



2026:AHC:193275-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 36504 of 2026**

Balveer Singh

.....Petitioner(s)

Versus

State of Uttar Pradesh  
and others

.....Respondent(s)

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|---------------------------|-------------------------------------------------------------------------------|
| Counsel for Petitioner(s) | : Mr. Sarvesh Kumar Pandey,<br>Advocate for Mr. Akshay Raj Singh,<br>Advocate |
| Counsel for Respondent(s) | : Ms. Amrita Singh, Additional<br>Government Advocate for the State           |

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**RESERVED**  
**A.F.R.**

**Court No. - 2**

**HON'BLE J.J. MUNIR, J.**  
**HON'BLE INDRAJEET SHUKLA, J.**

**(DELIVERED BY : J.J. MUNIR, J.)**

This writ petition is directed against an order passed by the District Magistrate, Lalitpur, dated 23.06.2026, rejecting the petitioner's application under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007<sup>1</sup>. The petitioner also seeks a command to the District Magistrate to cause restoration of peaceful, vacant and physical possession of House No. 89, (New Number 210), situate in Old

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<sup>1</sup> 'Act of 2007' for short

Ward No. 08 (New Ward No. 09), Mohalla Civil Line, Bank Colony, Police Station Kotwali, Tehsil and District Lalitpur to the petitioner by removing respondents nos. 3 and 4 from its illegal occupation.

2. The petitioner, Balveer Singh, is a senior citizen who is 68 years old. He was the owner of a House No. 89, (New Number 210), situate in Old Ward No. 08 (New Ward No. 09), Mohalla Civil Line, Bank Colony, Police Station Kotwali, Tehsil and District Lalitpur<sup>2</sup>. He says that Garima Yadav, respondent no. 4, who is his daughter, has fabricated and forged a registered gift deed dated 18.11.2023, showing the petitioner to have conveyed the property in dispute to her. The third respondent, Devendra Singh Yadav, is the petitioner's daughter's husband, that is to say, the petitioner's son-in-law. According to the petitioner, the property in dispute is the sole residential property available with him and the only source of his roof and shelter. The petitioner says that his daughter and son-in-law have forged and fabricated the gift deed dated 18.11.2023, which does not bear his signatures, and the same has been got registered with the Sub-Registrar, in whose local limits, the property in dispute is situate. The petitioner further says that on the strength of this fabricated and registered gift deed, he has been forcibly dispossessed from the property in dispute by respondents nos. 3 and 4, after assaulting him and other members of his family.

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<sup>2</sup> 'property in dispute' for short

3. The petitioner has lodged a First Information Report about this incident, giving rise to Crime No. 925 of 2025, under Sections 318 (4), 61(2), 305, 352 and 351(3) of the Bharatiya Nyaya Sanhita, 2023, Police Station Kotwali, Lalitpur. After completion of investigation, the Police have submitted a charge-sheet before the learned Magistrate, where the criminal case is pending.

4. It is the petitioner's further case that respondent no. 3, his son-in-law, is a habitual offender and history-sheeter, against whom, several criminal cases involving heinous offences, including murder, robbery, dacoity, kidnapping and offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are pending. The petitioner is in receipt of threats to his life, on account of which, he and his family members have been compelled to reside in a rented accommodation at Jhansi. The petitioner has a lone son, namely Ajay Singh, who lives separately along with his family at District Jalaun (Orai). So far as the fourth respondent, Garima Yadav, his daughter is concerned, he says that she married, against his wishes, the third respondent in the year 2004. Ever since the marriage, the petitioner has severed all social and familial relations with his daughter. In the above scenario also, the petitioner reinforces his case that there is no question of any gift deed relating to the property in dispute being executed in favour of his daughter or anyone else.

