

Neutral Citation

Date of reserved for orders : 08.04.2026
Date of pronouncement : 24.06.2026
Date of uploading : 25.06.2026

APHC010564392023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3329]

WEDNESDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 29223/2023

Between:

1. UDDAGIRI SRIRAMA MURTHY, S/O (LATE) UDDAGIRI SRIRANGA NAYAKULU HINDU, MALE, AGE 39 YEARS, BUSINESS R/O DOOR NO.6-11-25, MAIN ROAD, NARASAPUR NARASAPURAM MANDAL, WEST GODAVARI DISTRICT
2. UDDAGIRI SAI TULASI, W/O UDDAGIRI SRIRAMA MURTHY HINDU, FEMALE, AGE 29 YEARS, HOUSEWIFE R/O DOOR NO.6-11-25, MAIN ROAD, NARASAPUR NARASAPURAM MANDAL, WEST GODAVARI DISTRICT

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY IT'S PRL. SECRETARY DEPT. OF REVENUE, SECRETARIAT, VELAGAPUDI GUNTUR DISTRICT, ANDHRA PRADESH -522 241
2. THE CHAIRMAN, APPELLATE TRIBUNAL OF MAINTENANCE OF PARENTS AND SENIOR CITIZENS-CUM-DISTRICT COLLECTOR

AND DISTRICT MAGISTRATE BHIMAVARAM, WEST GODAVARI DISTRICT

3. SUBCOLLECTOR / CHAIRMAN, SUB-DIVISIONAL TRIBUNAL OF MAINTENANCE OF PARENTS AND SENIOR CITIZENS NARASAPUR-534 275, WEST GODAVARI DISTRICT
4. THE TAHSILDAR, NARASAPURAM MANDAL NARASAPUR-534 275 WEST GODAVARI DISTRICT
5. THE DISTRICT REGISTRAR REGISTRAR OF ASSURANCES, BHIMAVARAM-534 201 WEST GODAVARI DISTRICT
6. THE SUBREGISTRAR REGISTRAR OF ASSURANCES, NARASAPUR-534 275 WEST GODAVARI DISTRICT
7. THE COMMISSIONER NARASAPUR MUNICIPALITY, NARASAPUR-534 275 WEST GODAVARI DISTRICT
8. UDDAGIRI RAMALAKSHMI, W/O (LATE) UDDAGIRI SRIRANGA NAYAKULU HINDU, FEMALE, AGE 69 YEARS, SENIOR CITIZEN R/O DOOR NO.7-172, PLOT NO.103 SRI SIDVI APARTMENTS, KALANAGAR-533 223 KOTHAPETA, DR.B.R.AMBEDKAR KONASEEMA DISTRICT

...RESPONDENT(S):

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 may be pleased to declare the order dt.19.10.2023 of the Chairman, Appellate Tribunal of Maintenance of parents and Senior Citizens-cum-District Collector and District Magistrate Bhimavaram, West Godavari District as illegal, unlawful, arbitrary and violation of the principles of natural justice and contrary to Article 300-A of the constitution of India and pass such

IA NO: 1 OF 2023

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 may be pleased to grant interim orders to stay the order dt.19.10.2023 passed by the 2nd respondent, Chairman, Appellate Tribunal of Maintenance of parents and Senior Citizens-cum-District Collector and District Magistrate Bhimavaram, West Godavari District pending disposal of the Writ Petition and pass such

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 pleased to vacate the interim order dated 08.11.2023 passed in W.P.No.29223 of 2023 and dismiss the Writ Petition and pass

Counsel for the Petitioner(S):

1. SARASCHANDRA BABU JAKKAMSETTY

Counsel for the Respondent(S):

1. GP FOR REVENUE

2. V SANTHISREE

The Court made the following:

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

WRIT PETITION No.29223 OF 2023

% Dated 24.06.2026

Uddagiri Srirama Murthy
s/o late Uddagiri Sriranga Nayakulu
D.No.6-11-25, Main Road, Narasapur,
West Godavari District and another

..... Petitioners

Versus

The State of Andhra Pradesh
Rep by its Principal Secretary,
Department of Revenue, Velagapudi,
Guntur and 7 others

.... Respondents

JUDGMENT PRONOUNCED ON: 24.06.2026

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

Whether Reporters of Local newspapers
may be allowed to see the Judgments?

Whether the copies of judgment may be marked to Law
Reporters/Journals

Whether Their Ladyship/Lordship wish to see the fair
copy of the Judgment?

+ HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.29223 OF 2023

% Dated 24.06.2026

Uddagiri Srirama Murthy
s/o late Uddagiri Sriranga Nayakulu
D.No.6-11-25, Main Road, Narasapur,
West Godavari District and another

..... Petitioners

Versus

The State of Andhra Pradesh
Rep by its Principal Secretary,
Department of Revenue, Velagapudi,
Guntur and 7 others

.... Respondents

Counsel for the petitioner	:	Mr. Nalluri Madhava Rao
Counsel for Respondent	:	-

<GIST:

> HEAD NOTE:

? Cases referred

1. (2009) 9 SCC 689

HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO.29223 OF 2023

ORDER:-

1. This writ petition is directed against the order dated 19.10.2023 passed by the Appellate Tribunal constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, "the Act"), whereby the appeal preferred by respondent No.8 was allowed and the Registered Partition Deed bearing Document No.1647 of 2018 dated 30.03.2018, registered in the office of the Sub-Registrar, Narsapur, was directed to be cancelled.

