



IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 8<sup>th</sup> OF OCTOBER, 2025

WRIT PETITION No. 12 of 2025

*SHANTI BAI JARWAL*

*Versus*

*SMT. MANJU KUNARE AND OTHERS*

**Appearance:**

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*Shri Abhinav Dhanodkar along with Ms. Prerna Dubey, learned counsel for the petitioner.*

*Shri Vivek Sharan, learned Senior Counsel assisted by Shri Nitendra Vajpayee & Ms. Rajni Vajpayee, learned counsel for respondent No.1.*

*Shri Anand Soni, learned Additional Advocate General along with Shri Anirudh Malpani, learned Government Advocate for respondents No.2 & 4 / State.*

*Shri Romesh Dave, learned Deputy Solicitor General.*

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**Reserved on : 08<sup>st</sup> October, 2025**

**Delivered on : 17<sup>th</sup> October, 2025**

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**O R D E R**

***Per : Justice Vivek Rusia***

The present writ petition has been filed under Article 226 of the Constitution of India by the petitioner, a senior citizen aged about 89 years, widow of Late Suvalal Jarwal, residing at House No. 304, Ward No. 24, Sheelnath Camp, Kulkarni ka Bhatta, Indore.

**FACTS OF THE CASE ARE AS FOLLOWS:-**

F-2. The petitioner, who is a senior citizen as well as a parent, is assailing the legality, propriety and jurisdictional competence of the



order dated 13.12.2024 passed by the Additional Collector, Indore / respondent No. 3, whereby the said order, the appellate authority has allowed an appeal filed by Smt. Manju Kunare / respondent No. 1 ( daughter) under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the Senior Citizens Act,2007) and thereby set aside the order dated 23.09.2024 passed by the Sub-Divisional Officer, Malharganj / respondent No.4 under Rule 19 of the Madhya Pradesh Maintenance and Welfare of Parents and Senior Citizen Rules, 2009 (hereinafter referred to as the M.P. Senior Citizen Rules, 2009).

F-3. This writ petition came before the Division Bench by way of reference to answer the following question of law:-

*"Whether an appeal under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is maintainable only at the instance of any senior citizen or a parent, or it is maintainable at the instance of any aggrieved person?"*

F-4. The petitioner asserts that she is the lawful owner and possessor of the aforesaid house property, having valid title documents in her name. She has been residing in the said house continuously for the past forty-nine years along with her family members. It is the specific case of the petitioner that on 12.11.2022, one PremchandKunare and his wife, Smt. Manju Kunare /respondent no. 1 visited the subject property and threatened the petitioner and her family members to vacate the premises within three days, failing which they would be forcibly removed. The petitioner approached the Police Station, Pardesipura, Indore, for lodging a complaint, but the police authorities declined to register the



same.

F-5. Again, on the night of 14.11.2022 at about 10:12 p.m., the respondent no. 1 and her husband entered the premises, abused the petitioner in public, physically assaulted her and her family members and thereafter forcibly ousted the petitioner from the house. They also allegedly threatened the petitioner not to approach any authority. Being thus dispossessed, the petitioner was compelled to reside elsewhere despite having no alternative accommodation. The petitioner then submitted a detailed representation dated 05.04.2023 before the Collector, Indore/respondent no. 2 in *Jan Sunvai* instead of invoking provision of Rule 19 of the M.P. Senior Citizen Rules, 2009 under which it is a duty of Sub Divisional Officer to ensure that the life and property of senior citizens within the district are protected and that they can live with security and dignity. No action was, however, taken on her representation.

F-6. Aggrieved by such inaction, the petitioner approached this Court by filing Writ Petition No. 10793 of 2023, which was disposed of on 07 July 2023 with a direction to the Collector to decide the representation of the petitioner within one month after granting due opportunity of hearing to all concerned parties. Pursuant to the said direction, the matter was taken up by the Sub-Divisional Officer, Malharganj, Indore /respondent No. 4, who afforded an opportunity of hearing to both sides and considered what came on the material on record. The respondent No. 4 by a detailed order dated 23.09. 2024 allowed the application of the petitioner under Rule 19 of the M.P. Senior Citizen Rules, 2009 and directed respondent No. 1 to vacate the subject property and hand over peaceful possession to the petitioner within thirty days.



F-7. Aggrieved by the said order dated 23.09.2024, respondent No. 1 preferred an appeal under Section 16 of the Senior Citizens Act,2007, before the Additional Collector, Indore/respondent No. 3, which was registered as Case No. 0020/Appeal/2024-25. On receipt of notice, the petitioner appeared and raised a preliminary objection to the maintainability of the appeal, contending that under Section 16 of the Senior Citizens Act,2007, the right of appeal is conferred exclusively upon "any senior citizen or a parent" aggrieved by an order of the Tribunal and not upon any other person. The petitioner relied upon the decision of this Court in *Anil Choupda & Others v/s Subhadra Choupda & Others in W.P. No. 18083 of 2022*, decided on 18.04.2023, and the Division Bench judgment in *W.A. No. 655 of 2023*, decided on 10.01.2024, wherein it was held that neither the children nor the relatives have any locus to file an appeal under the said provision.