5. It is also averred that the gift deed does not contain any stipulation regarding the transferee's obligation to provide maintenance or basic amenities to the petitioner during his lifetime, which the petitioner asserts in paragraph no. 20 of the writ petition, renders the respondent's claim untenable. It is next pleaded by the petitioner that the fourth respondent, Garima has neither maintained nor provided any financial, physical or emotional support to the petitioner. After her marriage with Devendra Singh Yadav in the year 2004, the fourth respondent has been residing separately with her husband and has completely neglected the petitioner. The petitioner has had no cordial relations or interaction with his daughter, and she has utterly failed to discharge her moral as well as statutory obligations to look after and maintain the petitioner in his old age. The petitioner also says that being a senior citizen, and neglected in this fashion, he has approached the authorities under the Act of 2007 with representations under Sections 22 and 23 thereof, requesting restoration of peaceful possession of the property in dispute by causing the third and the fourth respondents to be removed from their illegal occupation. He has submitted one representation dated 01.01.2026 to the District Magistrate, Lalitpur, another to the Superintendent of Police, Lalitpur, and still another, to the Sub-Divisional Magistrate, Lalitpur, but no effective action was taken. All these applications bear the same date, to wit, the one last mentioned.

6. Aggrieved by the inaction of these authorities, the petitioner instituted Writ - C No. 13395 of 2026<sup>3</sup>, seeking a direction to the District Magistrate to consider his representation for action under the Act of 2007. This Court, *vide* order dated 08.04.2026, passed in the writ petition last mentioned, directed the District Magistrate to take action within 60 days from the date of communication of the order made there. The District Magistrate, by the order impugned, has rejected the petitioner's application seeking eviction.

7. Aggrieved, this writ petition has been instituted.

8. Heard Mr. Sarvesh Kumar Pandey, Advocate holding brief of Mr. Akshay Raj Singh, learned Counsel for the petitioner and Ms. Amrita Singh, learned Additional Chief Standing Counsel on behalf of the State.

9. Learned Counsel for the petitioner has submitted that the purpose of the Act of 2007 is to protect senior citizens from destitution, failure of children and relatives to provide basic amenities and basic physical needs. These have to be subjected to a most liberal construction so as to further the object of the Act, which is a social welfare legislation. The learned Counsel submits that since the petitioner's case is that his daughter and the son-in-law have forged and fabricated a gift deed by him in favor of the petitioner's daughter, and in consequence, dispossessed the petitioner and his immediate dependents, who are living there, he is entitled to have the deed avoided and evict his daughter and son-in-law by taking

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3 Balveer Singh v. State of U.P. and others, 2026:AHC:76052-DB

proceedings under the Act of 2007, particularly ones under Section 23 thereof. Learned Counsel for the petitioner submits that the right to evict the recipients of property through any kind of a transfer from a parent or senior citizen, that is laced with fraud, where the transferee later on does not provide basic amenities and basic physical needs of the transferor, a senior citizen, it is imperative for the Tribunal constituted under the Act of 2007 to evict such a dishonest transferee, or one who does not keep the senior citizen's expectations, that is to say, of the senior citizen who originally owned the property.

10. In support of his contention, learned Counsel for the petitioner has placed reliance upon the authority of the Supreme Court in **S. Vanitha v. Deputy Commissioner, Bengaluru Urban District and others**<sup>4</sup>. The submission is that in **S. Vanitha** (*supra*), the Supreme Court recognised the power of the Tribunal constituted under the Act of 2007 to order eviction, in order to protect the interest of senior citizens. This is a case where the petitioner, being cheated of his property through forgery, is entitled to seek cancellation of the gift deed executed under his false signatures, with a consequential relief of eviction against the offending respondents.

11. Ms. Amrita Singh, learned Additional Chief Standing Counsel, on the other hand, submits that this is a case covered by Section 23(1) of the Act of 2007, and since none of the conditions envisaged under Section 23(1) are attracted, the Tribunal would have no jurisdiction to declare the

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4 (2021) 15 SCC 730

gift deed void and grant consequential relief of eviction to complete the petitioner's remedy. The petitioner has a case which is classically one involving an allegation of forgery in the execution of a solemn document of transfer, regarding which, the petitioner can institute a suit for cancellation of the registered gift deed before the competent Court of civil jurisdiction.

