistrate, Circle Officer and Station House Officer in discharging statutory duties under Section 22 of the Act, 2007.

5. Issue a writ of Mandamus directing the State Level Committee constituted under Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to take immediate cognizance of the petitioner's grievance; Exercise supervisory powers over the District Level Committee and district authorities; Issue binding protective directions for safeguarding the petitioner's life and property; and File a personal compliance affidavit before this Hon'ble Court within a fixed time frame non-action on representations dated 13.10.2025 and 14.11.2025, and 01.02.2026 failure to prevent creation of forged documents.

3. Shorn to unnecessary details the facts leading to instant writ petition can be summarized as under:-

The petitioner happens to be son of one Bhagwandas, who was owner of property described as house recorded in his name in the assessment register of Nagar Palika Parishad, Rath. A Will is said to have been executed by testator Bhagwandas alias Garibdas on 18.08.2004 in favour of private respondents and thereafter the beneficiaries of the Will executed two different sale-deeds on 17.11.2025, which have been brought on record by means of Annexures No.3 & 4 to this writ petition.

The petitioner pleads that he is the lawful owner and is in peaceful settled possession of house in question as such, he filed a representation addressed to the District Magistrate, Hamirpur seeking protection of his property under the mandate of Section 22 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (here-in-after shall be referred to as the " the Act, 2007").

4. The grievance as voiced by the petitioner in his representation is, that despite receipt of said representation, no action at the end of District Administration and Police Authorities including District Level Committee constituted under the Act was taken, resultantly execution of two sale-deeds on the same day, even the reminder representation filed on 14.11.2025 could not activate the State machinery. The petitioner claims these sale-deeds to be forged by raising a plea that the sale-deeds so executed are without authority of law, as the Will, which is the foundation of these two sale-deeds for the purpose of flow of title, itself is forged document. Further submission is the executant of sale-deed had no title to convey, there exist no lawful chain of title and in this factual backdrop the property of petitioner ought to have been protected and the private respondents being third party ought to have been restrained from any sort of interference in property in question. The private respondents are alleged to be land grabbers and anti-social elements, though no material indicating any instances could be set-forth.

5. Learned counsel for the petitioner in order to buttress his submissions relied upon Section 22 of the Act, which reads as under:-

> *"22. Authorities who may be specified for implementing the provisions of this Act. (1) The State Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.*
>
> *(2) The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens."*

6. From bare perusal of Section 22 of the Act it comes out, that law mandates the State Government to prescribe a comprehensive action plan for providing protection of life and property of senior citizens.

7. The much stress has been laid on Section 22(2) of the Act that the property of senior citizens are to be protected by the State machinery, which

they palpably failed as the inaction of State machinery had led to registration of aforesaid sale-deeds.

8. Submissions as advanced by counsel for the petitioner are that the State administration collectively failed to extend protection of property of petitioner, who is admittedly a senior citizen, thus, they defied the statutory mandate cast upon them under Section 22 (2) of the Act.

9. It has strenuously been urged that the State Government having issued relevant Government Orders in the shape of comprehensive action plan by constituting District Level and State Level Committees, allowed such committees to remain ineffective. Thus, the Constitutional rights guaranteed under Article 300 A in Part XII of the Constitution of India remained flouted.

10. The constitution of State Level and District Level Committees as per comprehensive action plan remained ineffective particularly for the petitioner as his representations have not been paid any heed at all.

11. The counsel for the private respondents submitted that civil suit interse the parties is pending adjudication and the transferor is not alien to the property under dispute as they are heirs of late Bhagwandas (the admitted owner) of property in question and they have transferred their share only by means of conveyance/title deed as such the Act, 2007 has no field to play in the instant matter.

12. The statutory scheme of the Act provides transfer of property to be void in certain circumstances. Section 23 of the Act 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 1.0tice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (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."

13. Barring Section 23 of the Act, 2007 there is absolute absence of power and procedure vested in tribunal/authorities to declare any title deed non est, which is collective decision and wisdom of legislature.