F-8. Despite such objection, the respondent no. 3, without deciding the preliminary issue of jurisdiction and without granting adequate opportunity to the petitioner to address her remaining objections, proceeded to entertain the appeal and subsequently allowed the same vide order dated 13.12.2024 and set aside the well-reasoned order of the SDO dated 23.09.2024.

F-9. Hence, the petitioner has approached this court again by way of the writ petition mainly on the legal ground that the appellate authority has acted wholly without jurisdiction, contrary to the plain language of Section 16 and in disregard of binding precedent. Aggrieved by this appellate order, the petitioner has filed the present writ petition. The petitioner alleged that she is suffering from multiple old-age ailments and contended that at her advanced age, she has been compelled to



approach this Court for the second time to secure possession of her sole residence. Petitioner emphasises that the impugned action of the appellate authority/Respondent No.3 not only defeats the object and purpose of the Senior Citizens Act, 2007, but also infringes her fundamental right to life and dignity guaranteed under Article 21 of the Constitution of India.

F-10. During the pendency of the proceedings, respondent No. 1 has also instituted a **civil suit** bearing No. RCSA/1452/2024 before the Court of the learned First Civil Judge, Indore, seeking specific performance and permanent injunction in respect of the same property. According to the petitioner, this civil action was initiated with mala fide intent to create a parallel dispute over title and to frustrate the remedy available to the petitioner under the special legislation for senior citizens.

F-11. The writ petition came up before the writ court on 30.01.2025; the core grievance argued by the learned counsel appearing for the petitioner centred on the jurisdictional competence of the respondent no. 3 to entertain an appeal under Section 16(1) of the Senior Citizens Act, 2007, at the instance of respondent no. 1, who was neither a senior citizen nor a parent. Learned counsel for the petitioner before the writ court further submitted that the appellate provision under the Act is unambiguously worded to limit the right of appeal only to "any senior citizen or a parent" and not to "any aggrieved person" in general, especially children. In support of this proposition, reliance was placed on the decisions of this court in *Anil Choupda & Others v/s Subhadra Choupda & Others in W.P. No. 18083 of 2022*, decided on 18.04.2023, wherein it was held that appeals under Section 16 of the Senior Citizens



Act, 2007, are not maintainable at the instance of children or relatives.

F-12. On the other hand, learned counsel appearing for respondent no. 1 before the writ court placed reliance on decision of co-ordinate bench of this Court which have taken a contrary view in *Nitin Jat & Another v/s State of Madhya Pradesh & Others in W.P. No. 9078 of 2022* decided on 14 July 2023 wherein it was held that an appeal under Section 16 can also be preferred by parties other than the senior citizen or parent. Reference was also made to other decisions of various High Courts, such as the decision of the Allahabad High Court in *Smt. Roopam @ Jyoti Sharma v/s District Magistrate, Lucknow in Writ-C No. 21188 of 2021* decided on 18 May 2022), to the decision of the Division Bench of the Bombay High Court in *Jagdish Pitamber Pawar v/s Pitamber Pundalik Pawar in W.P. No. 36 of 2023* and to the Punjab & Haryana High Court decision in *Paramjeet Kumar Saroya v/s Union of India reported in AIR 2014 P&H 121* all of which favour an expansive interpretation of the appellate provision. Reference was also made to the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019, which proposes a legislative amendment to Section 16(1) by inserting the words "or any of the children or relatives".

F-13. The learned Single Judge, after examining the statutory framework and precedents cited on both sides, noted that divergent views had emerged from benches of this court. While in *Anil Choupda (supra)* and *Smt. Anuradha Pathak v/s Smt. Anshumali Pathak & Others in W.P. No. 7917 of 2020* decided on 23.01.2025, the scope of Section 16 was confined strictly to appeals by senior citizens or parents. The judgment in *Nitin Jat (supra)* took a diametrically opposite view by



holding that such an appeal may also be preferred by other affected parties. The learned Single Judge further took note of similar divergence in decisions rendered by other High Courts. Observing that such divergence of opinion had created uncertainty in the application of the law, the learned Single Judge concluded that an authoritative pronouncement was warranted to settle the question. Accordingly, by order dated 30.01.2025, the learned Single Judge directed the Registry to place the matter before the Hon'ble Chief Justice for the constitution of a Larger Bench to answer the following question of law:

*"Whether an appeal under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is maintainable only at the instance of any senior citizen or a parent, or it is maintainable at the instance of any aggrieved person"*

F-14. In furtherance of the said judicial reference, when the matter was placed before the Hon'ble the Chief Justice on the administrative side, directions were issued vide order dated 19.09.2025 to constitute an appropriate Larger Bench, i.e., a Three Judges Bench. The Hon'ble Chief Justice took note of the fact that the divergence in view had arisen between judgments rendered by Single Benches and accordingly deemed it appropriate to constitute a Division Bench rather than a Full Bench comprising three Judges. Hence, this matter is before us.

#### **SUBMISSIONS OF PETITIONER'S COUNSEL**

P-1. Shri Dhanodkar learned counsel commenced his submissions by stating that the present reference deals with the construction and scope of Section 16 of the Senior Citizens Act, 2007, which represents a milestone in Indian social-welfare legislation conceived in direct



response to the constitutional call embodied in Articles 21, 41, 46 and 300-A of the Constitution of India which collectively guarantee the right to life with dignity, public assistance in cases of old age and sickness, protection of weaker sections and security of property save by authority of law. According to the learned counsel, the Act does not create reciprocal rights between two equal classes but rather institutes an exclusive code of protection for a single vulnerable class - parents and senior citizens by imposing a corresponding legal obligation upon children and relatives to maintain them.

