

**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**MONDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT PETITION NO: 32591 OF 2025

Between:

R. Srinivas, S/o. R. Manohar, Aged: 44 years, Occ: Business, R/o. H. No. 4-2-122,
Ranisatiji Colony, Adilabad Town, Adilabad District.

...PETITIONER

AND

1. State of Telangana, Rep. by its Principal Secretary, Department for Women, Children, Disabled and Senior Citizens, Secretariat, Hyderabad.
2. The Appellate Tribunal, Telangana State Maintenance and Welfare of Parents and Senior Citizens, Rep. by the District Collector, Adilabad Adilabad District.
3. R. Manohar, S/o. Late Govindu, Aged. 80 years, Occ. Retired, R/o. H. No. 4-2-122, Ranisatiji colony. Adilabad Town, Adilabad District – 504001.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus and Declaration, and Declare the sub-rule 3 of Rule 21 of the Telangana Maintenance and Welfare of Parents and Senior Citizens Rules, 2011 as Unconstitutional, *ultra vires* to Parent Statute, i.e., Maintenance & Welfare of Parents and Senior Citizens Act, 2007 being excessive delegation, and Consequently, set-aside the proceedings bearing C1/394/2023 against the Petitioner herein on the file of Respondent No. 2.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings bearing File No. C1/394/2023 on the file of the Respondent No. 2, pending disposal of the Writ Petition.

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to amend the main prayer of the affidavit and Writ petition by substituting the words "Consequently, set-aside the proceedings bearing C1/394/2023 against the Petitioner herein on the file of Respondent No. 2" with words "Consequently, set-aside the Order dated 15-12-2025 passed by the Respondent No. 2 in Procs. No. C1/394/2023-I".

IA NO: 3 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Order dated 15-12-2025 passed by the Respondent No. 2 in Procs. No. C1/394/2023-I, pending disposal of the present Writ petition.

IA NO: 4 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 2 to produce the entire record including proceedings record of each date of adjournment in Procs. No. C1/394/2023-I, pending disposal of the present Writ petition.

IA NO: 1 OF 2026

Between:

R. Manohar, S/o. Late Govindu, Aged: 80 years, Occ: Retired, R/o. H. No. 4-2-122, Ranisatiji colony, Adilabad Town, Adilabad District – 504001.

...PETITIONER/RESPONDENT No.3

AND

1. R. Srinivas, S/o. R. Manohar, Aged: 44 years, Occ: Business, R/o. H. No. 4-2-122, Ranisatiji Colony, Adilabad Town, Adilabad District.

...RESPONDENT/WRIT PETITIONER

2. State of Telangana, Rep. by its Principal Secretary, Department for Women, Children, Disabled and Senior Citizens, Secretariat, Hyderabad.
3. The Appellate Tribunal, Telangana State Maintenance and Welfare of Parents and Senior Citizens, Rep. by the District Collector, Adilabad Adilabad District.

...RESPONDENTS/RESPONDENT Nos.1 & 2

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim order dated 05-01-2026 in WP No.32591 of 2025 and dismiss the said writ petition.

Counsel for the Petitioner: SRI BAGLEKAR AKASH KUMAR

**Counsel for the Respondents No.1 & 2: SMT. K. MANI DEEPIKA,
GP FOR WOMEN DEVELOPMENT & CHILD WELFARE**

**Counsel for the Respondent No.3: SRI A. PRANEETH, REPRESENTING
SRI P. LAKSHMA REDDY**

The Court made the following: ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND**

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.32591 of 2025

DATE: 16 .02.2026

BETWEEN:

R.Srinivas

....Petitioner

AND

State of Telangana and 2 others

....Respondent

ORDER

(per Sri Justice G.M.Mohiuddin)

Heard Sri Baglekar Akash Kumar, learned counsel for the petitioner; Smt.K.Mani Deepika, learned Government Pleader for Women and Development appearing for respondent Nos.1 and 2 and Sri A.Praneeth, learned counsel representing Sri P.Lakshma Reddy, learned counsel for respondent No.3 and perused the record.