Facts of the Case

2. Petitioner No.1 is the son of Respondent No.8 and Petitioner No.2 is his wife. Respondent No.8 challenged the Registered Partition Deed dated 30.03.2018 and filed an application before the Tribunal seeking its cancellation.

3. The petitioners contend that the properties covered under the partition deed are joint family properties. They state that both Petitioner No.1 and Respondent No.8 had existing rights in the properties and

executed the partition deed to divide their respective shares. They further state that the two sisters of Petitioner No.1 had earlier relinquished their rights in the properties through registered relinquishment deeds executed in favour of Petitioner No.1 and Respondent No.8.

4. The Tribunal dismissed the application filed by Respondent No.8. Aggrieved by the said order, Respondent No.8 preferred an appeal before the Appellate Tribunal. By order dated 19.10.2023, the Appellate Tribunal allowed the appeal and directed cancellation of the partition deed. Challenging the said order, the petitioners have filed the present writ petition.

5. Respondent No.2 filed a counter affidavit and a petition seeking vacation of the interim stay. It is contended that the writ petition is not maintainable and is liable to be dismissed. According to Respondent No.2, the Appellate Tribunal passed the order dated 19.10.2023 after considering the material on record and the submissions of both parties, in exercise of its powers under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'Act, 2007'). It is further contended that the order does not suffer from any legal or procedural infirmity. The official respondents are stated to have acted in accordance with the Act and Rules

and have no personal interest in the dispute. Therefore, it is contended that no interference is warranted under Article 226 of the Constitution of India and the writ petition is liable to be dismissed.

Submissions

6. During hearing Sri Saras Chandra Babu Jakkamsetty, learned counsel for the petitioners submits that the Appellate Tribunal had no jurisdiction to cancel the registered partition deed under Section 23 of the Act. It was contended that a partition is not a transfer of property, but only a division of the existing rights of the co-sharers. Therefore, the requirement of a transfer by a senior citizen under Section 23(1) is not satisfied.

7. It was further submitted that the partition deed did not create a transferor-transferee relationship between Petitioner No.1 and Respondent No.8 and the deed merely divided their existing shares in the joint family properties and there is no claim regarding transfer of ownership from one person to another. Learned counsel also contended that the partition deed does not contain any condition requiring Petitioner No.1 to maintain Respondent No.8 or provide basic amenities and physical needs. Hence,

an essential requirement for invoking Section 23(1) of the Act, 2007, is absent.

8. It was further submitted that Petitioner No.1 has been paying maintenance to Respondent No.8 in compliance with the orders of the competent authority. Therefore, the cancellation of the partition deed was unjustified. It was also contended that the Appellate Tribunal passed the impugned order without giving Petitioner No.1, proper opportunity of hearing, thereby the principles of natural justice are not observed.

9. On the other hand, Smt. Santhisree Vallabhaneni, learned counsel, was appointed by the Andhra Pradesh High Court Legal Services Committee to represent Respondent No.8 in the present writ petition. On 07.01.2025, the learned counsel filed a Memo stating that, despite several requests, Respondent No.8 had neither appeared before the Legal Services Authority for interaction nor signed the counter affidavit. It was further stated that one P.B.V.K. Mahesh Kumar, claiming to be the son-in-law and GPA holder of Respondent No.8, sought permission to sign the counter affidavit on her behalf. The learned counsel also stated that he insisted on filing material which, according to her, was unnecessary for the proceedings. In view of these circumstances, the learned counsel

expressed her inability to continue representing Respondent No.8 and accordingly given-up her vakalat.

Point for Consideration

10. The issue that falls for consideration is whether the Appellate Tribunal was competent to annul the Registered Partition Deed bearing Document No.1647 of 2018 dated 30.03.2018 by invoking Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007?.

Discussion and Findings

11. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a welfare legislation enacted with the objects of ensuring maintenance, welfare and protection of parents and senior citizens. The Act provides a speedy and inexpensive mechanism for securing maintenance and other benefits to senior citizens who are unable to maintain themselves.

12. At the same time, the powers conferred upon the Tribunal and the Appellate Tribunal are statutory in nature and must necessarily be exercised within the limits prescribed by the Act. Moreover, during adjudication of claims, the Tribunals are empowered to invoke provisions

of CPC as like civil court and the orders of the Tribunals are also enforceable by way of execution proceedings as under C.P.C.

13. For proper appreciation of the issue involved, Section 23(1) of the Act is extracted hereunder:

“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.”