P-2. Learned counsel further submitted that the enactment must therefore be viewed not as an ordinary civil litigation but as a beneficial and exclusive social-welfare legislation, the object of which is to secure the constitutional promise of a dignified existence to the aged. Learned counsel drew attention to the **Statement of Objects and Reasons of Bill No. 40 of 2007**, which recites that the Bill was introduced to "provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith and incidental thereto." The learned counsel emphasised that this declaration, when read with the **Report of the Standing Committee on Social Justice and Empowerment dated 27 April 2007**, makes it abundantly clear that Parliament consciously intended to create a self-contained mechanism ensuring expeditious relief to aged parents suffering neglect and dispossession and further to restrict appellate remedies only to that class.

P-3. Learned counsel invited the attention of the court to the constitutional foundations of the statute contending that the right of the



aged citizens to live with dignity has been judicially read into Article 21 since *Bandhua Mukti Morcha v/s Union of India reported in (1984) 3 SCC 161* wherein Hon'ble Apex Court held that the right to life includes the right to live with human dignity and free from exploitation. This position was reaffirmed in *Vincent Panikurlangara v/s Union of India reported in (1987) 2 SCC 165*, wherein the Hon'ble Apex Court recognised that maintenance of health and strength of workers and the aged flows directly from Articles 39 and 41. Learned counsel further relied on *D.S. Nakara v/s Union of India reported in (1983) 1 SCC 305* wherein the Hon'ble Apex Court treated pension as a measure of socio-economic justice and also relied on *Francis Coralie Mullin v/s Administrator, Union Territory of Delhi reported in (1981) 1 SCC 608* wherein the Hon'ble Apex Court emphasized that life under Article 21 means life with human dignity. According to learned counsel, these authorities confirm that the duty to protect the elderly is part of constitutional morality and the 2007 Act gives it legislative expression.

P-4. Learned counsel traced the origin of the statute to the felt necessity identified by the **National Policy for Older Persons 1999** and by successive Law Commission Reports recommending a comprehensive framework to ensure maintenance of parents by their children. Learned counsel submitted that the Act finds its source in the **Concurrent List -Entry 23**, which deals with social security and social insurance, employment and unemployment, enabling Parliament and the State Legislatures to enact such measures. Learned counsel submitted that the Act of 2007 lays down a uniform national policy while permitting states to frame rules under Section 32 for its implementation. Reliance is placed on *State of Punjab v/s Mohinder Singh Chawla*



*reported in (1997) 2 SCC 83* wherein the Hon'ble Apex Court held that the right to health is integral to Article 21 and imposes a correlative duty on the State and also relied on *Paschim Banga Khet Mazdoor Samity v/s State of W.B. reported in (1996) 4 SCC 37* wherein the Hon'ble Apex Court extended that principle to emergency medical care. Thus, the protection of old age and health is a constitutional obligation rather than legislative charity.

P-5. Learned counsel contended that the Act must be read not in isolation but as part of the constitutional duties as given in Articles 41 and 47 of the Constitution, which direct the State to make effective provision for securing public assistance in cases of old age and to improve public health. The statute fulfils these mandates and further refers to Article 14 and Article 19(1) (g) of the Constitution to demonstrate that restricting appellate rights under Section 16 to senior citizens alone does not offend equality or freedom of occupation; rather, it represents a reasonable classification founded upon an intelligible differentia and a rational nexus with the object sought to be achieved. The limited right of appeal preserves the beneficent character of the statute. Reliance is placed on *State of W.B. V/s Anwar Ali Sarkar, reported in AIR 1952 SC 75*, and *Budhan Choudhry v/s State of Bihar, reported in AIR 1955 SC 191*, to submit that classification based on a legitimate object is constitutionally permissible. Learned counsel submitted that if appellate rights were extended to the children/relatives, the object of swift and inexpensive relief to the aged would be defeated, and hence the restriction under Section 16 advances rather than violates constitutional equality.

P-6. Learned counsel explained the scheme of the Act, which is



divided into seven Chapters and 32 Sections, to demonstrate its exclusivity. Chapter I defines key expressions under Section 2, which provides definitions such as "parent", "relative", and "senior citizen", each focused on the beneficiary. Sections 4 to 11 create the procedure for claiming and enforcing maintenance. Section 16, forming part of Chapter V, reads:

*"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."*

P-7. Learned counsel emphasised that the statutory language is plain, unambiguous and exhaustive. It identifies the class of persons entitled to appeal, namely "any senior citizen or a parent." Nowhere does the Act confer that right upon "any aggrieved person." Learned counsel emphasised that the Legislature, though familiar with the phrase "any person aggrieved", consciously restricted the appellate right to the specified class. The **M.P. Senior Citizen Rules, 2009**, in prescribing **Form I** for such appeals, reproduce precisely the same language confirming the conscious design of the legislature to confer an appellate privilege only upon those two categories.

