

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.167 of 2024**

**In**  
**Civil Writ Jurisdiction Case No.10426 of 2022**

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1. Shailesh Kumar @ Azad.
  2. Manish Kumar @ Guddu.
  3. Krishnakant Kumar @ Nikku.
  4. Rajeev Kumar.
  5. Sanjeev Kumar.

All are sons of Late Santosh Prasad, Resident of Peoples Co-Operative Colony, Sector-F-90, Kankarbagh, P.S. Kankarbagh, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary Co-operative Government of Bihar, Patna.
2. The Collector cum District Magistrate, Patna.
3. The Chairman, Abhikaran Samiti cum Sub Divisional Officer, Patna Sadar, Patna.
4. The Sub Divisional Officer, Patna Sadar, Patna.
5. Rajendra Prasad, son of Late Surya Deo Narayan Singh, Resident of Peoples Co-Operative Colony, Sector-F-90, Kankarbagh, P.S. Kankarbagh, District-Patna, presently residing at Mohalla-Road No. 13-C, P.S. Bahadurpur, District-Patna.

... .. Respondent/s

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**Appearance :**

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|---------------------|---|------------------------------------------------------------------------------------------|
| For the Appellant/s | : | Mr. Siya Ram Shahi, Advocate<br>Mr. Anirudh Kumar Sinha                                  |
| For Respondent No.5 | : | Mr. J.S. Arora, Sr. Advocate<br>Mr. Ritesh Kumar, Advocate<br>Mr. Pramod Kumar, Advocate |
| For the State       | : | Mr. Amit Prakash, GA-13                                                                  |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ALOK KUMAR SINHA**

**CAV JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA)**

**Date: 09-10-2025**

Heard learned counsels for the Parties.



2. The Present Writ petition has been filed for the following reliefs:

*“(i) For quashing of the order dated 10.06.2022 passed in Senior Citizen (Misc.) Appeal No. 01/2020-21 by the Collector-cum-District Magistrate, Patna whereby and whereunder the learned Collector set aside the order of Chairman cum Sub Divisional Officer, Patna Sadar, Patna.*

*(ii) For issuance of direction in the nature of mandamus upon the respondents authority to not disturb the family of the petitioners as the petitioners are living along with their family members.*

*(iii) For issuance of direction as your lordship may deem fit in the facts and circumstances of the case of the petitioners.”*

3. Learned counsel for the appellants, while assailing the impugned judgment of the learned Single Judge (Annexure–7 to the LPA appeal), submitted that the very initiation of proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was without jurisdiction, inasmuch as the appellants are not “children” within the meaning of Section 4 of the Act, but nephews of the complainant senior citizen. It was urged that the property in dispute constitutes a joint family property, and issues of ownership, partition, and entitlement are already subjudice before the competent Civil Court (Annexure–2). Despite this, the Maintenance Tribunal, in a summary proceeding



under Section 23, assumed to decide complex questions of title and possession, which lie outside its limited statutory domain. The appellants defence and supporting documents, including the written reply (Annexure–6 to the writ petition; Annexure–SA/1 to the supplementary affidavit), the registered family settlement deed (Annexure–8 to the writ petition), and the revenue receipts establishing possession (Annexure–9 to the writ petition), were disregarded, and the appellants were erroneously treated as mere licensees or permissive occupiers.

It was further submitted that the interlocutory applications filed during pendency (Annexure–IA/1 and Annexure–IA/2 to the LPA appeal) demonstrate the continuing prejudice suffered by the appellants due to the impugned orders. It was further contended that eviction or dispossession under Section 23 cannot be ordered mechanically, and the Tribunal is bound to act fairly and in consonance with statutory limitations. On these premises, it was urged that the orders of the Tribunal (Annexure–4 to the writ petition; Annexure–2 to the LPA appeal), affirmed by the learned Single Judge, are vitiated by jurisdictional error, disregard of material evidence, and misapplication of the Act, and therefore warrant interference in this LPA appeal.



4. *Per Contra*, learned counsel appearing for the respondents submitted that the proceedings before the Maintenance Tribunal were fully within jurisdiction and in strict consonance with the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It was argued that the appellants are in permissive occupation of the property, without any vestige of independent title, and cannot resist the lawful claim of the senior citizen. The Tribunal, by its order dated [dated 20.7.2022 from Annexure-4 WP / Annexure-2 LPA] (Annexure-4 to the writ petition; Annexure-2 to the LPA appeal), after due notice and hearing, recorded categorical findings that the senior citizen was entitled to recover possession and rent. It was further submitted that the so-called family settlement deed (Annexure-8 to the writ petition) and revenue receipts (Annexure-9 to the writ petition) carry no legal sanctity and were rightly disregarded. The subsequent affidavit and revenue entries, even if considered, do not confer any title, as eligibility and rights must be determined on the basis of settled ownership, not unilateral claims.