14. The Hon'ble Supreme Court in the case of **Sudesh Chhikara vs. Ramti Devi & another (Civil Appeal No.174 of 2021 decided on 6 December, 2022)** dealt with scope of Section 23 of the Act 2007 and dealing with all kind of transfer and has held as under:-

"25. Though it was initially sought to be suggested during the course of submissions that the condition of provision of basic amenities and basic physical needs must be stipulated in the form of a covenant in the Gift Deed, Mr. Khandeparkar, in his usual fairness, has later conceded that he does not want to press an extreme argument that in every case such a condition must be included in the Gift Deed. He however submits that even if such condition need not be included in the Gift Deed, there must be pleading and proof on the part of senior citizen that the Gift or transfer was executed subject to a condition that the transferee would provide basic amenities and basic physical needs to the transferor. In this connection he has placed reliance on the judgment of the Supreme Court in the Case of Sudesh Chhikara (supra) in Paragraph Nos.12 and 15 the Supreme Court held as follows:

> *"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".*

10 April 2024 Neeta Sawant WP-590-2023-JR-FC For attracting sub-section (1) of Section 23, the following two conditions must be fulfilled:

> *a. The ransfer 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.*
>
> *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."

26. In the case before the Apex Court, there was no pleading to the effect that the Gift Deed was executed subject to condition that a transferee would provide basic amenities and basic physical needs to Respondent No.1 therein. In the present case Respondent No.1 - Mother has pleaded in Paragraphs 4-O & 4-P of her application as under:

"40. Applicant was alone and with no choice but to take help from her Younger Son/the Respondent No.1. As the Applicant was dependent on Respondent No.1 and the exerted undue influence, relying upon the aforesaid assurances, she was coerced to execute Gift Deed in the favour of Respondent No.1 and the same was executed in May, 2017, with false promises that the Respondent Nos.1 & 2 will take her care of her for the entire life. 4P. In furtherance of the assurances given by the Respondents to safeguard her future, the Applicant was persuaded into gifting her 2 (two) Properties/Shares or Joint-Ownership in the 2 (Two) Properties, in favour of the Respondent No.1 herein, when she was alone and was not in the right frame of mind and was ailing."

27. Thus, there are specific pleadings made by the first Respondent- Mother in her application that two Gift Deeds were executed in furtherance of assurance given by Petitioners that they would take care of her during her entire life. Mr. Khandeparkar has fairly not contested the issue of absence of pleading. He however submits that it was incumbent upon the Mother to prove by leading oral evidence that the Gift Deed was executed subject to a condition of Petitioners 10 April 2024 Neeta Sawant WP-590-2023-JR-FC providing basic amenities and basic physical needs to Mother. The requirement of the aspect of leading oral evidence by senior citizen in support of application is being discussed in latter portion of the Judgment. However, so far as applicability of the Judgment in Sudesh Chhikara (supra) in the present case is concerned, I am of the view that the Apex Court was persuaded to set aside the order of Maintenance Tribunal essentially on account of lack of pleadings by Respondent No.1 therein that the Release Deed was executed subject to a Condition for providing maintenance. Since the condition is pleaded by Mother in her application, the judgment in Sudesh Chhikara would not support Mr. Khandeparkar's submission that there was no material before the Maintenance Tribunal to arrive at a finding that the Gift Deeds were executed subject to such a condition.

28. In fact Mr. Purohit has rightly drawn my attention to the following finding recorded by the Apex Court in Sudesh Chhikara (supra) in Paragraph 14 of the Judgment which reads thus:

> *"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 subsection (1) off Section 23 are attached to a transfer, existence of such conditions must be established before the Tribunal."*

29. The Apex Court has thus held that the existence of condition can even be established before the Tribunal. This would in fact indicate that the existence of such condition need not be reflected in the Deed itself in the form of a covenant or a recital and the same can be established before the Tribunal.

(emphasis supplied)

15. Thus, it comes out from plain reading of Section 23 of the Act, 2007 that for invoking the powers treating conveyance/document of transfer of title to be non est and void. Certain pre-requisites are to be satisfied viz:-

(i) a transfer is made by a senior citizen by way of a gift or otherwise after the commencement of this Act of this property;

(ii) such a transfer is subject to the condition that the transferee would provide the basic amenities and for basic physical needs to the transferror;

(iii) despite the said stipulation, the transferee refuses or fails to provide such amenities and physical needs, so promised;

16. If the aforesaid three conditions co-exist then such transfer made at the option of the transferor shall be deemed to have been made by fraud or coercion or undue influence and at the option of the transferor be declared void by the Tribunal.

17. In the absence of any requisite pleading either in the representation or in this writ petition attracting the elements/ingredients for invoking the jurisdiction conferred under Section 23 of the Act, no mandates/direction can be issued .

