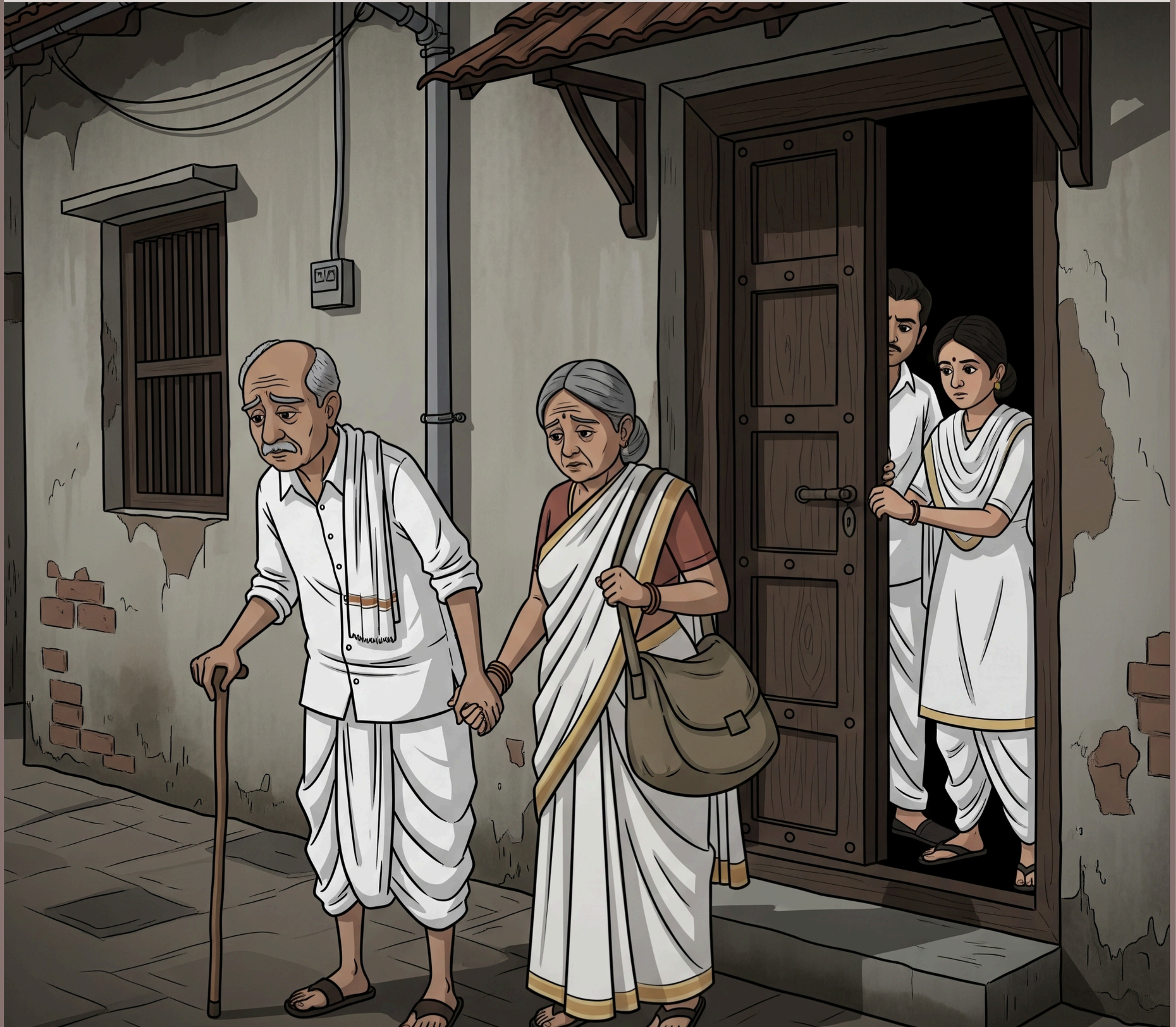


# GIFTED WITH LOVE, RETURNED WITH PAIN: THE LEGAL RIGHT TO RECLAIM



**Wednesday Wisdom**

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## Golden Years, Broken Promises[1]?

Old age should be life's chill mode- a time to sip chai, share stories, take long naps and enjoy life without deadlines or alarms. But reality, especially in today's India, is not always as cozy as a grandpa's shawl. With the joint family splitting like WhatsApp Groups, cities growing faster than family bonds and values shifting like Wi-fi signals, many senior citizens are finding themselves alone in what should be their most peaceful years.

