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ENSURING SAFETY AND DIGNITY – A COMPREHENSIVE APPROACH IN PROTECTION OF THE PROPERTY AND LIFE OF SENIOR CITIZEN.

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ABSTRACT:-

“Parents can unilaterally cancel the settlement deed if there is just a mention that it is being given to them out of love and affection,”

Justice S M Subramaniam.

India, home to a rapidly growing elderly population, faces a critical challenge in ensuring the safety, dignity, and rights of its senior citizens. While the Constitution of India guarantees fundamental rights to all citizens, the vulnerabilities of the elderly such as financial exploitation, social neglect, and physical abuse require special attention and robust protective mechanisms. This paper explores the constitutional, legislative, and policy frameworks aimed at safeguarding the life and property of senior citizens, emphasizing the need for a comprehensive, rights-based approach. Article 21 of the Constitution ensures the right to life and personal liberty, which has been interpreted by the judiciary to include the right to live with dignity. Additionally, Article 41 under the Directive Principles of State Policy urges the state to provide public assistance in cases of old age. In response to these constitutional mandates, the Government of India has introduced legislation such as the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, aimed at legal protection and economic security for the elderly. However, enforcement challenges, lack of awareness, and insufficient institutional support continue to hinder the realization of these rights.

In conclusion, the protection of senior citizens' life and property is not just a legal obligation but a moral imperative that demands active participation from the state, society, and individuals. A holistic approach, grounded in constitutional values and human dignity, is essential for transforming the legal framework into meaningful protection on the ground. This calls for integrated action across sectors legal, administrative, and social to uphold the rights and dignity of India's elderly population.

CHAPTER 1

1.1. INTRODUCTION:-

According to Maintenance and Welfare of Parents and senior citizen Act 2007, safeguarding the property rights of senior citizens from fraudulent practices and abuses. Where senior citizens has transferred the property through gift to their children. Senior citizen revoke the gift deed in case of transferee fails to provide basic necessities of the transferor.

Some of the definitions clauses under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 are:-

Sec 2 (a) “**children**” includes son, daughter, grandson and grand-daughter but does not include a minor;

Sec 2 (b) “**maintenance**” includes provisions for food, clothing, residence and medical attendance and treatment;

Sec 2 (c) “**minor**” means a person who, under the provisions of the Majority Act, 1875 (9 of 1875) is deemed not to have attained the age of majority;

Sec 2 (d) “**parent**” means father or mother whether biological, adoptive or step father or step

Sec 2 (f) “**property**” means property of any kind, whether movable or immovable, ancestral or self acquired, tangible or intangible and includes rights or interests in such property;

Sec 2 (g) “**relative**” means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;

Sec 2 (h) “**senior citizen**” means any person being a citizen of India, who has attained the age of sixty years or above;

1.2. REVIEW OF LITERATURE:-

Ms. Sarbani Bhowmik, “Realizing the Rights of the Senior Citizens” An International Human Rights Law Perspective, In this discuss about the international instruments that failed to protect the rights of the senior citizens around the world and their list some recommendations.

Dr. Seema Totla, “Analysis of Judgement and Laws regarding Maintenance and Welfare of Parents and senior citizen” In this journal discussion about the analysis of various judgment regarding ensuring protection and benefit of parent and Senior citizen.

Dr. Shashank Shekhar, “Existing Legal Protection Available To Senior Citizens: An Indian Context” In this detailed discussion about the various laws and government policies regarding

Protection of senior citizen and parents.

Mishra. P and Sharma.S (2018) “Legal safeguards for elderly rights in India: An analysis of the maintenance and welfare of parents and senior citizen Act” In this legal framework encompasses provisions for maintenance, Protection from abuse and access to health care.

Verma. R and Choudhary. S (2019) “Legal recourse in elder abuse cases: A study on the effectiveness of existing legal frameworks”. It delves into the legal intricacies of elder abuse cases, highlighting the importance of swift legal recourse for effective protection.