12. From what we understand of the issues involved, we must make ourselves clear that we are of opinion that the Tribunals constituted under the Act of 2007 are not replacements for the Courts of civil jurisdiction and cannot be converted into substitutes for such Courts to try civil actions. The Act of 2007 is a Statute, the aim and object whereof is to make more effective provision for the maintenance and welfare of parents and senior citizens guaranteed under the Constitution. The essential purpose of the Act aforesaid is to secure maintenance and provision of basic amenities and basic needs to parents and senior citizens in the twilight years of their life. The relief of eviction, permissible for the Tribunal to grant, arises when the essential purpose of securing maintenance to parents or senior citizens, already ordered by the Tribunal, cannot be realised, or the protection of life and liberty of senior citizens cannot be otherwise secured. The power to evict is incidental to the essential purpose of securing maintenance for parents and senior citizens, basic amenities and basic physical needs, or the protection of their life and property. The Tribunal, if it has to exercise the power to evict, can do so

only as ways and means incidental to the primary purpose of securing maintenance, basic amenities and basic physical needs to senior citizens; not otherwise. The Tribunal does not sit as a forum to evict members of the family of a senior citizen either at its whim or to enforce a set of rights that arise under the ordinary civil laws. The Tribunal is no Court of general civil jurisdiction, with powers to adjudicate title and recover possession for the one who holds title or possessory title, or impeaches a transaction done by him as a product of forgery.

13. Reference in this connection may be made to the Bench decision of this Court in **Shyamji Shukla v. State of U.P. and others**<sup>5</sup>, to which, both of us were party. The following remarks in **Shyamji Shukla (supra)**, doing a survey of authority relevant to the point and the statutory provisions, read :

23. There is no doubt that the Full Bench decision of this Court in case of **Onkar Nath Gaur (supra)** recognises the power of the Tribunal to evict in the exercise of power under Section 23 of Act, 2007, where the conveyance/title deed, if found void or is cancelled due to non-compliance of consideration of maintenance, protection and failure to provide basic amenities to the elderly persons, who executed the deed, the order of eviction is nevertheless incidental to such proceedings. But, in the judgment of the Supreme Court in **Ravi Kant Gupta (supra)**, the scope of eviction has not been restricted to the inquiry contemplated under Section 23 of Act, 2007 and the horizons of eviction stand extended by interpreting scope of Sections 7, 8 and 27 of the Act in paragraph no. 10, which unequivocally mentions that where an act confers jurisdiction, it implies also grant of the power of doing all such acts, or employing such means as essential to its execution. On this analogy, the Supreme Court further held that **the Tribunal under the Act has power to order eviction in order to ensure maintenance or protection of a senior citizen.**

24. Thus, going by the dictum of the Supreme Court in case of **Ravi Kant Gupta (supra)**, it comes out that the power of eviction of Tribunal stands recognised, subject to caveat that if it is a matter of maintenance or protection of a senior citizen and passing of such order

is expedient for protection of senior citizen, including his/her health, limb and life, the holistic view adopted, as aforesaid, by the Supreme Court, would make the provisions of Act, 2007 more meaningful, effective and justice-oriented.

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28. The law declared by the Supreme Court is binding upon all Courts within the country. It founds the core and legal basis for doctrine of **judicial precedent (stare decisis)**. Thus, this Court owns and prefers the dictum of the Supreme Court in **Ravi Kant Gupta (supra)**, despite being cognizant of the Full Bench decision. Thus, the jurisdiction of ordering eviction vested in the Tribunal for securing the protection of life and limb of elderly person being incidental relief is also followed by this Court.

29. The *sine qua non* for assuming the jurisdiction of eviction is, if it is to ensure the protection of life of senior citizens or their protection. It is then alone that the incidental order of eviction of children or relatives can be passed by the Tribunal and not otherwise. The Tribunal, while passing the order impugned dated 13.01.2026, completely failed to address whether any incidental relief of eviction of respondent nos. 6 and 7 was justified in the given factual matrix to ensure protection of life and limb of the elderly person i.e. the petitioner and a blatant declaration by the Tribunal that it is bereft of any jurisdiction to order eviction is completely unsustainable, being in the teeth of judgment of the Supreme Court rendered in **Kamla Kant Mishra (supra)** and **Ravi Kant Gupta (supra)**. The refusal of exercise of jurisdiction of eviction without recording cogent reasons for such refusal is, *ex facie*, bad.

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31. The jurisdiction of Tribunal to order eviction is not akin to the plenary jurisdiction of the Civil Court. It can be assumed in extraordinary circumstances, depending upon the facts of a case, where grant of incidental relief of eviction of children or relatives occupying same '**shared household**' is expedient to advance protection of life and limb of the elderly person as a last resort/measure and should be exercised sparingly and rarely to give effect to the true spirit of the Act, 2007, which is a beneficial piece of legislation enacted by the Parliament to meet the challenges of modern times on account disintegration of families.