The sad twist is that in the hope of securing love and lifelong care, many elderly people gift their hard-earned homes or land to their children only to be left emotionally, financially and physically vulnerable. Instead of thank you hugs, they sometimes get cold shoulders or even eviction notices. The very people they trusted, turn their backs, leaving them dry and heartbroken. This growing reality creates a serious social and legal dilemma- What recourse does a senior citizen have when the very individuals they trusted with their assets neglect or refuse to maintain them?

Until recently, senior citizens in India had limited legal protection against neglect or exploitation, beyond personal laws or general remedies available under the Code of Civil Procedure 1908 or The Transfer of Property Act, 1882.

This changed with the enactment of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 which was a significant step in recognizing the needs and rights of senior citizens. Amongst its most important provisions is Section 23 which empowers senior citizens to reclaim property they had been transferred by them under certain conditions. Article 41 of the Constitution of India (Directive Principles of State Policy) directs the State to provide public assistance in cases of old age and disablement. Section 23 reinforces this constitutional value by giving elderly a statutory mechanism to protect their interest. A widely publicized and heartbreaking example is the case of industrialist Vijaypat Singhania[2], who gifted a large portion of his Raymond shares to his son, Gautam Singhania. However, in the later years, Vijaypat Singhania alleged that he was left destitute, denied access to his home and emotionally alienated. This high-profile case drew national attention to the misuse of property transfers by family members and emphasized the importance for legal mechanisms like Section 23 to protect the elderly from such emotional and financial exploitation.

[1] The article reflects the general work of the authors and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2] Hindustan times article

## **A Statutory Shield for the Elderly: Section 23- A Protective Provision**

Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides that:

- 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 or physical needs,

**the said transfer of property shall be deemed to have been made by fraud or coercion or under influence and shall at the option of the transferor be declared void by the Tribunal.[3]**

This provision stands out as a statutory shield, allowing aggrieved senior citizens to reclaim their property when promises of care go unfulfilled. Unlike civil suits, which can be lengthy and expensive, this Act allows for more immediate relief through dedicated Maintenance Tribunals, established specifically to uphold the rights and welfare of the parents and senior citizens.

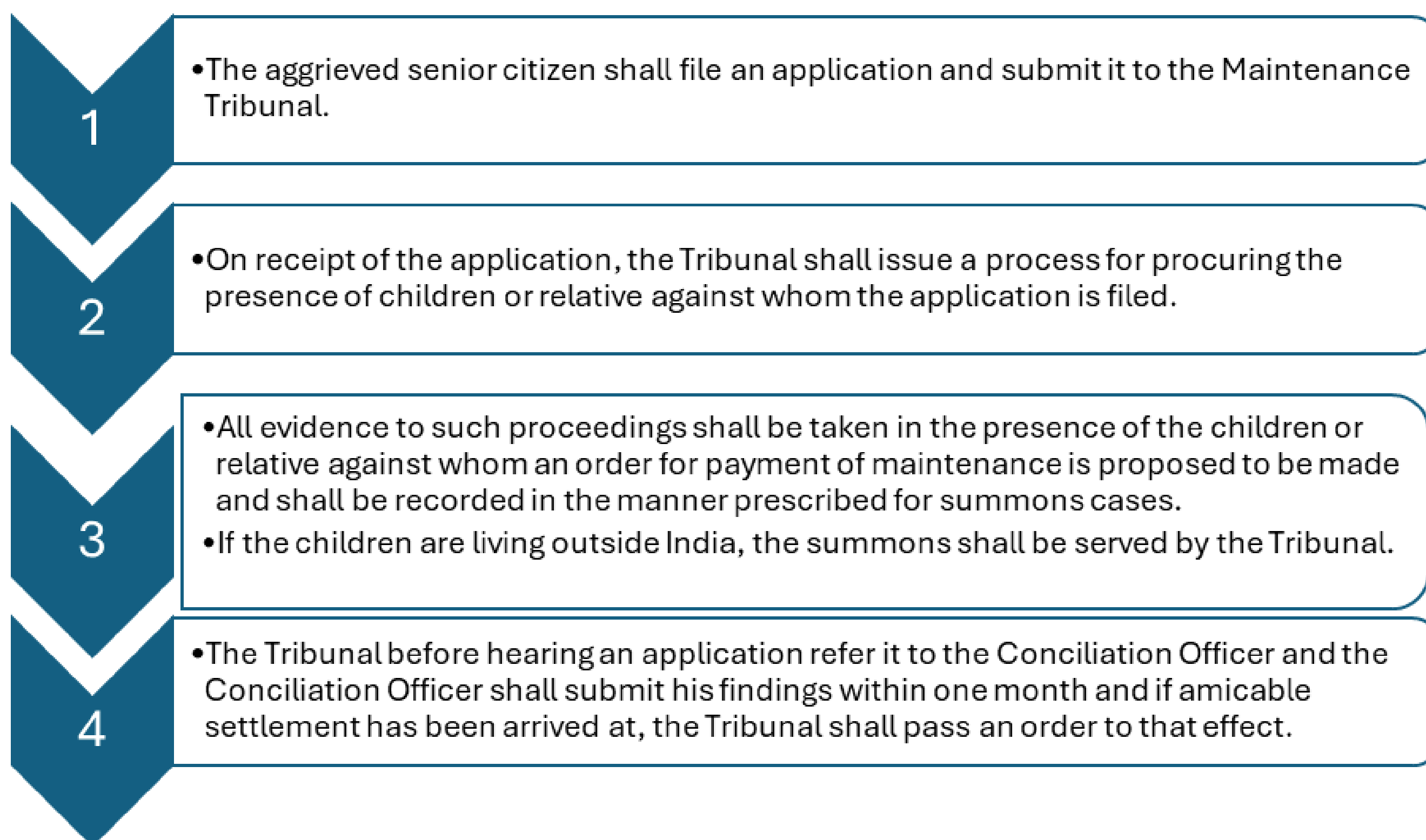
### **Elements for Invoking Section 23**