1.3. SIGNIFICANCE AND PURPOSE:-

The importance of the Study was to protect the senior citizen from children or third party because when these both people were failed to take care of the parents or senior citizens.

1.4. RESEARCH QUESTION:-

Under what circumstance the transferred property can be made void?

Whether the transferee can go for appeal under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007?

1.5. HYPOTHESES:-

In failure of maintaining parents or senior citizens the transferred property can be made void.

1.6. METHODOLOGY:-

This research adopts a doctrinal approach, focusing on a detailed legal analysis of Protection of Senior Citizen's property and life under Constitutional aspects and MWPC Act. This methodology involves a judicial precedents, legislative framework and scholarly interpretations to explore how the senior citizens are protected under the Act.

CHAPTER 2

CONSTITUTIONAL PROVISIONS ON RIGHTS OF SENIOR CITIZENS IN INDIA:-

Article 21 guarantees the fundamental rights to life and personal liberty, including the inherent right to live a life of dignity. Every Indian citizen has the fundamental right to Clothing, Food, Shelter, and a reasonable level of living. Therefore, it is evident that elderly people have the right to a dignified and high quality existence since they are also a part of the human

population.¹

Under Part IV of the Constitution, which outlines the Directive Principles of State Policy (DPSP), specific provisions emphasise the state's responsibility to protect and promote the rights of its citizens, including senior citizens.

Article 41 directs the state to make effective provisions for securing the right to work and public assistance in certain cases. It explicitly includes a focus on the elderly, recognizing the need for social and economic support for senior citizens.²

Article 46 directs the state to promote the educational and economic interests of the weaker sections, which encompasses senior citizens facing economic challenges. This provision underscores the government's commitment to protecting the economic well-being of vulnerable groups³.

The State has a responsibility to work towards achieving the Directive Principles outlined in Part IV of the Indian Constitution. Although the Supreme Court has clarified that these principles are not legally enforceable through court orders, the State is still expected to implement them within the limits of its legislative and executive powers. These principles serve as a guiding framework for creating laws and policies, especially those focused on the welfare and protection of senior citizens. They reflect the broader vision of building a welfare state that ensures social justice and dignity for all, including the elderly.

CHAPTER 3

PROTECTION OF SENIOR CITIZEN'S PROPERTY AND LIFE:-

During old age the parents and senior citizen cannot maintain themselves because of lack of their basic needs. Some of the provisions relating to protection of life and property of senior citizen or Sec.21, 22 and 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

According to Sec.21 it deals with the welfare of the senior citizens, both the State and the

¹ Professional's , The Constitution of India, Bare Act, Professional book publishers pg no. 11.

²Article 41, COI.

³Article 46, COI.

Central Government shall take necessary measures for publicity, awareness etc⁴. The State Government is required to take the necessary steps to promote the welfare of senior citizens are:

- **Public Awareness:** Widely publicize the provisions of the Act through various public media (TV, radio, print) on a regular basis.
- **Training and Sensitization:** Ensure that government officials including police and judiciary receive regular training and awareness programs about issues related to the Act.
- **Departmental Coordination:** Facilitate effective coordination among relevant ministries/departments (law, home affairs, health, welfare) and conduct regular reviews of their services to ensure the well-being of senior citizens.

In Sec. 22 it deals with authorities for implementing protection of senior citizens life and properties⁵. The State Government can assign powers and responsibilities to the **District Magistrate** to ensure effective implementation of the Act. The District Magistrate may, in turn, designate a **Subordinate Officer** to carry out these duties within specified local areas, as prescribed.

In Sec. 23 it deals with the grounds for the transfer of property held to be void⁶. The following

⁴ S. 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 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.