2. This Writ Petition is filed, under Article 226 of the Constitution of India, with the following prayer:

"....to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus and Declaration, and Declare the sub-rule 3 of Rule 21 of the Telangana Maintenance and Welfare of Parents and Senior Citizens Rules, 2011 as Unconstitutional, ultra vires to Parent Statute, i.e., Maintenance & Welfare of Parents and Senior Citizens Act, 2007 being excessive delegation, and Consequently, set-aside the proceedings bearing C1/394/2023 against the Petitioner herein on the file of Respondent No.2, and pass such other order as this Hon'ble Court may deem fit in the best interest of justice".

Factual Matrix (in brief)

3. The petitioner is the third son of respondent No.3, a senior citizen aged about 80 years, who is the absolute owner of residential premises bearing H.No.4-2-122, situated at Ranisatiji Colony, Adilabad. The genesis of the dispute traces to the year 2023, when respondent No.3 lodged a complaint before the Revenue Divisional Officer (RDO), Adilabad, alleging that the petitioner had unauthorisedly occupied portions of the said house, failed to provide maintenance, broke open the lock of a shop belonging to the wife of respondent No.3 and locked the common latrine, thereby causing hardship to the aged parents.
4. The complaint was forwarded to the District Collector, Adilabad, who, upon issuance of notice and conducting an enquiry, passed order, dated 27.02.2024 in R.C.No.C1/394/2023 (Ex.P6) dismissing the request for eviction, taking note of the deposition of the petitioner's mother that the petitioner and his wife were taking proper care of them, while advising the children to treat respondent No.3 with dignity.
5. An appeal preferred by respondent No.3 in Appeal No.S1/555/2024 before the Director/Commissioner came to be dismissed by order dated 13.08.2024 (Ex.P7), affirming the order of the District Collector and observing that property disputes, if any, may be resolved in accordance with law.

6. Subsequently, on 15.08.2024, respondent No.3 lodged FIR in Crime No.333 of 2024 at Adilabad-I Police Station against the petitioner and his wife for the offences under Sections 296(b), 115(2), 351(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023, alleging physical assault and abuse on 12.08.2024 (Ex.P8). Thereafter, respondent No.3 once again approached the District Collector seeking eviction, pursuant to which notice dated 28.09.2024 was issued in the very same file C1/394/2023.

7. The petitioner questioned the said notice before this Court in W.P.No.28567 of 2024 on the ground that the District Collector had become *functus officio* and that the principle of *res judicata* applied. However, by order dated 13.10.2025, the writ petition was dismissed by the learned Single Judge, and the petitioner was directed to participate in the proceedings. A writ appeal in W.A.No.1173 of 2025 preferred against the said order of learned Single Judge in W.P.No.28567 of 2024 was also dismissed by the Division Bench on 24.10.2025.

8. During the continuation of proceedings before the District Collector, certain terms were orally agreed upon between the parties during the hearing on 22.11.2025, including grant of time to the petitioner till February, 2026 to secure alternative rented accommodation, the rent of which was to be borne by respondent No.3 herein and the petitioner would vacate thereupon; and a 'Mutual

Agreement-cum-Undertaking Deed' subsequently submitted bore only the signature of respondent No.3 and contained terms at variance with the oral understanding reached before the District Collector.

9. Consequently, by order dated 15.12.2025 in Proceedings No.C1/394/2023-I, the District Collector rejected the said deed and directed adherence to the mutually agreed terms. Accordingly, the present writ petition was instituted challenging the validity of sub-rule (3) of Rule 21 of the 2011 Rules.

Contentions of the petitioner

10. Learned counsel for the petitioner in support of the challenge to the impugned Rule has raised the following contentions:

- i. That the sub-rule (3) of Rule 21 of the 2011 Rules inserted by G.O.Ms.No.40 dated 30.12.2022 confers power of eviction upon the District Collector/District Magistrate, an executive authority not possessing judicial qualifications, thereby amounting to an impermissible conferment of judicial power in violation of constitutional principles enunciated by the Hon'ble Supreme Court in ***Union of India v. R.Gandhi, President, Madras Bar Association***¹ and ***Madras Bar Association v. Union of India and another***².