#### **ISSUES FOR CONSIDERATION**

1. *Whether the learned Single Judge, in affirming the order of the Maintenance Tribunal dated 14.03.2020 and the Collector-cum-District Magistrate dated 10.06.2022, erred in law*



*on the ground of alleged violation of the principles of natural justice?*

*2. Whether the Maintenance Tribunal, while exercising jurisdiction under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, acted within the statutory limits in directing eviction of the appellants from the property in question?*

*3. Whether the appellants' asserted independent rights based on family arrangement, partition claims and revenue records can be adjudicated within the summary jurisdiction under "the 2007 Act" ?*

*4. Whether, in the facts and circumstances of the case, the beneficial object and mandate of "the 2007 Act" require sustaining the Tribunal's order as affirmed by the learned Single Judge?*

### **FINDINGS**

*ISSUE NO. 1: Whether the learned Single Judge, in affirming the order of the Maintenance Tribunal dated 14.03.2020 and the Collector-cum-District Magistrate dated 10.06.2022, erred in law on the ground of alleged violation of the principles of natural justice?*



The appellants have urged that the proceedings before the Maintenance Tribunal (Annexure-4 to the writ petition) were conducted in breach of the principles of natural justice. It is contended that the Tribunal did not grant them sufficient opportunity to place their defence, that their written submissions (Annexure-6 to the writ petition; Annexure-SA/1 to the supplementary affidavit) and supporting documents such as revenue receipts and family arrangement were brushed aside, and that the Tribunal's order dated 14.03.2020 proceeded in undue haste. It is further argued that the learned Single Judge, while dismissing CWJC No. 10426 of 2022 on 29.01.2024 (Annexure-7 to the LPA appeal), failed to appreciate such infirmities.

On the other hand, the record reveals that notices were duly served upon the appellants; they entered appearance, participated in the proceedings, and filed written replies together with annexures in support of their stand. The Maintenance Tribunal considered those submissions before passing a reasoned order of eviction on 14.03.2020. The Collector-cum-District Magistrate, Patna, upon hearing both sides, affirmed the same by order dated 10.06.2022 in Senior Citizen Appeal No. 01/2020–21 (Annexure-2 to the LPA). Thereafter, the learned Single Judge, by



judgment dated 29.01.2024, independently examined the matter and dismissed the writ petition.

It is well settled that **the essence of natural justice is fairness in action, not a ritualistic adherence to technicalities.** The Supreme Court in *Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260*, observed that “the principles of natural justice cannot be put in a straitjacket formula; their applicability depends upon the facts and circumstances of each case, and once a fair opportunity is afforded, the complaint of violation cannot be entertained.”

Similarly, in *Dharampal Satyapal Ltd. v. Dy. Commissioner of Central Excise, (2015) 8 SCC 519*, the Court reiterated that natural justice is not an “unruly horse” but a principle to ensure that no one is condemned unheard, and that what is required is “substantial fairness of procedure.” Where participation has been afforded and considered, the plea of denial fails.

Applying the above principles to the present case, it is evident that the appellants were heard at every stage. Their plea of denial of opportunity is belied by their own participation and submission of documents before both the Tribunal and the Appellate Authority. The learned Single Judge rightly recorded



that the appellants sought to expand the limited scope of jurisdiction under “the 2007 Act” into a forum for deciding title and partition disputes, which is impermissible.

Accordingly, we hold that **no violation of principles of natural justice is made out.**

***ISSUE NO. 2: Whether the Maintenance Tribunal, while exercising jurisdiction under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, acted within the statutory limits in directing eviction of the appellants from the property in question?***

The order of the Maintenance Tribunal dated 05.05.2023 (Annexure–4 to the writ petition; Annexure–2 to the LPA), directing eviction of the appellants from the scheduled premises, was affirmed by the Appellate Authority on 10.06.2022 and by the learned Single Judge by judgment dated 21.11.2023 (Annexure–7 to the LPA). The appellants contend that the Tribunal travelled beyond the statutory limits of Section 23 of “the 2007 Act” by venturing into questions of ownership, partition, and title, which are matters pending adjudication before the competent Civil Court. It was urged that Section 23 only permits the Tribunal to annul transfers made subject to a condition of maintenance, and does not extend to ordering eviction or dispossession.