⁵ 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 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

constitute the legal grounds for declaring a property transfer void:

- **Conditional Transfers:** If a senior citizen transfers property (e.g., as a gift) on the condition that the transferee provides basic amenities and care, and the transferee fails to do so, the transfer is considered to have been made under fraud, coercion, or undue influence. The senior citizen can request the Tribunal to declare the transfer void.
- **Right to Maintenance from Estate:** If a senior citizen is entitled to maintenance from an estate that is transferred, this right can be enforced against the transferee if:
 - The transferee had notice of the senior citizen's right, or
 - The transfer was gratuitous.
- **Enforcement by Others:** If a senior citizen is unable to enforce these rights, any recognized organization (as per Section 5) may act on their behalf.

For example, "A" (64years) has no children. He has transferred his grocery shop and agricultural land to his relative "B" (28 years) on September 2016 on the condition that "B" shall provide him monthly ration and medical attention. "B" agreed to the condition and a transfer is property in the name of "b". An agreement was signed by "A" for the transfer of his property. But after 6 months from the date of the transfer of property "B" failed to provide him monthly ration and he needs daily medication but "B" failed to provide said medication .In this case, "A" can revoked his property from "B". So the transferred property held to be void under S.23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

CHAPTER 4

OTHER KEY LEGISLATIONS ON RIGHTS OF SENIOR CITIZENS IN INDIA:-

Other legal provision under which a senior citizen or elderly parents can claim maintenance apart from the Maintenance And Welfare of Parents And Senior Citizen Act 2007.

Parents can also claim maintenance under section 125 of the CRPC however, if the elderly parents cannot make claim under all the law i.e., Maintenance and Welfare of Parents and Senior Citizen Act 2007 and CRPC. If any application made under the Section 125 CRPC is pending before the court a request can be made to the court to withdraw the application after the withdrawal the person can file an application before the maintenance tribunal.

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.

➤ **Sec 125 of Code of Criminal Procedure 1973:-**

Under 125 of CRPC deals with maintenance of old parents under this section irrespective of the religion can also seek maintenance. If any person neglect or refuses to maintain his /her parents or unable to maintain himself or herself, a magistrate of the first class may direct , upon proof of such neglect or refusal order such person to make a monthly allowance for the maintenance of his/her parents.⁷

⁷ Section 125 in The Code of Criminal Procedure, 1973

Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain -

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain himself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain himself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate [* * *] [The words "not exceeding five hundred rupees in the whole" omitted by Act 50 of 2001, w.e.f. 24.9.2001.], as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct :

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

[Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct.

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.] [Inserted by Act 50 of 2001, Section 2 (w.e.f. 24-9-2001).]

Explanation. - For the purposes of this Chapter, -

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority,

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not re-married.

(2) [Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.] [Substituted by Act 50 of 2001, Section 2 (w.e.f. 24-9-2001).]

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] [Substituted by Act 50 of 2001, Section 2 for "allowance" (w.e.f. 24-9-2001).] remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made :

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation. - If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an [allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] [Substituted by Act 50 of 2001, Section 2 for "allowance" (w.e.f. 24-9-2001).] from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

[Substituted by Act 32 of 1988, Section 2, for certain words (w.e.f. 25-5-1988).]

MADHYA PRADESH.- In its application to State of Madhya Pradesh in Section 125.

(1) Sub-section (1) for the words "five hundred rupees" the words "three thousand rupees" shall be substituted. [Vide M.P. Act 10 of 1998, Section 3, W.e.f. 29.5.1998].

(2) For the marginal heading, substitute the following the marginal heading, namely - "Order for maintenance wives, children, parents and grandparents"

(3) In sub-section 1 -

(a) after clause (d) insert the following clause namely -

"(e) his grandfather, grandmother unable to maintain himself or herself,"

(b) in the existing para, for the words "a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate not exceeding three thousand rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct", substitute "a Magistrate of the first class may upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father mother, grandfather, grandmother at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct";

MAHARASHTRA.- In Section 125 of the Code of Criminal Procedure, 1973, in its application to the State of Maharashtra (hereinafter referred to as "the said Code"), -