¹ (2010)11 SCC 1

² (2014)10 SCC 1

- ii. That adjudication of eviction disputes, being essentially judicial in character, which are to be adjudicated by civil Courts, cannot be entrusted to a sole non-judicial member lacking safeguards of independence.
- iii. That the impugned Rule is *ultra vires* the parent enactment, namely, Maintenance & Welfare of Parents and Senior Citizens Act, 2007 (for short, '2007 Act'). It was argued that Section 32 thereof does not expressly authorize framing of rules providing for eviction, and that the Act primarily deals with maintenance and declaration of voidness of transfers under Section 23 of 2007 Act.
- iv. That placing reliance on ***Kerala SEB v. Thomas Joseph***³, it was contended that the delegated legislation cannot travel beyond the scope of the enabling parent statute and that if rule was beyond the rule-making power conferred by the statute, it is liable to declare invalid. That the petitioner had earlier succeeded before the District Collector by order dated 27.02.2024 and that subsequent proceedings were barred by principles of *res judicata*.
- v. That the order dated 15.12.2025 was passed in undue haste despite pendency of proceedings before this Court and the fundamental rights cannot be waived and that dismissal of the

³ (2023) 11 SCC 700

earlier writ petition, would not preclude a fresh constitutional challenge.

vi. That where a provision is *ex facie* unconstitutional, the Court is empowered to grant protective interim orders, particularly as eviction would render the petitioner homeless.

11. The learned counsel for the petitioner in support of his contentions has placed reliance on the following decisions:

- i. ***Whirlpool Corporation v. Registrar of Trade Marks***⁴
- ii. ***Straw Products Limited v. Income Tax Officer 'A' Ward Bhopal and others***⁵
- iii. ***Nanda Kishore v. State of Punjab***⁶
- iv. ***Dr. Jaishri Laxmanrao Patil v. State of Maharashtra and another***⁷

Contentions of the respondents

12. Learned Government Pleader for respondent Nos.1 and 2 and learned counsel for respondent No.3 have raised the following contentions:

- i. That the challenge to the impugned Rule is wholly misconceived; the rule-making power under Section 32 of the Senior Citizens Act is wide enough to encompass provisions for the protection of life and property of senior citizens. Section 22 of the Act specifically mandates the State Government to prescribe a

⁴ AIR 1999 SC 22

⁵ AIR 1968 SC 579

⁶ (1995) 6 SCC 614

⁷ (2021) 2 SCC 785

comprehensive action plan for providing protection of life and property of senior citizens. The Impugned Rule, which enables eviction of children who fail to maintain senior citizens or who occupy their property without authority, is a necessary corollary of this protective mandate; that Sections 22 and 32 of the 2007 Act confer wide rule-making power upon the State to frame measures for protection of life and property of senior citizens; and that the power of eviction is implicit and necessary to effectuate such protection.

- ii. That the District Magistrate, while exercising powers under the Rules, acts as a statutory authority discharging quasi-judicial functions under a welfare legislation, and that the principles laid down in the ***Madras Bar Association*** (*supra 1 and 2*) line of cases, pertaining to constitution of Tribunals replacing High Court jurisdiction, are inapplicable to summary proceedings under the Act.
- iii. That the writ petition is an abuse of process, filed after two unsuccessful rounds of litigation before this Court, solely to delay eviction and frustrate the proceedings instituted by the senior citizen.
- iv. That the conduct of the petitioner, including the registration of FIR dated 15.08.2024 in Crime No.333 of 2024 alleging assault and abuse, justified invocation of the protective provisions.

- v. That the impugned Rule does not travel beyond the parent Act, and that without the power to evict a recalcitrant or abusive child, the object of ensuring dignity and security to senior citizens would be rendered nugatory.
- vi. That the proceedings before the District Collector were conducted in compliance with principles of natural justice, and that the order dated 15.12.2025 was passed after affording adequate opportunity and even exploring an amicable settlement between the parties.
13. The learned counsel for respondent No.3 supported the submissions of the learned Government Pleader and additionally contended that the present writ petition is an instance of abuse of due process. The learned counsel for respondent No.3 in support of his contentions has placed reliance on the following decisions:
- i. ***Kamalakant Mishra v. Additional Collector and others***⁸
 - ii. ***Urmila Dixit v. Sunil Sharan Dixit and others***⁹

14. Upon consideration of the pleadings, and the material placed on record, and the rival submissions, the following points are arise for determination:

- i) Whether sub-rule (3) of Rule 21 of the Telangana Maintenance and Welfare of Parents and Senior Citizens Rules, 2011 is

⁸ Civil Appeal (Diary No.42786 of 2025) dated 12.09.2025

⁹ (2025) 2 SCC 787

unconstitutional on the ground that it confers judicial power upon a non-judicial authority?