14. A plain reading of the provision reveals that the jurisdiction under Section 23(1) can be exercised only when the following conditions coexist:

- (i) there must be a transfer of property by a senior citizen after the commencement of the Act;
- (ii) such transfer must be subject to a condition requiring the transferee to provide basic amenities and physical needs to the transferor; and
- (iii) the transferee must have failed or refused to discharge such obligation.

Only upon fulfillment of the aforesaid conditions can the Tribunal declare the transfer void.

15. The first and foremost question, therefore, is whether the registered partition deed dated 30.03.2018 can be construed as a transfer of property within the meaning of Section 23(1).

16. A partition constitutes a redistribution or adjustment of pre-existing rights and interests among co-owners or coparceners. It does not operate to create or confer title upon any party; rather, it serves to identify, separate, and allot to each co-sharer the specific portion corresponding to his or her antecedent entitlement. Upon the effectuation of a partition, the status of joint ownership stands severed, and each allottee thereafter holds and enjoys the share so allotted in severalty, with exclusive rights therein.

17. The Supreme Court in ***Shubh Karan Bubna v. Sita Saran Bubna***¹, explained that partition is merely a division of jointly held property amongst persons already entitled thereto and is not a conveyance creating fresh rights.

¹ (2009) 9 SCC 689

18. The distinction between a transfer and a partition is that, a transfer contemplates passing of an interest in property from one person to another. In contrast, a partition merely separates rights that already existed. Therefore, a partition cannot be equated with a transfer of property.

19. The expression “gift or otherwise” employed in Section 23(1) must be understood in the context of a transfer by a senior citizen in favour of a transferee. The expression cannot be interpreted so as to include partition of joint properties. If it is done, it would amount to enlarging the scope of the statutory provision.

20. It is well settled principle that while interpreting a statute, the Court cannot add words or meanings which the Legislature has consciously omitted. The duty of the Court is to interpret the language employed by the Legislature as it is.

21. Applying the aforesaid principles to the facts of the present case, it is evident that the document sought to be cancelled is a registered partition deed executed between Petitioner No.1 and Respondent No.8. The petitioners have contended that both parties possessed pre-existing rights in the properties and that the partition deed defined and separated those

rights. The material placed on record does not indicate that respondent No.8 transferred her property to petitioner No.1 under the said document. Thus, the very foundation for exercise of power under Section 23(1), i.e. a transfer by a senior citizen in favour of a transferee, is absent, as such, the impugned order cannot be sustained.

22. Section 23(1) contemplates a transfer made subject to a condition that the transferee shall provide basic amenities and physical needs to the transferor. In the present case, no material has been placed before this Court to demonstrate that the partition deed dated 30.03.2018 contains any stipulation requiring Petitioner No.1 to maintain Respondent No.8 or provide her with basic amenities and physical needs. In the absence of any such condition forming part of the deed, the statutory requirement contained in Section 23(1) remains unfulfilled. Moreover, it is not the case of Respondent No.8 that the petitioner violated the terms or conditions as recited in the partition deed. Even assuming any such violation, that violation cannot be canvassed under Section 23 of the Act and Rules made thereunder.

23. Merely because disputes relating to maintenance have arisen between the parties, it cannot be a ground to annul a partition deed. Such

disputes may entitle respondent No.8 to seek maintenance or any other relief available under the Act, but they do not confer jurisdiction upon the Tribunal to invalidate a transaction that does not answer the description of a transfer as contemplated under Section 23(1) of the Act.

24. Since the transaction in question is a partition and not a transfer, and since the deed does not contain any condition relating to maintenance, the facts necessary for exercise of power under Section 23(1) were absent. Consequently, the Appellate Tribunal lacked authority in law to direct cancellation of the registered partition deed.

Conclusion

25. For the foregoing reasons, this Court is of the considered opinion that the Registered Partition Deed bearing Document No.1647 of 2018 dated 30.03.2018 is a partition of pre-existing rights between co-sharers and does not constitute a transfer of property within the meaning of Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Further, the said deed does not contain any stipulation obligating Petitioner No.1 to provide maintenance or basic amenities to Respondent No.8. Consequently, the essential ingredients necessary for invocation of Section 23(1) are absent.

26. The Appellate Tribunal, therefore, acted without jurisdiction in directing cancellation of the aforesaid partition deed. Therefore, impugned order dated 19.10.2023 suffers from a manifest error of law and cannot be sustained.

27. Accordingly, the writ petition is allowed. The order dated 19.10.2023 passed by the Appellate Tribunal is hereby set aside. Consequently, the Registered Partition Deed bearing Document No.1647 of 2018 dated 30.03.2018 shall stand restored. However, Respondent No.8 is at liberty to invoke appropriate jurisdiction for redressal of her claim for annulment of subject partition deed. There shall be no order as to costs.

28. Consequently, miscellaneous applications, pending if any, shall stand closed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date: 24.06.2026

SP

Whether the order is:

Speaking	-	Reasoned	Yes
Reportable	Yes	Non-reportable	-

HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO.29223 OF 2023

Date: 24.06.2026

W

LR copy to be marked

SP