P-8. Learned counsel further placed reliance on the statutory rules framed by various States and Union Territories under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, to demonstrate the legislative consistency across jurisdictions in implementing the objectives of the parent statute. The learned counsel contended that this pattern of rule-making across States further supports the view that Section 16 is deliberately confined to senior citizens and parents alone, as many State rules consistently retain the beneficiary-centric structure without affording appeal rights to children or relatives, thereby rejecting



any suggestion of legislative negligence or omission.

P-9. Learned counsel submitted that the right of appeal is not inherent or natural but a statutory creation, and its existence, extent, and conditions depend entirely on legislative conferment. Reliance is placed on the decisions of Hon'ble Apex Court in *Super Cassettes Industries Ltd. v/s State of U.P. reported in (2009) 10 SCC 531* and *Raj Kumar Shivhare v/s Directorate of Enforcement reported in (2010) 4 SCC 772* wherein the Hon'ble Apex Court held that the use of the word "any" in the context of appeals must be understood in light of the class to which it refers. Thus, "any senior citizen or parent" cannot be read as "any person aggrieved" to defeat its object. Learned counsel further referred that even in ancient Roman jurisprudence, the concept of *appellatio* was an exception to the principle of finality and could be exercised only when specifically permitted. That philosophy has been consistently adopted by Indian courts as an appeal is a matter of grace, not of right. Reliance is placed on *CCI v/s Steel Authority of India reported in (2010) 10 SCC 744*.

P-10. Learned counsel emphasised that the Act does not define the phrase "aggrieved person", but judicial interpretation must adhere to the legislative objective and relied on *K. Raju v/s Union of India reported in 2021 SCC OnLine Mad 746*, where the Division Bench of the Madras High Court held that the right of appeal under Section 16 is exclusively reserved for senior citizens or parents. The said position was reaffirmed in *Arockia Mary v/s District Collector in W.P. (MD) No. 2512 of 2025*, wherein the Madurai Bench held that the appeal filed by the children was misconceived. To further reinforce the narrowness of the provision learned counsel relied upon the decision in *S. Vanitha v/s*



*Deputy Commissioner, Bengaluru Urban District reported in (2021) 15 SCC 730* wherein the Hon'ble Apex Court held that where a definition employs the phrase "means and includes" must be construed as exhaustive and thus learned counsel submitted that the plain words of Section 16 being unambiguous require no further interpretation.

P-11. Learned counsel referred to **Doctrine of beneficial and exclusive legislation** and submitted that the Act of 2007 is a classic example of a beneficial and exclusive legislation one that is intended to confer a statutory right upon a specific class of beneficiaries namely parents and senior citizens and relied upon *Vijaya Manohar Arbat v/s Kashirao Rajaram Sawai reported in (1987) 2 SCC 278* and *Shivram A. Shiroor v/s Radhabai Kowshik reported in (1984) 1 SCC 588*.

P-12. Learned counsel on *the Doctrine of Casus Omissus* submitted that its lineage can be traced back to English jurisprudence under Lord Denning and Lord Simonds, which was later adopted by the Indian courts. The literal meaning of the Latin phrase *casus omissus* -"an omitted case" which denotes a situation not provided for in a legal text and therefore incapable of being judicially supplied. The learned counsel relied on *Bangalore Water Supply v/s A. Rajappa reported in AIR 1978 SC 548*, wherein the Hon'ble Apex Court, approving Lord Denning's interpretive caution, explained that even when statutory language appears defective, courts must not "repair" it except through legitimate interpretive principles. Reliance was also placed on the early constitutional decisions in *Fenton v/s Hampton (1858) XI Moore P.C. 347*, later cited in *Maulavi Hussein Haji Abraham v/s State of Gujarat, reported in AIR 2004 SC 3946*, and *Sangeeta Singh v/s Union of India, reported in (2005) 7 SCC 484*.



P-13. Shri Dhandodkar learned counsel further referred to the Law Lexicon and Black's Law Dictionary definitions of **Casus Omissus** as "*a situation not provided for by statute or contract and therefore governed by common law.*" He emphasised that every modern statute is the result of deliberate legislative choice, and where Parliament has omitted a category, the omission must be treated as intentional.

P-14. Learned counsel referred to the interpretive decisions of Hon'ble Apex Court on Doctrine of casus omissus beginning with *Padma Sundara Rao v/s State of Tamil Nadu reported in (2002) 3 SCC 533* wherein it was held that courts cannot read words into a statute or supply omissions and *M/s Grasim Industries Ltd. V/s Collector of Customs, Bombay reported in (2002) 4 SCC 297* wherein the Hon'ble Apex Court reaffirmed that a construction rendering any portion redundant must be eschewed. The same line of reasoning was latter reiterated in *Shiv Shakti Co-operative Housing Society v/s Swaraj Developers reported in (2003) 6 SCC 659* holding that no ground exists for adding to or altering plain statutory words; *M/s Castrol India Ltd. v/s R.S. Joshi reported in (2003) 8 SCC 289* and *Balbir Singh v/s Union of India reported in (2004) 5 SCC 427* wherein the Hon'ble Apex Court reiterated that casus omissus must not be readily inferred.