(a) in sub-section (1), -

(i) for the words "not exceeding five hundred rupees" the words "not exceeding fifteen hundred rupees" shall be substituted;

(ii) before the existing proviso, the following proviso shall be inserted, namely :-

Provided that, the Magistrate, on an application or submission being made, supported by an affidavit by the person who has applied for the maintenance under this sub-section, for payment of interim maintenance, on being satisfied that, there is a prima facie ground for making such order, may direct the person against whom the application for maintenance has been made, to pay a reasonable amount by way of interim maintenance to the applicant, pending the final disposal of the maintenance application :

Provided further that, such order for payment of interim maintenance may, in an appropriate case, also be made by the Magistrate ex parte, pending service of notice of the application, subject, however, to the condition that such an order shall be liable to be modified or even cancelled after the respondent is heard in the matter :

Provided also that, subject to the ceiling laid down under this sub-section, the amount of interim maintenance shall, as far as practicable, be not less than thirty per cent of the monthly income of the respondent.";

(iii) in the existing proviso, for the words "Provided that" the words "Provided also that" shall be substituted;

(b) after sub-section (2), the following sub-section (2-A) shall be inserted, namely :

"(2-A) Notwithstanding anything otherwise contained in sub-sections (1) and (2), where an application is made by the wife under Cl. (a) of sub-section (1) for the maintenance allowance, the applicant may also seek relief that the order may be made for the payment of maintenance allowance in lump sum in lieu of the payment of monthly maintenance allowance, and the Magistrate may, after taking into consideration all the circumstances obtaining in the case including the factors like the age, physical condition, economic conditions and other liabilities and commitments of both the parties, pass an order that the respondent shall pay the maintenance allowance in lump sum in lieu of the monthly maintenance allowance, covering a specified period, not exceeding five years at a time, or for such period which may exceed five years, as may be mutually agreed to, by the parties."

(c) in sub-section (3), -

(i) after the words "so ordered" the words, brackets, figures and letter "either under sub-section (1) or sub-section (2-A), as the case may be", shall be inserted;

(ii) after the words "each month's allowance" the words "or, as the case may be, the lump sum allowance to be paid in lieu of the monthly allowance" shall be inserted. [Vide The Code of Criminal Procedure (Maharashtra Amendment) Act, 1998 (21 of 1999), Section 2, w.e.f. 20.4.1999].

RAJASTHAN.- In its application to the State of Rajasthan, in section 125, sub-section (1), for the words "five hundred" occurring after the words "at such monthly rate not exceeding" and before the words "rupees in the whole", substitute "two thousand five hundred". [Rajasthan Act 3 of 2001, Section 2].

TRIPURA.- In its application to the State of Tripura, in Section 125, sub-section (1), for the words "five hundredths rupees", substitute "one thousand five hundred rupees". - Tripura Act 9 of 1999, Section 2, w.e.f. 9.4.1999. [This State amendment was made prior to the enactment of Code of Criminal Procedure (Amendment) Act, 2001 (Central Act 50 of 2001) by the which the words "not exceeding five hundred rupees) in the whole" have been omitted (See Section 2, Cr.P.Code (Amdt.) Act, 2001, w.e.f. 24.9.2001 - Ed.)]

➤ **Sec 20 of Hindu Adoption and Maintenance Act, 1956.**

Under Hindu Adoption and Maintenance Act 1956 only Hindu can claim maintenance under this Act. .

The Hindus include Hindu of any sect or caste

- ❖ Buddhist,
- ❖ Jains,
- ❖ Sikhs.
- ❖ If somebody has converted or reconverted to Hinduism.

HAMA, 1956 is not applicable to schedule tribe unless the government notifies so⁸.