- ii) Whether the said Rule is *ultra vires* the Maintenance and Welfare of Parents and Senior Citizens Act, 2007? and
- iii) Whether, in the facts of the present case, the writ petition amounts to an abuse of process of law?

Consideration by this Court

I. Conferment of Power on the District Magistrate

15. The main controversy of the petitioner's challenge rests upon the decisions of the Hon'ble Supreme Court in ***Madras Bar Association's*** case (supra 1 and 2) which would disclose that they dealt with the constitutional validity of permanent Tribunals such as the NCLT/NCLAT, which were constituted to replace the jurisdiction of High Courts in Company Law matters. The parameters laid down therein were in the context of bodies exercising powers akin to those of constitutional Courts and that where a Tribunal is vested with jurisdiction of a High Court, its members must possess and qualifications and independence commensurate with that of High Court judges.

16. The present case stands on an entirely different footing, wherein the District Magistrate, while exercising power under Rule 21(3), does not function as a substitute for the High Court or as a permanent Tribunal vested with plenary judicial powers. The authority acts under a welfare legislation for a limited statutory purpose, namely, to

ensure protection of the life and property of senior citizens. The proceedings are summary in character and intended to provide expeditious relief to a vulnerable class, namely, the senior citizens, who may otherwise be compelled to undergo protracted civil litigation.

17. Section 22 of the 2007 Act is extracted hereunder:

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.

18. It is to be noted that Section 22 of the 2007 Act specifically empowers the State Government to confer such powers upon the District Magistrate to ensure that the provisions of the Act are properly carried out. Section 22(2) of the Act mandates prescription of a comprehensive action plan for protection of life and property. The Rule in question is traceable to this statutory mandate. The District Magistrate exercises quasi-judicial powers subject to notice, opportunity of hearing, recording of reasons, and availability of an appellate remedy. Such conferment of limited adjudicatory power upon executive authorities under social welfare legislation is neither novel nor constitutionally impermissible.

19. Sub-rule (3) was inserted after sub-rule (2) of Rule 21 by way of an amendment contained in G.O.Ms.No.40 dated 30.12.2022 to the Telangana Maintenance and Welfare of Parents and Senior Citizens Rules, 2011, prescribing the procedure for eviction from property of senior citizens/parents. It reads:

“(3) Procedure for eviction from property of Senior Citizen/Parents:

(a) (i) A senior citizen/parent, may make an application before the Collector & District Magistrate of his/her district, for eviction of his/her children/legal heir from his/her property on account of his/her non-maintenance and/or ill-treatment.

(ii) The Collector & District Magistrate shall immediately forward such application to the concerned Sub-Divisional Magistrate/Revenue Divisional Officer for verification of the title of the property and facts of the case within fifteen (15) days from the date of receipt of such application.

(iii) The Sub-Divisional Magistrate/Revenue Division Officer shall immediately submit his/her report to the Collector & District Magistrate for final orders within sixty (60) days from the date of receipt of the application.

(iv) The Collector & District Magistrate during summary proceedings for the protection of senior citizens/parents shall consider all the relevant provisions of the Act. If the Collector & District Magistrate is of the opinion that any children/legal heir of a senior citizen/parent is not maintaining the senior citizen/parent and/or ill-treating him/her/them and yet is occupying the property of the senior citizen/parent and that they should be evicted, the Collector & District Magistrate shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause as to why an order of eviction should not be issued against them/him/her.

(v) The notice shall;-

(i) specify the grounds on which the order of eviction is proposed to be made; and

(ii) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the property, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than then (10) days from the date of issue thereof.

(b) Eviction order from property of senior citizen/parent:

If, after considering the cause, if any, shown by any person in pursuance to the notice and any evidence he/she may produce in support of the same and after giving him/her a reasonable opportunity of being heard, the Collector & District Magistrate is satisfied that the eviction order needs to be made, the Collector & District Magistrate may make an order of eviction, for reasons to be recorded therein, directing that the property shall be vacated.