*Per contra*, learned counsel appearing for the respondent senior citizen submitted that “the 2007 Act” is a beneficial legislation and the Tribunal, being a statutory forum, is empowered to pass all consequential directions necessary to secure the residence, dignity, and peaceful possession of senior citizens. It was contended that the appellants, being nephews and not “children” within the meaning of Section 4, lack locus to resist the proceedings. Their claim of joint ownership, if any, is a matter for the civil court, but cannot dilute the protective jurisdiction of the Tribunal. Reliance was placed on the Collector-cum-District Magistrate’s order dated 10.06.2022 affirming the Tribunal, and the learned Single Judge’s judgment dated 21.11.2023, upholding the same (Annexure–7 to the LPA).

On consideration, we are unable to accept the appellants plea of jurisdictional excess. Section 23(1) of “the 2007 Act” provides that where a senior citizen transfers property subject to the condition of maintenance, such transfer shall be deemed void if the transferee fails to provide the same. The Supreme Court in ***Samtola Devi vs State of Uttar Pradesh SLP No. 26651 of 2023***, para 31 and para 32 states that:

*“31. The provisions of the Senior Citizens Act, nowhere specifically provides for drawing proceedings for eviction of persons from any premises owned or belonging to such*



*a senior person. It is only on account of the observations made by this Court in **S. Vanitha vs. Commissioner, Bengaluru Urban District & Ors** that the Tribunal under the Senior Citizens Act may also order eviction if it is necessary and expedient to ensure the protection of the senior citizens. The Tribunal thus had acquired jurisdiction to pass orders of eviction while exercising jurisdiction under Section 23 of the Senior Citizen Act which otherwise provide for treating the sale of the property to be void if it is against the interest of the senior citizen.*

*32.The aforesaid decision was followed by this Court in **Urmila Dixit (supra)**. However, even in the aforesaid case the court has only held that in a given case, the Tribunal “may order” eviction but it is not necessary and mandatory to pass an order of eviction in every case. The Appellate Tribunal has not recorded any reason necessitating the eviction of Krishna Kumar or that in the facts and circumstances of the case, it is expedient to order eviction so as to ensure the protection of the senior citizen.”*

In its Judgment dated 02.01.2025 passed in **Urmila Dixit Case-Civil Appeal No.10927 of 2024**, the Supreme Court held that Tribunals under “the 2007 Act” are competent to direct eviction as an incident of enforcing statutory protection.

Further, in the recent case of **Kamalakant Mishra Vs. Additional Collector & Ors.**, the Hon’ble Apex Court has reiterated that the Tribunal may direct for eviction where such relief is essential to give under “the 2007 Act”.



In the present case, the Tribunal did not purport to adjudicate title, partition, or ownership, which remain pending before the civil court. Its direction of eviction was a necessary measure to restore possession and ensure the senior citizen's right to live with dignity and security. The learned Single Judge, in affirming the Tribunal's order, therefore, committed no error in appreciating the limited but effective jurisdiction conferred by Section 23.

Accordingly, this Court holds that the Tribunal acted within its statutory mandate, and its order of eviction, having been affirmed by both the Appellate Authority and the learned Single Judge, does not suffer from any jurisdictional infirmity warranting interference.

**ISSUE NO. 3: Whether the appellants' asserted independent rights based on family arrangement and revenue records can be adjudicated within the Tribunal's limited, summary jurisdiction under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007?**

The appellants contended that their rights in the scheduled property flow from the family settlement deed (Annexure-8 to the writ petition) and supporting revenue receipts (Annexure-9 to the writ petition), dated 19.12.2022 (Annexure-



SA/1 to the supplementary affidavit). It was urged that these materials demonstrate an independent claim of ownership and that the Tribunal and the learned Single Judge erred in treating the appellants as mere permissive occupants. According to the appellants, their claim required adjudication in the proceedings under Section 23 of “the 2007 Act”.

*Per contra*, the respondents argued that proceedings under “the 2007 Act” are summary in nature and do not extend to adjudicating intricate questions of title, partition, or ownership. The appellants, being nephews and not “children” within the meaning of Section 4 of the Act, had no locus to resist proceedings before the Tribunal on the basis of alleged independent title. It was submitted that the proper forum for asserting such rights is the competent Civil Court, not the Maintenance Tribunal, whose jurisdiction is confined to ensuring protection of senior citizens’ property and residence.

Upon consideration, we find merit in the respondents’ submission. Section 23 of “the 2007 Act” is designed to safeguard senior citizens against neglect and to protect their possession and property where transfers are made subject to a condition of maintenance. The jurisdiction is protective, summary, and limited,



and does not extend to resolving competing civil claims of title or partition.

In the present case, the Tribunal correctly declined to adjudicate the appellants' claim of rights under the alleged family arrangement and revenue entries, holding such matters to be beyond its scope. The learned Single Judge, by judgment dated 29.01.2024 (Annexure-7 to the LPA), also observed that the appellants were attempting to expand the summary proceedings under "the 2007 Act" into a substitute for civil litigation, which is impermissible.