18. We have had privilege to go through the Full Bench decision of this Court rendered in the case of **Omkar Nath Gaur and another Vs. District Magistrate/President Appellate Tribunal Lucknow and others** reported in **2025 (5) ADJ 788 (FB) (LB)**. The Hon'ble Full Bench was posed with the four questions of law viz:-

> *(i) What is the true scope and powers of the maintenance Tribunal constituted under Section 7 of the Act of 2007 which is contained in Chapter-II of the Act of 2007 and whether the Tribunal in exercise of its power in context with Sections 7, 8 and 9 of the Act of 2007would be empowered to pass an order of eviction while deciding an application preferred before it in terms of Section 5 of the Act of 2007?*
>
> *(ii) What would be the true scope and power of the District Magistrate who exercises power as an Appellate Tribunal in terms of Sections 15 and 16 of the Act of 2016 [sic] and whether in exercise of such powers the Appellate Tribunal can pass an order of eviction?*
>
> *(iii) What is the true scope of Section 21 of the Act of 2007which deals with protection of life and property of senior citizen which is contained in Chapter-V of the Act of 2007 and to what extent the Authority can pass an order for adjudging certain transfers as void in terms of Section 23 of the Act of 2007 vis-a-vis the duties and powers of the District Magistrate conferred under Rules 21 and 22 of Rules of 2014 and in this context whether the orders for eviction can be passed?*
>
> *(iv) Whether the Division Bench in Ms. Swarj Verma (Supra) (sic) and Bipraji Singh (Supra) lays down correct law or whether the law laid down by the Division Bench in Shivani Verma (Supra) lays down the correct law?*

19. Question nos. (iii) and (iv) are of seminal importance for decision of present controversy, as such the relevant portion of aforesaid Full Bench judgment where question no. (iii) has been dealt with are extracted as under :-

"100. Now, its time to consider question no. (iii) which is being reproduced for the purpose of recaptitulation:

> *(iii) What is the true scope of Section 21 of the Act of 2007 which deals with protection of life and property of senior citizen which is contained in Chapter-V of the Act of 2007 and to what extent the Authority can pass an order for adjudging certain transfers as void in terms of Section 23 of the Act of 2007 vis-a-vis the duties and powers of the District Magistrate conferred under Rules 21 and 22 of Rules of 2014 and in this context whether the orders for eviction can be passed ?*

101. Chapter V of the Act of 2007 is titled protection of life and property of senior citizens and it takes within its fold Sections 21 to Section 23. It will be relevant to reproduce Section 21 of the Act which reads as under:-

> *21. Measures for publicity, awareness, etc., for welfare of senior citizens.- The State Government shall, take all measures to ensure that-*
>
> *(i) the provisions of this Act are given wide publicity through public media a including the television, radio and the print, at regular intervals;*
>
> *(ii) the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act;*
>
> *(iii) effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.*

102. What is significant to note is that Section 21 directs the State Government to take all measures to ensure that :-

> *(i) the provisions of the Act of 2007 are given wide publicity through public media including television, radio and print at regular intervals;*
>
> *(ii) the Central and the State Government Officers including the Police Officers and the members of the judicial service are given periodic sensitization and awareness training on the issue relating to this Act and ;*
>
> *(iii) effective coordination between services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare to address the issue relating to the welfare of the senior citizens and periodical review of the same be conducted.*
>
> *……..*

105. Section 22 of the Act of 2007 is apparently an enabling section which directs the State Government to confer the powers to implement the provisions of the Act and to ensure its smooth adherence by an officer not below the rank of a District Magistrate. The District Magistrate, under the Act can further delegate the duties to such officer who would carry out and perform all or any of the duties so conferred under the Act within local limits as may be prescribed. Sub Section (2) of Section 22 obligates the State Government to provide a comprehensive action plan for the protection of life and property of senior citizens.