Under section 20 clearly mention that it is the responsibility of a person to maintain their old and aged parents if, there are not able to maintain themselves. As per section 23 of this act the court can decide the maintenance amount or even change the amount already agree upon to be pay to the aged parents. If, the court feels that the original amount might not be sufficient

UTTAR PRADESH.- In its application to the State of Uttar Pradesh, in Section 125, -
in sub-section (1), for the words "five hundred rupees", substitute, "five thousand rupees";

(b) after sub-section (5), insert the following sub-section, namely :-

"(6) Where in a proceeding under this section it appears to the Magistrate that the person claiming maintenance is in need of immediate relief for his support and the necessary expenses of the proceeding, the Magistrate may, on his application, order the person against whom the maintenance is claimed, to pay to the person claiming the maintenance, during the pendency of the proceeding such monthly allowance not exceeding five thousand rupees and such expenses of the proceeding as the Magistrate consider reasonable and such order shall be enforceable as an order of maintenance." [Uttar Pradesh Act 36 of 2000, Section 2, w.e.f. 13.8.2001.]

WEST BENGAL.- In its application to the State of West Bengal in sub-section (1) of Section 125 of the principal Act, -

(1) for the words "five hundred rupees", the words "one thousand and five hundred rupees" shall be substituted;

(2) after the existing proviso the following proviso shall be inserted :

"Provided further that where in any proceeding under this section it appears to the Magistrate that the wife referred to in Cl. (a) or the minor child referred to in Cl. (b) or the child (not being a married daughter) referred to in Cl. (c) or the father or the mother referred to in Cl. (d) is in need of immediate relief for her or its or his support and the necessary expenses of the proceedings, the Magistrate may, on the application of the wife or the minor child or the child (not being a married daughter) or the father or the mother, as the case may be, order the person against whom the allowance for maintenance is claimed, to pay to the petitioner, pending the conclusion of the proceeding, and monthly during the proceeding such allowance as, having regard to the income of such person, it may seem to the Magistrate to be reasonable. [Vide West Bengal Act 25 of 1992, Section 4, w.e.f. 2.8.1993]

⁸ Section 20 in The Hindu Adoptions And Maintenance Act, 1956

Maintenance of children and aged parents.—

(1) Subject to the provisions of this section a Hindu is bound, during his or her lifetime, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents.

(2) A legitimate or illegitimate child may claim maintenance from his or her father or mother so long as the child is a minor.

(3) The obligation of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or other property.

Explanation:-

In this section "parent" includes a childless step-mother.

for their survival⁹.

➤ **Muslim Personal Law:-**

Muslim are also legally entitle to maintain the parents according to Mulla, childrens are bound to maintain they poor parents all though parents maybe able to hear something for themselves. A son is entitled to maintain his mother even under difficult circumstances if she is poor taught she may not be sick. A son who thought poor is earning something is bound the maintain his father if he is earning nothing.

According to tyabji's principles of muhammadan law, parents and grandparents in poor circumstances are entitled. Under hanafi law, to maintenance from the children and grandchildren who have the means, even if there are able to earn their livelihood.

Both sons and daughter have a duty to maintain their parents under the Muslim law. However, the obligation to maintain the elderly parents falls on them only if they have sufficient means.

➤ **Christian and Parsi laws:-**

The Christian and Parsi have no personal laws for providing maintenance for the parents. Parents who wish to seek maintenance have to apply for the same under the provisions of the CRPC.

⁹ Section 23 in The Hindu Adoptions And Maintenance Act, 1956

Amount of maintenance.—

(1) It shall be in the discretion of the Court to determine whether any, and if so what, maintenance shall be awarded under the provisions of this Act, and in doing so, the Court shall have due regard to the considerations set out in sub-section (2), or sub-section (3), as the case may be, so far as they are applicable.

(2) In determining the amount of maintenance, if any, to be awarded to a wife, children or aged or infirm parents under this Act, regard shall be had to—

(a) the position and status of the parties;

(b) the reasonable wants of the claimant;

(c) if the claimant is living separately, whether the claimant is justified in doing so;

(d) the value of the claimant's property and any income derived from such property, or from the claimant's own earnings or from any other source;

(e) the number of persons entitled to maintenance under this Act.