32. The Tribunal's power of eviction is not a blanket and unfettered one. It is rather an indirect one for relief of protection and maintenance as incidental relief to order eviction.

(emphasis in original)

14. Though in **Shyamji Shukla**, we did hold that the Tribunal had the incidental jurisdiction to grant relief for eviction against children and relatives occupying properties of parents and senior citizens, but we did

say also, as here, that these Tribunals do not exercise plenary jurisdiction akin to a Civil Court to settle property disputes about title.

15. Here, what is in issue is the validity of a conveyance, pure and simple. We can look at the matter like this : If Garima Yadav were not the petitioner's daughter, and Devendra Singh Yadav, respondent no. 3, his son-in-law, could he have, on the allegations set forth in his application to the Tribunal, maintained his application for declaring the gift deed void on the ground that it is a forged document? We think not. We also, therefore, think that he cannot maintain it on the ground that he urges, because, Garima Yadav, respondent no. 4, is his daughter.

16. As already said, the short case of the petitioner is that the registered gift deed, purportedly executed by him, does not bear his signatures and is a product of forgery. Section 23 of the Act of 2007 reads :

**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.

(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.

17. It is largely Section 23(1) which the petitioner relies upon to impugn the order of the Tribunal. If one were to look at the phraseology of sub-section (1) of Section 23 of the Act of 2007, the *sine qua non* of investing jurisdiction in the Tribunal under sub-section (1) is a transfer by a senior citizen after the commencement of the Act of his property by gift or other means of assignment, subject to the condition that the transferee shall provide basic amenities and basic physical needs to the transferor. What attracts sub-section (1) of Section 23 is the fact that the transferee, after taking advantage of the gift or the transfer, refuses or fails to provide basic amenities and basic physical needs, in expectation of which, the transfer was made by the senior citizen. It is not that under the general law, mostly the Transfer of Property Act, 1882 or The Indian Succession Act, 1925, gifts with a condition subsequent carrying a defeasance clause are not known, but the right created by sub-section (1) of Section 23 is a new right given by the Statute, where, not only gifts, but any kind of assignment of interest by a senior citizen, that is subject to the condition about the transferee providing for him/her basic amenities and basic physical needs, which the former disregards, would, by fiction of law, treated as one secured by fraud, coercion or undue influence, and upon the election of the transferor, declared void by Tribunal.

18. Thus, Section 23(1) of the Act of 2007 is attracted to a situation where alienation of property by a senior citizen, after commencement of the Act, carries a condition that the transferee would provide him/her with basic amenities and basic physical needs, a promise, which the transferee observes in breach. Section 23, therefore, postulates a valid assignment of his/her property by a senior citizen to another, subject to a condition of the transferee agreeing to provide him/her basic amenities and basic physical needs. It gives the senior citizen, upon breach of the condition, a right by way of defeasance, which gives rise to a fiction of fraud, coercion or undue influence practiced by the transferee, coupled with the remedy to the senior citizen to elect and apply to the Tribunal to declare the transfer void, in the aforesaid situation. It is not a wide open power to impeach the validity of a document, which the Tribunal, constituted under the Act of 2007, is conferred with. Therefore, if the case of a senior citizen, howsoever related to the transferee, is that the transferee secured the gift or other conveyance by actual practice of fraud, coercion, undue influence or forgery, as in this case, it is certainly not the Tribunal, that would have jurisdiction to act at the instance of the senior citizen and declare the conveyance void. It can only be the Court of ordinary original civil jurisdiction, competent to try an action, that can entertain the aggrieved senior citizen's suit on that ground to cancel the conveyance or the gift deed, which the senior citizen says, is the result of forgery. Of course,

other reliefs to establish his tile and possession are to be had in the same action before the Civil Court.

19. Before parting with the matter, we must remark that the Tribunal did follow a very anomalous procedure of setting up committees to inquire into the petitioner's claim about the forgery, said to have been practiced by respondent no. 4 in securing the gift deed. The Tribunals are headed by Administrative Officers, and by habit, they are given to function by forming committees to inquire into things. We must caution Tribunals across the State that when discharging a judicial or a quasi-judicial function under a Statute, procedure for taking proceedings under the Statute must be that which the law prescribes. Even otherwise, as a general principle of law, wherever, not just Courts, but Tribunals having the trappings of a Court are invested with jurisdiction to decide finally rights or interest of parties, the administrative way of working, entrusting matters to committees to undertake an inquiry is quite foreign to the scheme of things. The procedure to be followed by a Tribunal for taking proceedings under Section 5, which mostly relate to maintenance, is provided under Sections 6 and 8 of the Act of 2007. These read :

**6. Jurisdiction and procedure.**—(1) The proceedings under Section 5 may be taken against any children or relative in any district— (a) where he resides or last resided; or (b) where children or relative resides.