106. In furtherance of Section 21 and to have a clear picture of what the State has understood regarding the duties and powers which were proposed to be conferred upon the District Magistrate finds reflection in Rule 21 framed under the Rules of 2014 which reads as under:-

> *21. Duties and Power of the District Magistrate- (1) The District Magistrate shall perform the duties and exercise the powers mentioned in sub-rules (2) and (3) so as to ensure that the provisions of the Act are properly carried out in his district.*

(2) It shall be the duty of the District Magistrate to:

(i) ensure that life and property of senior citizens of the district are protected and they are able to live with security and dignity;

(ii) oversee and monitor the work of Maintenance Tribunals and Maintenance Officers of the district with a view to ensuring timely and fair disposal of applications for maintenance, and execution of Tribunals' orders;

(iii) oversee and monitor the working of old age homes in the district so as to ensure that they conform to the standards laid down in these rules and any other guidelines and orders of the Government;

(iv) ensure regular and wide publicity of the provisions of the Act, and Central and State Governments, programmes for the welfare of senior citizens;

(v) encourage and co-ordinate with panchayats, municipalities, Nehru Yuva Kendras, educational institutions and especially their National Service Scheme Units, Organisations, specialists, experts, activists, etc. working in the district so that their resources and efforts are effectively pooled for the welfare of senior citizens of the district;

(vi) ensure provision of timely assistance and relief to senior citizens in the event of natural calamities and other emergencies;

(vii) ensure periodic sensitisation of officers of various Departments and Local Bodies concerned with welfare of senior citizens, towards the needs of such citizens, and the duty of the officers towards the

(viii) review the progress of investigation and trial of cases relating to senior citizens in the district, except in cities having a Divisional Inspector General of Police. Latter;

(ix) ensure that adequate number of prescribed application forms for maintenance are available in officers of common contact for citizens like Panchayats, Block Development Offices, Tahsildar Offices, District Social Welfare Offices, Collectorate, Police Station etc.;

(x) promote establishment of dedicated helplines for senior citizens at district headquarters, to begin with; and

(xi) perform such other functions as the Government, may by order, assign to the District Magistrate in this behalf, from time to time.

(3) With a view to performing the duties mentioned in sub-rule (2), the District Magistrate shall be competent to issue such directions, not inconsistent with the Act; these rules, and general guidelines of the Government, as may be necessary, to any concerned Government or statutory agency or body working in the district, and especially to the following:

(a) Officers of the State Government in the Police, Health and Publicity Departments, and the Department dealing with welfare of senior citizens;

(b) Maintenance Tribunals and Conciliation Officers;

(c) Panchayats and Municipalities; and

(d) Educational Institution.

107. Rule 21 (2) (i) of the Rules of 2014 as quoted above reveals that a duty is cast on the District Magistrate to ensure that life and property of senior citizens are protected and they are able to live with security and dignity. If Rule 21 (2) as extracted above is seen in context with the other obligations which are mentioned in Rule 21 (2) (ii) to (xi), it shows that the District Magistrate can even review the progress of the investigation and trial of cases relating to senior citizens in the district except in cities which have a Director Inspector General of Police. The duties so conferred and envisioned in Rule 21 are relating to all such obligations, which are relatable to the various challenges faced by the senior citizens, while interacting with different Government interface, in their day to day lives. The endevour is to make the interaction experience of a senior citizen with the Government Organizations less stressful and more friendly and convenient and the District Magistrate being the Nodal Officer is required to synchronise and oversee what is required to be achieved in terms of Section 21 of the Act of 2007.

……..

110. A reading Sections 21 and 22 with Rules 21 and 22 reveals that the Legislature has put Rule 22 in Chapter VI of the Rules with the nomenclature˜Protection of Life & Property of Senior Citizens whereas the phrase protection of life and property of senior citizens is the nomenclature of Chapter V of the Act and it also finds place in Rule 21 (2) (i) which relates to duties of the District Magistrate. Rule 22 reads action plan for the protection of life and property of senior citizens. This word action plan as used in Rule 22 is referrable to Section 22 (2) of the Act of 2007 obligating the Government to prescribe a comprehensive action plan.

111. It will be gainful to take a glance at Rule 22 of 2014 and the same reads as under:-

22. Action plan for the protection of life and property of Senior Citizens

(1) The District Superintendent of Police and in the case of cities having Divisional Inspector General of Police, such Divisional Inspector General of Police shall take all necessary steps, subject to such guidelines as the Government may issue from time to time for the protection of life any property of senior citizens.