P-15. Learned counsel also referred to *Babita Lila v/s Union of India, reported in (2016) 9 SCC 647*, and *Petroleum & Natural Gas Regulatory Board v/s Indraprastha Gas Ltd., reported in (2015) 9 SCC 209*. Taking support from the above decisions, learned counsel submitted that Section 16 of the 2007 Act, by expressly limiting the appellate right to "any senior citizen or a parent", displays a deliberate legislative omission of children or relatives, and to insert them judicially



would amount to creating a casus omissus where none exists. In beneficial statutes, too, courts must remain within the bounds of textual intent, and therefore, the appellate right cannot be extended by analogy or equitable sympathy and stands circumscribed only by the express legislative words.

P-16. Learned counsel then proceeded to place before this court a detailed comparative analysis of judicial pronouncements from various High Courts, highlighting the divergent interpretative approaches taken with respect to the scope and extent of the appellate remedy under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It was his submission that the said provision has been construed differently across jurisdictions giving rise to two distinct lines of authority - first, a restrictive interpretation that confines the appellate right exclusively to the senior citizen or parent and second, a broader reading which extends the right of appeal to any person aggrieved by the order of the Tribunal, including children, relatives or third parties.

P-17. In support of the restrictive view, learned counsel referred first to the Division Bench decision of the Madras High Court in *K. Raju v/s Union of India* reported in *2021 SCC OnLine Mad 746*, wherein the Madras High Court interpreted Section 16 as conferring the right of appeal solely upon a senior citizen or a parent. The Bench observed that the plain language employed by the Legislature is both specific and exhaustive and does not admit of any expanded construction. The Bench held that had Parliament intended to provide an appellate right to "any aggrieved person", it would have expressly done so. Notably, the Court emphasised that the proviso to Section 16, which deals with the



suspension of maintenance during appeal, applies only when the appeal is instituted by a senior citizen or parent, thereby confirming the legislative intent to exclude all other classes from the appellate fold.

P-18. This position was reiterated by a Division Bench of the Karnataka High Court in *Sri K. Lokesh v/s Bangalore District Maintenance and Welfare of Parents and Senior Citizens Appellate Tribunal in WA No. 254 of 2024*, wherein the Karnataka High Court reaffirmed the principle that statutory interpretation must adhere to the express language of the enactment. Karnataka High Court cautioned against judicial overreach by supplying words not found in the text and declared that the absence of a negative prohibition does not give rise to a positive entitlement. The Bench expressly declined to follow the contrary view adopted by the Punjab and Haryana High Court in *Paramjeet Kumar Saroya (supra)* and concluded that "Section 16 of the Act can be invoked only by a senior citizen or a parent, the right of appeal under Section 16 is not available to any other party."

P-19. The same line of reasoning found affirmation in the Division Bench decisions of this court in *Smt. Shilpi v/s Shakuntala reported in 2022 SCC OnLine MP 3312*, wherein the Court dealt with a case involving eviction sought by a ninety-year-old woman against her relatives. The Tribunal had passed an order in her favour, which was challenged in an appeal by the aggrieved relatives. The Division Bench held that the right of exclusive residence and possession under the Act is granted to senior citizens to ensure their dignity and welfare, and that this legislative objective cannot be diluted by permitting collateral challenges from children or third parties. The court held that the Tribunal's jurisdiction is not intended to reopen broader civil disputes



and that appeals under Section 16 are confined to senior citizens or parents for whose benefit the law was enacted.

P-20. A similar conclusion was reached by this court in *Dilip Marmat v/s Collector reported in 2025 SCC OnLine MP 786*, where the Division Bench upheld the exclusive nature of the appellate remedy under Section 16. The Court placed reliance on the decisions of the Supreme Court in *Sudesh Chhikara v/s Ramti Devi reported in 2022 SCC OnLine SC 1684* and *Urmila Dixit v/s Sunil Sharan Dixit reported in 2025 SCC OnLine SC 2*, wherein it was affirmed that the 2007 Act is intended to provide a speedy, simple and efficacious remedy to senior citizens. The Court held that expanding the right of appeal to persons other than those expressly mentioned in the provision would frustrate the underlying purpose of the statute and give rise to avoidable procedural delays.

P-21. In contrast, learned counsel acknowledged that a broader interpretation has been adopted in certain jurisdictions, such as in *Paramjeet Kumar Saroya v/s Union of India reported in AIR 2014 P&H 121*, wherein the Punjab and Haryana High Court held that in the absence of an express prohibition, the right of appeal could be extended to any aggrieved person. Similarly, the Bombay High Court in *Riddhi v/s Pratibha reported in 2024 SCC OnLine Bom 1690* and in *Jagdish Pitambar Pawar v/s Pitambar Pundalik Pawar in W.P. No. 36 of 2023* adopted a liberal interpretation in favour of granting appellate access to all parties affected by orders of the Tribunal. These decisions relied on equitable reasoning that justice and fairness require the availability of an appellate remedy to all persons whose rights may be impacted.

P-22. However, disagreeing with this line of authority, learned counsel



submitted that the restricted view as enunciated in the decisions of the Madras, Karnataka and this Court is doctrinally sound and legally sustainable. Learned counsel urged that the wider interpretation rests on impermissible assumptions of legislative omission and is contrary to the established rule against judicial legislation. Learned counsel contended that the omission to include "any aggrieved person" in Section 16 is deliberate and must be respected as a conscious legislative choice. To hold otherwise would violate the doctrine of casus omissus and transgress the outer bounds of interpretive legitimacy.