(2) On receipt of the application under Section 5, the Tribunal shall issue a process for procuring the presence of children or relative against whom the application is filed.

(3) For securing the attendance of children or relative the Tribunal shall have the power of a Judicial Magistrate of first class as provided under the Code of Criminal Procedure, 1973 (2 of 1974).

(4) All evidence to such proceedings shall be taken in the presence of the children or relative against whom an order for payment of maintenance is proposed to be made, and shall be recorded in the manner prescribed for summons cases:

Provided that if the Tribunal is satisfied that the children or relative against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Tribunal, the Tribunal may proceed to hear and determine the case *ex parte*.

(5) Where the children or relative is residing out of India, the summons shall be served by the Tribunal through such authority, as the Central Government may by notification in the Official Gazette, specify in this behalf.

(6) The Tribunal before hearing an application under Section 5 may, refer the same to a Conciliation Officer and such Conciliation Officer shall submit his findings within one month and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.

*Explanation.*—For the purposes of this sub-section “Conciliation Officer” means any person or representative of an organisation referred to in Explanation to sub-section (1) of Section 5 or the Maintenance Officers designated by the State Government under sub-section (1) of Section 18 or any other person nominated by the Tribunal for this purpose.

**8. Summary procedure in case of inquiry.**—(1) In holding any inquiry under Section 5, the Tribunal may, subject to any rules that may be prescribed by the State Government in this behalf, follow such summary procedure as it deems fit.

(2) The Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Tribunal shall be deemed to be a Civil Court for all the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) Subject to any rule that may be made in this behalf, the Tribunal may, for the purpose of adjudicating and deciding upon any claim for maintenance, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

20. A perusal of sub-section (4) of Section 6 and sub-section (2) of Section 8 of the Act of 2007 would show that the basic procedure that is to be followed by a Tribunal is judicial, where witnesses are examined on oath in the presence of the other side and the attendance of the witnesses can be enforced, who can also be compelled to produce documents and

other material objects. Sub-section (2) of Section 8 clearly provides that the Tribunal shall have powers of the Civil Court for the purpose of taking evidence on oath and enforcing the attendance of witnesses. Likewise, under sub-section (4) of Section 6, it is clearly provided that all evidence is to be taken in the presence of children or relatives, against whom, an order of maintenance is proposed to be made and shall be recorded in the manner prescribed for summons cases. There is also power under the proviso to sub-section (4) of Section 6 to proceed *ex parte* against children or relatives, who are deliberately avoiding service or wilfully neglecting to attend. These provisions would show, as already remarked, that in the scheme of things, the administrative way of functioning, which Officers presiding over the Tribunal are used to i.e. by constituting committees to hold inquiries, has absolutely no place. Regrettably, in the present case, this flawed course of action was, indeed, followed by District Magistrate, Lalitpur, and we must caution him and all District Magistrates in the State, including the Sub Divisional Magistrates, who function as Tribunals, not to decide cases under the Act of 2007 in the administrative fashion that they are familiar with.

21. Nevertheless, in the present case, since, in our opinion, the petitioner's case for judging the gift deed dated 18.11.2023 void is completely beyond the scope of proceedings under the Act of 2007, no interference with the impugned order is at all called for.

22. In the result, the petition **fails** and stands **dismissed**.

23. There shall be no order as to costs.

24. It is made clear that this order of ours shall not prevent the petitioner from enforcing his rights by instituting an appropriate action before the Court of competent civil jurisdiction.

25. Pending application(s), if any, shall stand consigned to records.

26. The Registrar (Compliance) is directed to communicate this order to the District Magistrate, Lalitpur through the learned Chief Judicial Magistrate, Lalitpur.

**(J.J. MUNIR, J.)**

**(INDRAJEET SHUKLA, J.)**

Allahabad

**September 15, 2026**

I. Batabyal

Whether the order is speaking : Yes

Whether the order is reportable : Yes