- **Property owned by the Senior citizen-** The senior citizen must have the ownership of the property.
- **Transfer of property-** There must be voluntary transfer of property by the senior citizen to their legal heir or other individual.
- **Condition of care and maintenance-** The transfer must be contingent upon the transferee agreeing to provide basic needs and amenities.
- **Failure to maintain-** The transferee must have failed to fulfill these obligations leading to the senior citizen's neglect or hardship.

[3] Section 23(1) of Maintenance and Welfare of Parents and Senior Citizens Act, 2007

## Procedural formalities to be followed under Section 23:

If they are not taken care of by the transferee, the Act empowers the senior citizen to reclaim their property, without having to undergo a civil litigation process or prove elaborate contractual details. The aggrieved senior citizen, if not maintained by the transferee, can reclaim their property in the following way-



**Section 16 of the Act** gives the right of appeal to senior citizens/parents which provides that any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal.

The protection under Section 23 was based primarily on the principle of conditional transfer. Now, the Courts have established that there is no need to have such conditions in the agreement executed. The law recognizes that many elderly parents transfer property out of love or on expectation of being looked after in return.

**Section 17 of the Act** provides that no party to a proceeding before Tribunal or Appellate Tribunal shall be represented by a legal practitioner. This is intended to simplify the process making it accessible to the senior citizens who may not have the means or capacity to engage lawyers. Also, without procedure delays, adjournments, the Tribunals can focus on what truly matters - the dignity of the elders.

## What type of Property is covered?

The Act and judicial interpretation have made it clear that the provision extends to immovable property as well as movable property. Section 2(f) of the Act states that "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.

Another instance, the **L.V. Sarojini vs. The District Collector**[4] case involved an elderly woman who had fixed deposits and jewellery, which she had gifted to her daughter and son with the understanding that the daughter would provide care and support. The daughter failed to provide maintenance to her mother. The Madras High Court upheld the mother's claim against her daughter, referring to Section 23 of the Act, which pertains to the transfer of property. In this judgement, the Court ruled that fixed deposits (FDs) and jewellery qualify as property and the complaint under Section 23 of the Act filed by the petitioner in respect of the return of fixed deposits and the jewels is very much maintainable.

This means elderly parents can take back these assets if their children fail to support them. The judgement reinforces that courts will protect senior citizens from financial exploitation. This broader scope ensures that senior citizens are not left unprotected merely because the property transferred does not involve land and buildings. This reinforces the objective of safeguarding elderly persons from neglect, irrespective of the form in which their wealth has been passed.

