



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

**DATED THIS THE 8<sup>TH</sup> DAY OF NOVEMBER, 2023**



**PRESENT**

**THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR JUSTICE KRISHNA S DIXIT**

**WRIT APPEAL NO. 488 OF 2023 (GM-RES)**

**BETWEEN:**

1. SMT. KAVITHA R,  
D/O RAJASHEKARAIHAH,  
W/O YOGESH,  
AGED ABOUT 38 YEARS,
2. SRI. YOGESH  
S/O LATE CHIKKARAMAIAH,  
AGED ABOUT 42 YEARS,

BOTH THE APPELLANTS ARE  
R/AT BASAVAPATTANA,  
NITTUR HOBLI,  
GUBBI TALUK,  
TUMKUR DISTRICT -572 216.



...APPELLANTS

(BY SRI. LAKSHMIKANTH K.,ADVOCATE)

**AND:**

1. STATE OF KARNATAKA,  
BY CHIEF SECRETARY,  
VIDHANA SOUDHA,  
BANGALORE-560 001.



2. THE ASSISTANT COMMISSIONER,  
TRIBUNAL OF MAINTAINANCE AND  
WELFARE OF PARENTS AND SENIOR CITIZENS  
TUMKUR DIVISION,  
TUMKUR-572 101.

3. SMT.NIRMALA,  
W/O RAJASHEKARAIHAH,  
AGED ABOUT 57 YEARS,  
RESIDING AT BASAVAPATTANA,  
NITTUR HOBLI,  
GUBBI TALUK,  
TUMKUR DISTRICT -572 216.

4. SRI.RAJASHEKARAIHAH,  
DEAD BY LRS.

MAMATHA R,  
W/O SHIVASHANKAR,  
AGED ABOUT 34 YEARS,  
RESIDING AT BASAVAPATTANA,  
NITTUR HOBLI,  
GUBBI TALUK,  
TUMKUR DISTRICT -572 216.

...RESPONDENTS

(BY SRI.PRINCE ISSAC., AGA FOR R1 & R2)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE  
KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THIS WRIT  
APPEAL BY SETTING ASIDE THE ORDER DATED 10/08/2021  
PASSED IN THE W.P. No.8108/2021(GM-RES) AND  
CONSEQUENTLY ALLOW THE WRIT PETITION AND GRANT ALL  
CONSEQUENTIAL BENEFITS, IN THE INTEREST OF JUSTICE  
AND EQUITY.



THIS APPEAL COMING ON FOR ORDERS THIS DAY,  
**CHIEF JUSTICE** DELIVERED THE FOLLOWING:

### **JUDGMENT**

This intra-Court appeal seeks to lay a challenge to a learned Single Judge's order dated 10.09.2021 whereby appellants' W.P.No.8108/2021 (GM-RES) has been negatived. In the said writ petition, they had called in question the order dated 24.02.2021 passed by the 2<sup>nd</sup> respondent -Assistant Commissioner as the Ex-Officio Tribunal under Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 whereby the Gift Deed dated 28.02.2018 has been set at naught.

2. Learned counsel appearing for the appellants argues that his clients have been looking after both the parents and that now one parent viz., the father has passed away. He also submits that a lot of money has been spent by the appellants for the hospitalization of the father when alive and therefore there was absolutely no justification whatsoever for the invalidation of the subject



gift deed by the Assistant Commissioner. This aspect having not been properly appreciated by the learned Single Judge, the impugned order is liable to be set aside and the writ petition needs to be allowed by restoring the Gift Deed.

3. Learned Additional Government Advocate appearing for the official respondents opposes the appeal contending that the learned Single Judge has crisply stated the reasons for denying relief to the appellants i.e., their assaulting the parents and ill-treating them during the evening of their life. The writ jurisdiction constitutionally vested in this Court therefore cannot be tapped by the children who abuse the parents, contends the learned Additional Government Advocate.

4. Having heard the learned counsel for the parties and having perused the appeal papers, we decline indulgence in the matter broadly agreeing with the reasoning of the learned Single Judge. Law, religion and morality impose an obligation on the children to look after



their parents at least during the evening of their life. This obligation becomes more vigorous when the children have taken the property of the parents by way of Gift.

5. The liability to look after the aged father and mother, is not a matter of charity, but a statutory obligation. The scriptures of this country since millennia have injuncted "*rakshanti sthavire putra*", literally meaning that the sons should look after the parents in the evening of their life. Even the United Nations, vide its General Assembly Resolution 46/1991 adopted on 16.12.1991, provides for the same with the following text:

"10. Older persons should benefit from family and community care and protection in accordance with each society's system of cultural values.

11. Older persons should have access to health care to help them to maintain or regain the optimum level of physical, mental and emotional well being and to prevent or delay the onset of illness.

17. Older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse.



18. Older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution.”

6. Several socio welfare legislations more particularly, the 2007 Act mandate *inter alia* the children to respect and look after their aged parents. Here is a case wherein the parents are not only not looked after, but were manhandled, that too by the children who have taken the gift of parents’ property. We also note that many cases of harassment of parents do not come to light at all, for obvious reasons. This court with penury in heart has been observing several such cases coming before it. This is not an acceptable development. Courts, Authorities and Tribunals have to be extra vigilant and strict too, in matters like this. In societies with aging populations, it becomes imperative to adjust to the increasing number of elderly individuals who possess a diverse range of functional capacities. The capability to carry out essential functions and partake in everyday activities is influenced



not solely by an individual's inherent capacity but also by the social and physical environments in which they reside. Supportive environments play a pivotal role in assisting older individuals to maintain their activity levels and independence as they progress in age.

In the above circumstances, this appeal being devoid of merits is liable to be and accordingly dismissed. Costs made easy.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

Snb/  
List No.: 1 Sl No.: 22