P-23. Learned counsel further submitted that the decisions in *Smt. Shilpi (supra)* and *Dilip Marmat (supra)*, both rendered by Division Benches of this Court, are in faithful alignment with the text, context and constitutional objectives of the 2007 Act. Learned counsel submitted that these decisions have preserved the protective structure of the Act without enabling reciprocal or adversarial rights to those very persons against whom relief is statutorily contemplated. Learned counsel thus prayed that this court hold that only a senior citizen or a parent may maintain an appeal under Section 16 of the Act.

**SUBMISSION BY SHRI ROMESH, DEPUTY SOLICITOR GENERAL**

P-24. Shri Romesh Dave learned counsel submitted that the right to file an appeal under this section is not open to everyone. It is a special and limited right given only to a "senior citizen or a parent" and not to any other person, such as a child, relative, or third party. Learned counsel began by pointing to the clear wording of Section 16(1) of the Senior Citizens Act, 2007 to submit that these words are simple, direct, and restrictive and Parliament had used precise language to limit who



may appeal i.e.....only senior citizens and parents which shows that the Legislature meant to give the right of appeal only to those two groups and not to anyone else.

P-25. Learned counsel further submitted that when the law is clear, the Court must read it as it is. The first rule of interpretation is to follow the plain meaning of the words. If the Legislature had intended to include others, it would have said so. Expanding the provision by adding words that Parliament did not use would amount to judicial legislation, which would change a simple, protective law into a complex and technical process. Learned counsel submitted that the purpose of the Senior Citizens Act, 2007, is to help old and helpless people quickly and simply, without long legal fights, but if the courts allow others, like children or relatives, to appeal, it will turn a quick and protective system into a slow and complex one.

P-26. Learned counsel submitted that the Senior Citizens Act, 2007, is a social welfare law created to protect and support elderly parents and senior citizens who cannot maintain themselves. Learned counsel submitted that every feature of the Act, such as summary inquiries, conciliation by the Tribunal, limited legal representation and shorter time limits, was incorporated in the Act by the Parliament to ensure a speedy and simple process. Learned counsel further submitted that the appellate stage was meant only to allow elderly claimants to get quick correction of errors and not to give opportunity for the children or relatives to delay justice. If every respondent could appeal, it would create delay, increase extra cost and unnecessary complications, defeating the very object of the law.

P-27. Learned counsel submitted that the Parliamentary record clearly



shows that lawmakers never intended to allow anyone other than senior citizens or parents to appeal. During the parliamentary debates, there were discussions about how the Tribunal should work and how quickly relief should be given, but there was no suggestion to allow appeals by respondents or third parties. Learned counsel submitted that this silence is not accidental but is a deliberate choice by Parliamentary lawmakers who wanted the law to stay simple and elderly-focused and not become another technical and time-consuming legal process. Hence, Section 16 must be read as a conscious restriction meant to prevent long litigation and to protect the rights of the elderly.

P-28. Learned counsel submitted that, from a practical point of view, allowing all "aggrieved" persons to appeal would undermine the purpose of the act. For instance, usually the people directed to pay maintenance are children or relatives, and if they are allowed to go into an appeal in every case, the elderly would be forced into long and tiring court battles, which is not the intention of the statute. Learned counsel also submitted that the proviso to Section 16, requiring that payment must continue during the appeal, was never meant to expand the right of appeal but only to ensure that the elderly person continues to receive maintenance while the appeal filed by the senior citizen is pending, and it cannot be used as a reason to give everyone a right of appeal.

P-29. Learned counsel discussed the contrary judgment of the Punjab & Haryana High Court in *Paramjit Kumar Saroya (supra)*, wherein the court had allowed even children and relatives to appeal. Learned counsel submitted that this decision is not correct because it relied on two principles, purposive interpretation and casus omissus, to create a right that the Legislature never intended.



P-30. Learned counsel humbly submitted that the High Court had reasoned that to avoid hardship, both these principles must be used; however, this is incorrect because Parliament did not forget to include other appellants, but it chose not to include them. The omission was intentional and not accidental, and the omission was done as Parliament wanted finality, not multiple appeals and hence *Paramjit Kumar Saroya (supra)* should not be treated as a persuasive authority.

P-31. Learned counsel concluded that the words, structure, and purpose of Section 16 all point to one conclusion that the right of appeal belongs only to a senior citizen or a parent. This limited construction best serves the purpose of the Act, which is to give elderly people a quick and affordable remedy. Allowing others to appeal would frustrate that purpose and reopen the door to lengthy litigation. Hence, learned counsel urged that this court hold that an appeal under Section 16 of the Senior Citizens Act, 2007, is maintainable only at the instance of a senior citizen or a parent and that the view of the Punjab & Haryana High Court in *Paramjit Kumar Saroya* should not be followed as it goes beyond what Parliament intended.

#### **SUBMISSIONS BY ADDITIONAL ADVOCATE GENERAL**

S-1. Shri Anand Soni, Learned Additional Advocate General appearing for the state, submitted that the question referred to the larger bench must be resolved through an interpretation that furthers the remedial object of the Act, harmonises its structure and accords to all constitutional guarantees of equality and fairness. Learned A.A.G. submitted that the Senior Citizens Act, 2007, is a piece of beneficial social legislation intended to provide summary and effective protection to parents and senior citizens. Sections 7 and 16 of the Senior Citizens



Act, 2007, when read together, form an integrated procedural code wherein Section 7 creates a Maintenance Tribunal while Section 16 establishes limited appellate supervision, and thus read as a whole, the design of the statute is to secure substantive justice through speed, not to restrict procedural fairness.