(c) Enforcement of orders:-

(i) If any person refused or fails to comply with the order of eviction within thirty (30) days from the date of its issue, the Collector & District Magistrate or any other officer duly authorized by the Collector & District Magistrate in this behalf may evict that person from the premises in question and take possession;

(ii) The Collector & District Magistrate shall have powers to enforce the eviction orders through police and the District Superintendent of Police or Commissioner of Police, in case of duties, concerned shall be bound to carry out execution of the eviction order;

(iii) The Collector & District Magistrate will further hand over the property in question to the concerned senior citizen/parent; and

(iv) The Collector & District Magistrate shall forward monthly report of such cases to the Director, Department for Empowerment of Persons with Disabilities, Senior Citizens and Transgender Persons by 7th of the following month.

(d) Appeal:-

(i) Any appeal against the order of the Collector & District Magistrate shall lie before the Commissioner/Director, Department for Empowerment of Persons with Disabilities, Senior Citizens and

Transgender Persons, Telangana within thirty (30) days of the issue of the orders by the Collector & District Magistrate.

(ii) Provisions regarding disposal of appeals before Appellate Tribunal shall apply mutatis mutandis to the appeals before the Commissioner/Director, Department for Empowerment of Persons with Disabilities, Senior Citizens and Transgender Persons, Telangana.”

20. It is evident that the said amendment was introduced after the decision in the case of **S. Vanitha v. Commissioner, Bengaluru Urban District and others**¹⁰ wherein it was held that the Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. The exercise of such power is contemplated keeping in mind the beneficial intention of the statute. Section 23 of the Act, which is relevant, is referred to herein:

“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 notice of right.

¹⁰ (2021) 15 SCC 730

(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 organization referred to in Explanation to sub-section (1) of section 5."

21. The background facts upto lodging of the complaint by respondent No.3-father indicates invocation of the above provision alleging disobedience of the order passed in proceedings No. C1/394/2023 dated 27.2.2024 by the petitioner for his eviction. Allegations of abuse, beating and threatening with dire consequences by the petitioner and his wife were made in an FIR lodged by respondent No. 3 against the petitioner and his wife.

22. It is to be noted that the foundation of the petitioner's argument rests upon the premise that every action taken under the 2007 Act, including an order of eviction, is inherently judicial in character and therefore, must necessarily be decided only by a regular Civil Court. This premise, in our considered view, is fundamentally misconceived and proceeds on an incorrect understanding of the statutory framework.

23. Further, the power to direct eviction from the property of a senior citizen, as provided under Rule 21(3) of the 2011 Rules, is not a power to adjudicate intricate questions of title or to determine competing proprietary rights in the manner of a civil Court. It is a protective and preventive power, exercised in a summary manner, to secure possession and enjoyment of property by a senior citizen, who is *prima facie* the lawful owner and who complains of harassment,

intimidation, or unlawful occupation. The authority under the Rule does not sit in judgment over complex civil disputes; rather, it intervenes to restore peace and ensure that the object of the welfare legislation is not defeated by familial discord or coercive occupation.

24. It is well settled that not every conferment of decision-making authority upon an executive officer amounts to unconstitutional delegation of judicial power. The distinction between a Tribunal replacing the jurisdiction of a High Court and a statutory authority performing quasi-judicial functions under a beneficial enactment is clear and well recognized. Thus, this Court cannot accept the contention that Rule 21(3) suffers from constitutional infirmity or that the said Rule does not have the backing of the parent legislation.

25. Further, the Hon'ble Supreme Court in **Urmila Dixit's** case (supra 9) has held as under:

24. Before parting with the case at hand, we must clarify the observations made vide the impugned order [Sunil Sharan Dixit v. Urmila Dixit, 2022 SCC OnLine MP 3776] qua the competency of the Tribunal to hand over possession of the property. In S. Vanitha [S. Vanitha v. Commr., (2021) 15 SCC 730], this Court observed that Tribunals under the Act may order eviction if it is necessary and expedient to ensure the protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under Section 23, cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.