(3) In determining the amount of maintenance, if any, to be awarded to a dependant under this Act, regard shall be had to—

(a) the net value of the estate of the deceased after providing for the payment of his debts;

(b) the provision, if any, made under a will of the deceased in respect of the dependant;

(c) the degree of relationship between the two;

(d) the reasonable wants of the dependant;

(e) the past relations between the dependant and the deceased;

(f) the value of the property of the dependant and any income derived from such property, or from his or her earnings or from any other source;

(g) the number of dependants entitled to maintenance under this Act.

CHAPTER 5

JUDICIAL INTERPRETATION OF PROTECTION OF SENIOR CITIZEN'S PROPERTY AND LIFE:-

Indian courts have strongly affirmed the legal and constitutional rights of senior citizens, especially concerning their property, life, and dignity. The judicial system has shown that it will not allow traditional family ties to override the legal entitlements and emotional well-being of elders, particularly under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

Senior Citizen Welfare Organization & Anr. v. State of Uttarakhand & Anr.¹⁰

In this case Uttarakhand HC had observed that senior citizens have the fundamental right to live with dignity and that the state is obliged to create conditions and circumstances to ensure social protection and welfare of senior citizens.

Ashwani Kumar v. U.O.I¹¹

In this case court observed that the directives in protection of their statutory and fundamental rights, such as the right to health, dignity, shelter, and protection, as well as other welfare programs and schemes and an adequate pension.

Sudesh Chhikara v. Ramti Devi and Anr.¹²

In this it was observed that, 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 sub-section (1) of Section 23 are attached to a transfer, existence of such conditions must be established before the Tribunal.”

Urmila Dixit v. Sunil Sharan Dixit & ors¹³

Gift deed executed by the appellant, a senior citizen, in favor of her son, could be declared void

¹⁰ (Writ Petition (PIL) No. 52 of 2013) (disposed of on 12 June, 2018). In this case, a Division Bench of the Uttarakhand High Court issued 14 Directives urging the state of Uttarakhand to take appropriate steps to ensure protection of elderly people.

¹¹ (2019) 2 SCC 636.

¹² [2022] 17 SCR 876,

¹³ [2025] 1 S.C.R. 105 : 2025 INSC 20

u/s- 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (“the Act”), due to the son’s failure to fulfill the obligation of maintenance. In the above case it was held that even if there is no condition to provide basic necessity to senior citizen it is explicit condition even there is conditions are not while transferring property children has to take care of parents if he fails to fulfill the obligations then tribunal made the transfer as void.

Sunny pal & Anr. v. State NCT of Delhi¹⁴

In this case it was held that Sec 23 of this Act tribunal can issue an eviction order to ensure that senior citizen live peacefully in their house without being forced to accommodate a son who physically assaults and mentally harasses them or threatens to dispossess them.

S.Kalaiarasan v. The District Collector¹⁵

In this case discuss about whether this act was applicable or not in case of senior citizen can maintain themselves.

K. Lokesh v. The Bangalore District Maintenance & Ors¹⁶.

Karnataka High Court has held that the right of appeal against an order passed by the Assistant Commissioner under Maintenance and Welfare of Parents and Senior Citizens Act, is only available to senior citizens and parents and no such right is extended to children or third parties.

Namdeo and Anr v. State of Maharashtra¹⁷

In this case, it was held that removing children from the residential home to protect the senior citizen's peace of mind was legal.

Justice Shanti Sarup Dewan v. Union Territory¹⁸

In this case Supreme Court examined that sons, daughters, married or single, are equally obligated to support their parents.