S-2. Referring to the statutory language, Learned A.A.G. submitted that Section 16(1) which, on a literal reading appears to confer a right of appeal upon "any senior citizen or parent" however emphasized that the first proviso of Section 16 which requires that "*on appeal, the children or relative who is required to pay any amount shall continue to pay to such parent the amount so ordered*" plainly contemplates that the appellant could also be a child or relative meaning thereby if this interpretation is not adopted, the proviso would otherwise become nugatory which violates the established rule that no word or clause of a statute should be rendered superfluous and relied on ***RBI v/s Peerless General Finance reported in (1987) 1 SCC 424***.

S-3. Learned A.A.G. submitted that the omission is not deliberate but accidental and is a *casus omissus* which the Courts are empowered to reconcile through purposive construction. Reliance was placed on ***Board of Muslim Wakfs (Rajasthan) v/s Radha Kishan reported in (1979) 2 SCC 468*** wherein the Hon'ble Apex Court held that a construction defeating a remedial purpose must be eschewed and further also relied on ***Gujarat Urja Vikas Nigam Ltd. v/s Essar Power Ltd. reported in (2008) 4 SCC 755*** wherein the Hon'ble Apex Court recognized the permissibility of "exceptional construction" to prevent absurd or unjust results.

S-4. Learned A.A.G. also relied on the **Maintenance and Welfare of**



**Parents and Senior Citizens (Amendment) Bill, 2019**, which proposes to substitute the words "senior citizen or parent" with "senior citizen, parent, child or relative." Although the Bill is pending, Learned A.A.G. urged that it furnishes persuasive evidence of legislative intent and reveals that Parliament itself considered the omission inadvertent. Learned A.A.G. submitted that under the mischief rule of **Heydon's Case**, courts may adopt an interpretation that suppresses the mischief and advances the remedy, and the 2019 Bill demonstrates that the mischief lay in one-sided appellate access. Thus, even without the amendment, Section 16 must be construed in a manner that causes the legislative correction.

S-5. Turning to precedents, learned A.A.G. traced two divergent interpretive lines. The literal line as reflected in the decision of Madras High Court in *K. Raju v/s Union of India* reported in *W.P. No. 29988 of 2019*, the decision of the Karnataka High Court in *K. Lokesh (supra)*, the decisions of this court in *Anil Choupda (supra)* and *Smt. Anuradha Pathak (supra)*, wherein the courts have confined the right of appeal to senior citizens and parents on the principle that a right of appeal is purely statutory. In contrast, the purposive line commencing with the decision of Punjab and Haryana High Court in *Paramjeet Kumar Saroya (supra)*, the decisions of Bombay High Court in *Jagdish Pitambar Pawar (supra)* and *Riddhi Dawle (supra)*, the decision of Delhi High Court in *Rakhi Sharma v/s State in W.P. No. 2895 of 2021*, the decision of Allahabad High Court in *Smt. Roopam (supra)* and the decision of this Court in *Nitin Jat (supra)*, wherein the courts have read Section 16 as permitting an appeal by any affected party. Learned A.A.G. submitted that these latter judgements give life to the first



proviso, avoid procedural anomaly and conform to the remedial nature of the enactment.

S-6. Learned A.A.G., then relying on **the Doctrine of *Purposive Construction*, Doctrine of *Harmonious Construction* and Doctrine of *Casus Omissus***, submitted that courts cannot ordinarily supply omissions; however, where an omission is clearly unintended and ignoring it would defeat the object of the statute, the judicial supplementation is permissible. Learned A.A.G. also relied on the Doctrine of Equality of Arms and Natural Justice to submit that procedural fairness demands parity of appellate opportunity. Learned A.A.G. placed reliance on ***State of West Bengal v/s Anwar Ali Sarkar reported in (1952) 1 SCC 1*** to submit that a classification conferring appeal rights only upon one side, though both are parties to the same quasi-judicial proceeding, violates Article 14. Learned A.A.G. submitted that the present classification in the Senior Citizens Act, 2007, lacks rational nexus to the object of the statute since the welfare of elders can be protected even while granting limited appellate access to the opposite side under protective conditions.

S-7. Learned A.A.G. to reinforce that extending appellate access would not undermine but rather strengthen the protective scheme, drew parallels with other beneficial enactments such as under **Section 29 of the Protection of Women from Domestic Violence Act, 2005**, where appeals lie "by the aggrieved person or the respondent" yet interim protection orders under **Section 23** continue pending appeal. Under the **Consumer Protection Act, 2019**, in **Sections 41, 51, and 67** and the **Real Estate (Regulation and Development) Act, 2016**, in **Sections 43(5) and 58**, appeals are open to "any person aggrieved", but protective



asymmetries such as pre-deposit obligations on the opposite party are safeguarded for the beneficiary class. Similarly, **Section 173 of the Motor Vehicles Act, 1988** and **Section 30 of the Employees' Compensation Act, 1923**, provide reciprocal rights of appeal subject to deposit or substantial-question-of-law requirements. These acts demonstrate a legislative pattern of appellate powers given to both sides combined with protective measures, whereas Section 16, by contrast, is a one-sided provision that the 2019 Bill explicitly seeks to correct.