In **Kamalakant Mishra's** case (supra 8), the Apex Court has held that:

7. The framework of the Act clearly notes that the law was enacted to address the plight of older persons, for their care and protection. Being a welfare legislation, its provisions must be construed liberally so as to advance its beneficent purpose. This Court on several occasions has observed that the Tribunal is well within its powers to order eviction of a child or a relative from the property of a senior citizen, when there is a breach of the obligation to maintain the senior citizen.² In the present case, despite being financially stable, the respondent has acted in breach of his statutory obligations in not allowing the appellant to reside in the properties owned by him, thereby frustrating the very object of the Act. High Court fell in error in allowing the writ petition on a completely untenable ground.

26. In the present case, the eviction contemplated under the statutory scheme is an incident of the broader power to protect life and property under Section 22(2) of the 2007 Act. It is essentially remedial and protective in nature, aimed at safeguarding the person and property of the senior citizen from neglect, abuse, or unlawful interference. The characterization of such power as equivalent to the adjudicatory jurisdiction of a civil Court is, therefore, misplaced. The authority acts within a confined statutory sphere, guided by principles of natural justice and subject to appellate oversight, and the nature of the power exercised is protective rather than judicial in the traditional sense.

II. Whether the Rule is *Ultra Vires* the Parent Act

27. It is pertinent to note that the 2007 Act, is not confined merely to recovery of maintenance under Sections 4 and 5. Chapter V of the Act expressly deals with 'Protection of Life and Property of Senior

Citizen'. Section 22(2) obligates the State Government to prescribe a comprehensive action plan for providing such protection. Section 32 empowers the State Government to frame rules to carry out the purposes of the Act, including matters contemplated under Section 22 of 2007 Act.

28. The petitioner has not questioned the *vires* of the Section 7 of the Act which relates to the constitution of the Maintenance Tribunal. Sub-section (2) provides that such Tribunal shall be presided over by an officer not below the rank of Sub Divisional Officer of a State. The impugned rule confers such power on an officer of the level of District Magistrate that is above the Sub Divisional Magistrate. As noted above, the impugned rule was inserted after the decision in the case of **S. Vanitha** (supra 10) . The impugned rule provides for an enquiry by the concerned Sub Divisional Magistrate/Revenue Divisional Officer for verification of the title of the property. The proceedings are summary in nature for protection of senior citizen/parent. If the Collector and District Magistrate is of the opinion that a child/legal heir of a senior citizen/parent is not maintaining the senior citizen/parent and/or ill-treating him/her/them and yet is occupying the property of the senior citizen/parent and that should be evicted, it is only thereupon a notice in writing is to be issued calling upon all persons concerned to show cause as to why an order of eviction should not be issued against them specifying the grounds on which the order of eviction is proposed to be made and required all persons

concerned, who are or may be in occupation of, or claim interest in, the property to show cause if any, against the proposed order by specified date. It is only after consideration of the cause shown by the persons pursuant to the notice and any evidence that he or she may produce in support of the same and after giving him/her a reasonable opportunity, the Collector and District Magistrate, if satisfied that the eviction order needs to be made, make an order of eviction for reasons to be recorded therein directing that the property shall be vacated. The impugned rule also provides for enforcement of the order if the persons refuses or fails to comply with the order of eviction within 30 days. Sub-clause (d) of the impugned rule 3 provides for an appeal to the Commissioner/Director of the Department within 30 days of the issue of the orders of the District Collector and Magistrate.

29. As noted above, the power of the Tribunal to order eviction is necessary and expedient to ensure protection of senior citizen as recognized in the case of **S. Vanitha** (supra 10) and has been further reiterated in the cases of **Urmila Dixit** (supra 9) and **Kamalakant Mishra** (supra 8). The legal basis is no longer *res integra*.

30. Further, the protection of property is not an abstract concept. If a senior citizen is deprived of peaceful possession of his property by an abusive or non-maintaining child, the ability to secure restoration of possession is an integral component of protection. The power of eviction is thus not an extraneous addition but a necessary incident

of the statutory objective. The contention that delegated legislation cannot travel beyond the Act, as reiterated in **Kerala SEB v. Thomas Joseph¹¹**, has no application in the facts and circumstances in the present case. In the present case, the Rule operates within the four corners of Sections 22 and 32 of 2007 Act. It merely provides the procedural mechanism to effectuate the statutory mandate. It does not create a new substantive right alien to the Act.