¹⁴ W.P.(C) 10463/2015 & CM APPL. 43227/2016

¹⁵ <https://indiankanoon.org/doc/49020550/>

¹⁶ (Neutral Citation: 2024:KHC:53004-DB)

<https://www.verdictum.in/court-updates/high-courts/karnataka-high-court-2024-khc-53004-db-k-lokesh-v-bangalore-district-maintenance-welfare-of-parents-senior-citizens-1563496>

¹⁷ Writ Petition No. 2035 of 2020, Decided On, 04 April 2022

¹⁸ AIR 2013, Punjab - Haryana High Court, Letters Patent Appeal No. 1007 of 2013

Reju & Ors v. The Maintenance Tribunal, Thiruvananthapuram & Ors,¹⁹

In this case, a person who abandons a senior citizen in their care may face up to three months in jail and/or a fine of up to five thousand rupees, according to Section 24 of the Act.

Mohamed Dayan v. The District Collector and Others²⁰

In this case, the court ruled that when parents transfer property to their children with the hope of receiving care and affection in return, this love and affection serves as both the consideration and an implicit condition of the transfer. Consequently, if the child neglects their parents after the property transfer, authorities can void the deed under Section 23(1) of the Act.

L.V.Sarojini v. The District Collector²¹

In this case court has observed that, the simply providing food and shelter would be insufficient. But life includes providing of decent medical facilities, food, shelter and other requirements with dignity in commensuration with the status of the family and taking into consideration of the living style of the senior citizen throughout. Therefore, the children defending their case merely on the ground that they are willing to provide food and shelter, cannot be taken as a ground for the purpose of sustaining the Settlement Deed executed by the senior citizen. The requirement of the provisions are to be complied in its real spirit and in the event of an iota of doubt, the Authority Competent is empowered to cancel the Settlement Deed or Gift Deed, as the case may be, in order to protect the normal life of senior citizen.

Goel v. Goel²²

In this case the Court reinforced the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, affirming the rights and entitlements of senior citizens and it was held that elderly individuals are entitled to financial maintenance, support for daily living expenses, and the right to live a life of dignity and respect. The judgment also clarified the legal obligations of family members, stating that children and grandchildren are responsible for the care and upkeep of their aging parents or grandparents. Additionally, any relative who possesses or stands to inherit the property of a senior citizen is also obligated to provide for their welfare. This decision highlights the importance of familial responsibility in ensuring the well-being and dignity of the elderly.

¹⁹ AIR, 2016, (KER)97

²⁰ (WP No. 28190 of 2022)

²¹ W.P (MD)No.3415 of 2023.

²² (2023 SCC OnLine Del 2141)

CHAPTER 6

CONCLUSION:-

Findings through various judicial interpretation ensuring the safety and dignity of senior citizens and parents under the Maintenance and Welfare of Parents and Senior Citizen Act 2007. Even though their maintained but insufficient for maintenance senior citizen can approach the tribunal. Thus, we conclude that Protection of Senior Citizen's property and life we should make awareness to public and to make strict severe punishments those who fails to take care of parents. Even if there no specification that after the transfer of property incase their not take care of them transferred property can be revoked under Sec 23 of this Act.

SUGGESTIONS:-

To ensure the safety and dignity of senior citizens, a multi-layered strategy combining legal, administrative, and social efforts is essential. First, the legal framework must be strengthened by introducing clearer provisions and stricter enforcement mechanisms for protecting the life and property of the elderly. Special fast-track tribunals or dedicated benches for senior citizen cases should be established to expedite justice. Simultaneously, awareness campaigns through television, radio, and social media should be conducted regularly to educate both senior citizens and the general public about their rights and available legal remedies. Sensitization and training programs for police, healthcare providers, and judicial officers are crucial to ensure empathetic handling of elderly-related issues. At the community level, local bodies, NGOs, and Resident Welfare Associations should be actively involved in monitoring and reporting cases of elder abuse or neglect. Additionally, institutions like Elder Protection Cells and legal aid clinics should be made more accessible, especially in rural and semi-urban areas. There must also be a centralized monitoring mechanism to regularly assess the implementation of welfare schemes for senior citizens. By fostering collaboration among government departments, civil society, and community stakeholders, we can create a safer and more respectful environment where senior citizens can live with dignity, free from fear of exploitation or neglect.

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