(2) Without prejudice to the generality of sub-rule (1)

(i) each police station shall maintain an up-to-date list of senior citizens living within its jurisdiction, especially those who are living by themselves (le without there being any member in their household who is not a senior citizen);

(ii) a representative of the police station together as far as possible, with a social worker or volunteer, shall visit such senior citizens at regular intervals of at least once a month, and shall, in addition, visit them as quickly as possible on receipt of a request of assistance from them,

(iii) complaints/ problems of senior citizens shall be promptly attended to, by the local police;

(iv) one or more Volunteer Committee (s) shall be formed for each Police Station which shall ensure regular contact between the senior citizens, especially those living by themselves, on the one hand, and the police and the district administration on the other,

(v) the District Superintendent of police or, the Divisional Inspector General of Police as the case may be, shall cause to be publicized widely in the media and through the Police Station, at regular intervals, the steps being taken for the protection of life and property of senior citizens;

(vi) each Police Station shall maintain a separte register containing all important particulars relating to offences committed against Senior Citizens as in Annexure IV

(vii) The Register referred to in clause (vi) shall be kept available for public inspection, and every officer inspecting a Police Station shall invariably review the status as entered in the register;

(viii) The Police Station shall send a monthly report of such crimes to the, District Superintendent of police by the 10th of every month;

(ix) list of Do's and Don'ts to be follwed by senior citizens, in the interest of their safety, will be widely publicized;

(x) antecedents of domestic servants and others working for senior citizens shall be promptly verified, on the request of such citizens;

(xi) community policing for the security of senior citizens will be undertaken in conjunction with citizens living in the neighbourhood, Residents' Welfare Association, Youth Volunteers, Non-Government Organizations, etc,

(xii) the District Superintendent of police shall submit to the Director General of Police and to the District Magistrate, a monthly report by the 20th of every month, about the status of crimes agarnist senior citizens during the previous month, including progress of investigation and prosecution of registered offences, and preventive steps taken during the month, as in Annexure Vi

(xiii) the District Mangistrate shall cause the report to be placed before the District-level Committee constituted under rule 24;

(xiv) The Director General of police shall cause the reports submitted under caluse

(xii) to be compiled, once a quarter, and shall submit them to the Government every quarter as well as every year for, inter-alia, being placed before the State Council of Senior Citizens constituted under rule 23.

113. Having said that, this Court does not find that there is any indication in any provision or rule which creates or confers special powers to take such action and pass an order of eviction against any third party or a person who may be living with the senior citizen or in the premises belonging to the senior citizen. The duties as provided in Rule 21 and Rule 22 is primarily for strengthening and securing the social fabric to provide a protected stress free environment for the senior citizen and certainly not to create a forum or conferring special powers to evict any person irrespective of the right and obligation of such a party whose presence or possession may be adverse to that of a senior citizen.

…….

115. It is in this context that Rule 22 which is titled protection of life and property of senior citizens has been placed in Chapter VI of the Rules of 2014 and an obligation has been placed on the Police Authorities to ensure that preventive measures are taken for the benefit and protection of senior citizens and the entire Rule 22 does not in any manner indicate or reflect any obligation imposed on the Police Authorities to carry out any remedial exercise beyond the already established framework of the forums created by law governing the citizens as a whole.

…….

125 Thus, it would be seen that what the Act and the Rules and the comprehensive Action Plan as framed by the State Government reflects is a preventive and facilitative scheme of affairs and it does not create any special adjudicatory forum nor does it envisage or confer any new adjudicatory/coercive powers with the Authorities while providing immediate redressal, beyond the existing framework of laws. The aforesaid provision/scheme would indicate that the measures as provided are service based, pre-emptive and preventive in nature and certainly not reactive or curative.

……...

127. Now, this brings the Court to consider an important provision i.e. Section 23 of the Act of 2007, which has an impact and it also confers some powers on the Tribunal which are in contrast to the powers as mentioned in Sections 5 to 9 of the Act of 2007. For the ease of reference, Section 23 is being reproduced hereinafter:-

23. Transfer of property to be void in certain circumstances. "(1) 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 ofthe 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-sections (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.

128. On the plain reading of the aforesaid provision, it would indicate that to activate, the said section, certain conditions as mentioned therein must exist:-

(i) a transfer is made by a senior citizen by way of a gift or otherwise after the commencement of this Act of his property ;

(ii) such a transfer is subject to the condition that the transferee would provide the basic amenities and for basic physical needs to the transferror ;

(iii) despite the said stipulation, the transferee refuses or fails to provide such amenities and physical needs, so promised;

129. If the aforesaid three conditions co-exist then such a transfer made at the option of the transferor shall be deemed to have been made by fraud or coercion or under undue influence and at the option of the transferor be declared void by the Tribunal.

……...