[4] W.P(MD)No.3415 of 2023 and W.M.P.(MD) No. 3173 of 2023

## Overview of the Case Laws

- In **Urmila Dixit vs. Sunil Sharan Dixit**[5], a Gift Deed was executed by the mother in favour of her son on the condition that he would take care of her and her husband. This promise was recorded in a promissory note. Later, the mother filed a complaint under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, claiming that her son mistreated her and failed to fulfil the agreed condition. The Tribunal declared the gift deed null and void and upheld the decision in favour of the mother. However, a Division Bench of the High Court found the deed valid. High Court later ruled the deed was valid. The mother appealed to the Supreme Court. The Supreme Court upheld the decision in favour of the mother and cancelled the gift deed and emphasized that if the property is transferred with condition of care and that condition is broken, the senior citizen has the right to reclaim the property. The Supreme Court held that the objective of the Act is to empower senior citizens to secure their rights promptly when they transfer a property subject to the condition of being maintained by the transferee.
- In **Vimal Dagadu Kate vs. State of Maharashtra**[6], a senior citizen filed a suit for eviction against her sister who is also a senior citizen from residential premises under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Court stated that the suit for the recovery of possession of the premises cannot be filed by invoking the provisions of the Act. The jurisdiction of Maintenance Tribunal cannot be invoked by one senior citizen to recover possession of premises from another senior citizen. This stresses on the fact that the provisions of this Act should not be misused by one senior citizen against another.

[5] 2025 INSC 20

[6] WRIT PETITION NO.882 OF 2024 Civil Appellate jurisdiction

## **Evolution of Provision of Section 23- Liberal Interpretation:**

Though Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act 2007, expects such a condition to have been imposed in the gift/settlement deeds, over the years it was held that courts must interpret the legal provision liberally in order to fulfill the intent behind the legislation. This approach emphasizes the underlying intent of the legislation namely, to protect the welfare of senior citizens rather than a strict adherence to technical conditions in legal documents. There are few cases where liberal interpretation of this Section has been observed.

In **Urmila Dixit vs. Sunil Sharan Dixit**[7], the Supreme Court ruled that the Statement of object and Reasons and Preamble of the Act embodies the intent of the Act which is to ensure effective maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution. Therefore, the Court stated that the Act is a beneficial legislation aimed at securing the rights of senior citizens in view of the challenges faced by them and must be given a liberal meaning to it. The Court observed that it is the social obligation of the children to maintain their parents when they need them and it is bound by the Constitution to advance the cause of social justice pertaining to maintenance of parents or wife.

In **S. Mala vs. District Arbitrator**[8], the Madras High Court held that Section 23(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is designed to protect senior citizens in situations, where they transfer their property, either through gift or settlement, with expectation that the transferee will provide for their basic amenities and physical needs. They are entitled to cancel the gift/ settlement deeds executed in favour of their children even if there is no explicit condition imposed under such deeds requiring the beneficiaries to take care of their parents. The Court stressed that being a beneficial piece of legislation, it is necessary to interpret it liberally to ensure that the intent of the legislation is fulfilled and the rights and dignity of senior citizens are effectively protected.

[7] 2025 INSC 20

[8]W.A.No.3582 of 2024; 2025:MHC:706

**Recommendation:**

To avoid confusion and misunderstandings, the Gift Deed or transfer deed should be made with clear provisions:

- The deed should mandatorily include a duty of care on the Transferee;
- The deed can also include specific monthly amount to be handed over to parents with specific expectations like-
  - the parent would be entitled to a separate bedroom on the ground floor and such bedroom should be well lit, ventilated and equipped with necessary safety features.
  - A housemaid and caretaker shall be arranged for daily cleaning, assisting and other day to day activities.
  - A wheelchair or walker should be provided if needed. Also, timely medication, testing and doctor appointments should be arranged for them.
- The deed can provide for proper consequences for willful failure to maintain after property transfer.

At a societal level, enhancing awareness at the grassroot level will help, especially in rural areas where elderly citizens are more vulnerable.



## **Conclusion: From Legal Rights to Social Responsibility :**

The emotional depth of this provision finds a parallel in the Marathi play and film *Natasamrat*, where an ageing father, having given away his property to his children finds himself homeless, disrespected and emotionally shattered. It is not just a story but a mirror to the harsh realities many elderly parents face after sacrificing everything to their children to which this provision seeks to address.

Section 23 of the Act acknowledges the emotional and economic betrayal often faced by the elderly. Through a liberal interpretation, courts have empowered senior citizens to reclaim property even when gift deeds lack explicit maintenance clauses. This reflects not just a legal remedy, but a reaffirmation of our constitutional and moral duty to protect their dignity. While the Act provides a lifeline, society must also shoulder the responsibility by the respect, empathy, and awareness for the elderly. By enabling senior citizens to reclaim transferred property when promises of care and maintenance are broken, the law not only offers legal but also reaffirms the constitutional and moral obligation to protect the dignity of the elderly. These judgements reaffirmed that even in absence of explicitly stated conditions in deeds, the essence of mutual trust and the expectation of care must be honoured. Safeguarding the elderly is not just a statutory duty but it is a reflection of our collective social conscience.

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