We accordingly hold that the appellants' asserted independent rights, even if supported by documents such as family settlement or revenue receipts, are matters for adjudication by the civil court, and cannot be determined in proceedings under "the 2007 Act". The Tribunal and the learned Single Judge were correct in confining themselves to the statutory jurisdiction and in refusing to entertain these collateral claims.

**ISSUE NO.4: Whether in the facts and circumstances of the case, the beneficial object and mandate of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 require sustaining the Tribunal's order as affirmed by the learned Single Judge?**



The appellants urged that the Tribunal, by order dated 14.03.2020 (Annexure–4 to the writ petition), and the Appellate Authority by order dated 10.06.2022 (Annexure–2 to the LPA), travelled beyond the scope of Section 23 of the 2007 Act by directing their eviction from the scheduled property. It was argued that the Act is primarily intended to secure monetary maintenance and not to divest possession of property, and that the learned Single Judge, by judgment dated 29.01.2024 (Annexure–7 to the LPA), erred in treating the Act as a basis for dispossession.

*Per contra*, learned counsel for the respondents submitted that “the 2007 Act” is a welfare legislation enacted with the avowed object of protecting senior citizens from neglect, harassment, and deprivation of their property. It was contended that the Tribunal’s jurisdiction must be construed purposively, so as to secure the right of senior citizens to reside peacefully and with dignity, and that eviction of unauthorized occupants is a necessary incident of that protection. Reliance was placed upon ***S. Vanitha v. Deputy Commissioner, Bengaluru Urban District, (2021) 15 SCC 730, Sudesh Chhikara v. Ramti Devi, (2022) 1 SCC 705***, as well as recent pronouncements of the Supreme Court dated 02.01.2025 in **Urmila Dixit Case (Supra)** and dated 12.09.2025 in **Kamalakant Mishra Case**.



On careful consideration, we find that the object of “the 2007 Act” is to ensure not only provision of monetary maintenance but also protection of life, dignity, and residence of senior citizens. Section 23 confers jurisdiction upon the Tribunal to declare void transfers of property where maintenance is not provided, and by necessary implication, to pass orders restoring possession and evicting unauthorized occupants where the continued occupation impedes the rights of senior citizens.

In *S. Vanitha case (supra)*, the Supreme Court emphasized that though the Tribunal cannot adjudicate intricate civil disputes, it is empowered to pass eviction orders where occupation of relatives or others frustrates the statutory mandate. Similarly, in *Sudesh Chhikara case (supra)*, the Court held that proceedings under the Act are protective and must be interpreted purposively to secure effective relief for senior citizens. Also recently, the Supreme Court, in *Kamalakant Mishra v Additional Collector & ors. SLP(CIVIL)D no. 42786 of 2025 judgment dated 12.9.2025*, reiterated that “Tribunals constituted under “the 2007 Act” may direct eviction where such relief is essential to give effect to the protection envisaged for senior citizens,” stressing that the statute would otherwise be rendered otiose. All these decisions underscore that the legislative intent is to provide *real*



*and effective protection* to senior citizens against neglect or exploitation.

5. Applying these principles, we are of the view that the Tribunal, in directing eviction of the appellants, acted squarely within the protective ambit of “the 2007 Act”. The appellants, being nephews and not “children” under Section 4, have no statutory right to resist proceedings, and their alleged claims of co-ownership were rightly left to the civil court. The Tribunal’s order was necessary to secure the complainant’s right to peaceful possession of his residential property, and the learned Single Judge correctly affirmed that view by judgment dated 29.01.2024. Accordingly, we hold that the beneficial object and mandate of “the 2007 Act” require sustaining the orders of the Tribunal and the learned Single Judge. The appeal, being devoid of merit, deserves to be dismissed.

6. For the reasons recorded under Issues 1 to 4, this Court finds no infirmity in the concurrent findings of the Maintenance Tribunal (order dated 14.03.2020, Annexure–4 to the writ petition), the Collector-cum-District Magistrate in Senior Citizen Appeal No. 01/2020–21 (order dated 10.06.2022, Annexure–2 to the LPA appeal), and the learned Single Judge in



CWJC No. 10426 of 2022 (judgment dated 29.01.2024, Annexure–  
7 to the LPA appeal).

7. Accordingly, this Letters Patent Appeal stands  
dismissed. The judgment of the learned Single Judge dated  
29.01.2024 in CWJC No. 10426 of 2022 is affirmed with no order  
as to costs.

**(P. B. Bajanthri, CJ)**

**( Alok Kumar Sinha, J)**

Prakash Narayan

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