141. On the other hand, in ordinary and normal circumstances, any dispute between a senior citizen and his opponent, are to be adjudicated in the Civil Courts or other Forums which may be available as per law and in such Civil Courts or Forums, the judicial officers or the Authorities, as the case may be, be more sensitive to give priority, keeping in mind the provisions of Section 21 (ii) of the Act of 2007 read with Rule 21 and 22 of the Rules of 2014. The State or the District Magistrate who has been obligated in terms of Section 19 and 20 of the Act read with Rules 21 and 22 are required only to create a strengthened social framework for the social security of the senior citizens.

(emphasis added)

142. However, the Act or the Rules do not confer or create a special forum or a special authority with overriding powers or authority to do something in terms of the Act of 2007 which is otherwise available only with the regular courts and authorities. The overriding powers of this Act in terms of Section 3 is limited only to the extent of powers conferred on the Tribunal or the Authority which they have to discharge in terms of the Act of 2007 and not beyond that. The traditional forums and courts are free to proceed with the matters in accordance with law which are not covered by the matters which are within the ambit and jurisdiction of Maintenance Tribunal, Appellate Tribunal in terms of the Act of 2007.

……...

150. It is in the aforesaid backdrop that Section 23 is treated as a stand alone section and only upon the adherence of the three pre-conditions, that the said section comes into play and only in such circumstances which are limited and explained hereinabove, can in a limited case upon an order being passed by the Maintenance Tribunal/Appellate Tribunal declaring the instrument as void can, as a

necessary corollary and as consequential impact of the order, the possession may be put back with the senior citizen and only to that limited extent, the Tribunal may pass an order of restitution that can be implemented and if need be through the District Magistrate by taking aid of the police authorities.

153. It will be relevant to observe that injunction is one of the most prolific preventive reliefs which are sought and granted by the courts, however, the Tribunal or the District Magistrate under the Act of 2007 or in terms of Rules of 2014 have not been invested with any such power.

154. Thus, where the Tribunal or the District Magistrate does not have the power to grant the injunction to prevent a breach of the legal obligation and then to suggest that the same Tribunal or the District Magistrate in absence of any clear conferment of power has been granted the power to evict a person becomes incongruous.

…….

156. Thus, for all the aforesaid reasons, this Court opines that the powers exercised in terms of Section 21 of the Act of 2007 or in terms of Rule 21 and 22 of the Rules of 2014 cannot include passing of an order of eviction except as explained above, where Section 23 of the Act of 2007 applies.

G. Summary and Answers to the Questions Referred:-

157. In light of the detailed discussions hereinabove we summarize and answer the reference as under:-

Questions (i) and (ii)

The Maintenance Tribunal constituted under Section 7 of the Act of 2007 in exercise of its power under Sections 7, 8 and 9 are not empowered to pass an order of eviction while deciding an application before it in terms of Section 5 of the Act of 2007. The Appellate Tribunal in terms of Section 15 and 16 of the Act of 2007 is also not conferred with the power to order an eviction except where in an appeal the Appellate Tribunal allows the prayer of the senior citizen/parent arising out of the plea of Section 23 of the Act of 2007.

Question No. (iii)

Considering the scope of Section 21 of the Act of 2007, the Authority is not competent to pass an order of eviction as Section 21 and the Rules 21 and 22 of the Rules of 2014 do not confer any power of eviction on the District Magistrate. However, the Maintenance Tribunal/Appellate Tribunal only in cases covered by Section 23 of the Act of 2007, after it holds a document/instrument to be void then as a concomitant exercising its restitutionary powers can revert back the possession to the senior citizen/parent.

Question No. (iv)

In response to Question No. (iv), we find that the decision rendered by the Division Bench in Shivani Verma (Supra) does not lay down the correct law and accordingly,

it is overruled. The decision of the Division Bench in Swaraj Varun (Supra) and Bipraji Singh (Supra) in so far as they hold that the power of eviction is not conferred on the Maintenance Tribunal and the Appellate Tribunal or the District Magistrate is upheld with a modification that it is subject to the exception where a case is covered by Section 23 of the Act of 2007 and a document is declared void then the Maintenance Tribunal/ Appellate Tribunal while exercising its restitutionay powers may in a given case, where required, may restore/ handover the possession to the senior citizen/parent.

20. Interestingly in the instant case the petitioner had not come with any pleading that the transfer deed/conveyance was executed in lieu of basic amenities for the transferor and it was the transferee, who refused or failed to provide such amenities but on the other hand the petitioner is doubting the Will Deed and, thereafter, the two sale-deeds, adjudication of which involves intricate questions of title and possession.