31. It is also significant that the petitioner has not challenged the Constitutional validity of the enabling provisions of the Act, particularly Sections 22 or 32 of 2007 Act. A rule framed within the scope of a valid parent statute cannot ordinarily be struck down unless it is shown to be manifestly arbitrary or violative of Constitutional provisions. No such case has been made out. Accordingly, we hold that sub-rule (3) of Rule 21 of the 2011 Rules is *intra vires* the 2007 Act.

III. Conduct of the petitioner and Abuse of Process

32. On perusal of the record, it discloses that respondent No.3 is an 80 year old father seeking peaceful enjoyment of his property. Proceedings were initiated before the District Collector; an earlier round culminated in an order dated 27.02.2024. Subsequent complaints, including registration of FIR in Crime No.333 of 2024, led to revival of proceedings. The petitioner challenged the notice in

¹¹ (2023) 11 SCC 700

W.P.No.28567 of 2024, which was dismissed. The writ appeal there against was also dismissed. The petitioner instead of complying with the directions of this Court and participating in the proceedings in their true spirit, has chosen to mount a constitutional challenge to the Rule itself at a belated stage, after suffering adverse orders. Further, multiple interlocutory applications have been filed seeking stay, amendment, and suspension of orders, thereby prolonging the *lis*.

33. It is trite that the jurisdiction under Article 226 of the Constitution is discretionary and equitable. A litigant invoking such jurisdiction must approach the Court with candour and *bona fides*. When a challenge to *vires* is raised not as a genuine constitutional grievance but as a tactic to delay implementation of lawful orders, the Court is entitled to take note of such conduct. Therefore, by considering the available material on record, we are of the considered opinion that the present writ petition is not a *bona fide* constitutional challenge but a collateral attempt to frustrate the statutory remedy invoked by an aged parent.

34. The present case is a sad reflection on the erosion of family values and respect for parents. The Maintenance of Welfare of Parents and Senior Citizens Act, 2007 was enacted precisely to address such situation and provide a swift remedy to senior citizens. The law must speak firmly in such cases. It must not merely ensure

expeditious relief to the aggrieved senior citizen but also send a clear message that harassment of aged parents at the twilight years will not be tolerated.

Conclusion

35. For the foregoing reasons, this Court is of the considered opinion that sub-rule (3) of Rule 21 of the Telangana Maintenance and Welfare of Parents and Senior Citizens Rules, 2011 is constitutionally valid and *intra vires* the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The conferment of power upon the District Collector/District Magistrate to order eviction, in appropriate cases, is a permissible statutory measure under a welfare enactment intended to secure the life and property of senior citizens and does not offend any constitutional principle.

36. Accordingly, the Writ Petition is dismissed. The interim order granted by this Court on 05.01.2026 stands vacated. The proceedings pending before respondent No.2 in File No.C1/394/2023 shall stand revived and shall continue from the stage at which they were prior to the order of stay in present writ petition. Respondent No.2 is directed to conclude the said proceedings and pass final orders, strictly in accordance with law and on the basis of the material available on record, as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order.

As a sequel, miscellaneous petitions, pending if any, stand closed. No order as to costs.

**SD/-K.BHAVANI SWAMY
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To

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(For His Lordship's Kind Perusal)**

AND

**One fair copy to the HON'BLE SRI JUSTICE G.M. MOHIUDDIN
(For His Lordship's Kind Perusal)**

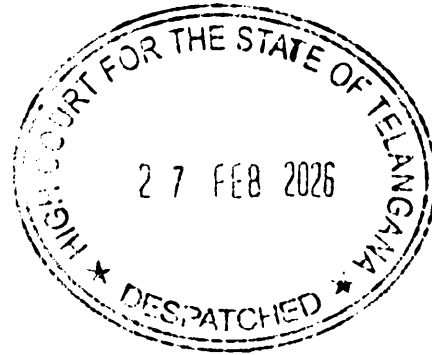
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HIGH COURT

DATED:16/02/2026



ORDER

WP.No.32591 of 2025

DISMISSING THE WRIT PETITION

WITHOUT COSTS

(23) - JKS
27/2/26.