21. The petition does not claim any adjudication through the limited window of Section 23 of the Act, 2007, rather he wants substitution of procedure of full fledged trial of civil suit adjudicating title deed's validity through summary procedure by tribunal created under the Act, 2007 which is not permissible as per statutory scheme of the Act, 2007 as ratified by Full Bench decision of this Court in the case of **Onkar Nath Gaur** (supra).

22. The Senior Citizens Act, 2007 was enacted with the objective to provide a mechanism to secure maintenance and ensure welfare of senior citizens left bereft of support, financial or otherwise. The Act being a social legislation, ought to be construed liberally and its provisions should be implemented in light of the aims and objectives with which the Act was enacted, which for all intents and purposes in the immediate case herein is to ensure that a senior citizen without any semblance of support is not further deprived of the property.

23. Every property dispute pertaining to validity of conveyance/transfer deed qua senior citizens cannot be subject matter of adjudication under the Act unless it qualifies the pre-requisites of the Section 23 of the Act.

24. The legal mandate for protection of property as envisaged under Chapter V of the Act is to be read in conformity of the aim and object of the Act and conventional litigation even for senior citizens ensuring protection of

civil rights of property is not to be given complete go by, unless they are covered by statutory prescriptions contained under the Act and Rules through the limited window of Section 23 of the Act.

25. For better understanding the law pertaining to the protection of the property of senior citizens contemplated under Chapter V of the Act of 2007, it is pertinent to note that the fulfillment of the pre-requisites mentioned therein, attracts the Latin maxim **"*expressio unius est exclusio alterius*,"** which means that the express mention of one thing implies the exclusion of another. Thus, it can safely be concluded that, with respect to the protection of the property of a senior citizen, only the limited jurisdiction conferred under Section 23 of the Act of 2007 is available. Accordingly, no property dispute falling beyond the scope of Section 23 of the Act of 2007 can be permitted to be adjudicated by the statutory authorities mentioned under the said Act. Any attempt to adjudicate disputes beyond the realm of Section 23 of the Act of 2007 would amount to transgression of jurisdiction, since such jurisdiction has not been vested by the statute.;

The overriding powers of this Act in terms of Section 3 are limited only to the extent of powers conferred on the Tribunal or the Authority which they have to discharge in terms of the Act of 2007 and not beyond that. The traditional forums and courts are free to proceed with the matters in accordance with law which are not covered by the matters which are within the ambit and jurisdiction of Maintenance Tribunal, Appellate Tribunal in terms of the Act, 2007 as evident from Section 27 of the Act, 2007, which reads as under:-

> *"27. Jurisdiction of civil courts barred:- No civil Court shall have the jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act."*

26. The submission of counsel for the petitioner that his property rights are to be protected by State authorities in view of mandate of the coordinate bench

judgement of this Court rendered in case of **Shivani Verma vs. State of U.P. and others** reported in **2023 (6) ADJ 496** as also followed in the case of **Dinesh Ahuja @ Chinu Vs. District Magistrate and two others 2024: AHC 182781-DB** is completely misplaced as Hon'ble Full Bench in case of **Onkar Nath Gaur and another Vs. District Magistrate/President Appellant Tribunal Lucknow and others** reported in **2025 (5) ADJ 788 (FB) (LB)** has specifically overruled the dictum of **Shivani Verma (supra).**

27. In view of the aforesaid admitted factual scenario the irresistible conclusion, which this Court reaches is that the Act though one for the protection of Senior Citizens cannot be utilized for settling property disputes, except matters covered under Section 23 of the Act, 2007. There is a serious dispute regarding title of the property and Civil Suits inter-se parties are pending. Thus, this Court refrains itself from exercising our writ jurisdiction for the purpose of conferring jurisdiction to adjudicate the validity of the conveyance/title deeds in question upon authorities and the Tribunal created under the Act, 2007 which the law does not otherwise confer. At the same time, the deeds in question cannot be declared void in writ jurisdiction.

28. Accordingly, the instant writ petition fails and is dismissed. Cost made easy.

29. It is needless to mention that the parties are at liberty to approach the competent Courts of law, including the Civil Court, for the redressal of their grievance, if so advised.

(Indrajeet Shukla, J) (J.J. Munir, J.)

July 2, 2026

S.P.

Digitally signed by :-
SANJAY PURI
High Court of Judicature at Allahabad