S-8. Further invoking comparative and constitutional analogy, Learned A.A.G. referred to the evolution of appellate rights under criminal procedure. Historically, only the State could appeal an acquittal under Section 378 CrPC, but the 2009 amendment inserted a proviso to Section 372, granting victims a right to appeal and placed reliance on *Mallikarjun Kodagali v/s State of Karnataka reported in (2019) 2 SCC 752*. Learned A.A.G. submitted that this development illustrates how procedural parity enhances legitimacy without undermining protection of the beneficiary class, and this same rationale applies to children or relatives under the Senior Citizen Act, 2007, whose property and livelihood rights are protected under Articles 21 and 300-A and may be directly affected by Tribunal orders. Thus, the **Doctrine of Fair Procedure** demands an appellate forum for both sides.

S-9. Learned A.A.G. submitted that recognising appeals by "any aggrieved person" does not dilute the welfare orientation of the Act because the continuation of payment proviso already secures the maintenance /subsistence allowance of the senior citizen pending appeal, and Rule 19 of the M.P. Senior Citizen Rules, 2009 ensures expedited disposal. Rather, an appeal by both parties enhances the



finality and accuracy of decisions, which ultimately reinforces elder protection. Thus, Learned A.A.G. prayed that this court adopt a purposive-harmonious interpretation, declaring that appeals by children or relatives are maintainable.

**SUBMISSION BY SHRI VIVEK SHARAN, SENIOR ADVOCATE FOR RESPONDENT NO.1**

R-1. Shri Vivek Sharan, learned senior counsel, submitted that the central question referred by the learned Single Bench – "*whether an appeal under Section 16(1) is available only to a senior citizen or a parent or to any aggrieved person*" must be answered in favour of a liberal construction extending the appellate remedy to all persons directly affected by the order. Restricting the right of appeal solely to parents or senior citizens would create a situation where children, relatives or transferees against whom an erroneous order is passed under Section 23 are all left without an efficacious remedy, which cannot be the legislative intent of a welfare enactment.

R-2. Learned senior counsel submitted that the judgments referred to in the order of reference itself reveal a clear divergence among High Courts, but the dominant view favours the inclusive interpretation. Learned senior counsel referred decisions of this court and various other high courts, such as *Anil Choupa (supra)*, *Smt. Roopam (supra)*, *Nitin Jat (supra)*, *Smt. Anuradha Pathak (supra)*, *Jagdish Pitamber Pawar (supra)* and *Riddhi v/s Pratibha reported in 2024 SCC OnLine Bom 1690*, wherein all these decisions, the courts have recognised that the right of appeal should be available to any aggrieved person. Learned senior counsel further relied particularly on *Paramjeet Kumar Saroya (supra)*, wherein the Punjab and Haryana High Court treated the



omission of the words "children or relatives" in Section 16 as a *casus omissus* and read them into the provision to prevent injustice. Learned senior counsel submitted that the only contrary view is that of the Division Bench of the Karnataka High Court in *Sri K. Lokesh (supra)*, which learned senior counsel humbly submitted that proceeds on a hyper-literal construction and should not be followed.

R-3. Learned Senior Counsel pointed out that Section 16(1) of the Senior Citizens Act, 2007, suffers from textual ambiguity. The phrase "*any senior citizen or a parent*" appears restrictive, yet when read with Sections 23 and 27, it becomes clear that the Act contemplates orders directly affecting third parties - children or transferees excluding them from the appellate remedy would render the statute unbalanced and arbitrary, contrary to the principles of fairness under Articles 14 and 300-A of the Constitution. Hence, the provision must be construed to confer a remedy on any aggrieved person.

R-4. Learned Senior Counsel further submitted that the parliamentary debates on the amendment bill expressly acknowledged the need to extend the right of appeal to children and relatives and proposed insertion of those words in Section 16(1) of the Senior Citizens Act, 2007, demonstrating that the legislative intention was always to make the remedy available to all aggrieved parties. This amendment is clarificatory and hence must be applied retrospectively.

R-5. Learned Senior Counsel then elaborated on the doctrine of *casus omissus*, contending that where an omission is clearly inadvertent and supplying it is essential to give effect to the legislative purpose, the court is competent to read the statute accordingly. Learned senior counsel relied upon the following judgements of Hon'ble Apex Court:



***Child in Conflict with Law v/s State of Karnataka reported in (2024) 8 SCC 473), Singareni Collieries Co. Ltd. v/s Vemuganti Ramakrishnan Rao reported in (2013) 8 SCC 789, Union of India v/s Rajiv Kumar reported in (2003) SCC OnLine 710), Sangeeta Singh v/s Union of India reported in (2005) 7 SCC 484), Union of India v/s Shardinu reported in (2007) 6 SCC 276) and Prakash Gupta v/s SEBI reported in (2021) 17 SCC 451).*** Relying on the above judgments, learned senior counsel submitted that the courts must justly supply an omission, where the legislative purpose would otherwise be defeated, especially in beneficial statutes like the present one.

R-6. Learned Senior Counsel also cited ***Grid Corporation of Orissa Ltd. v/s Eastern Metals and Ferro Alloys reported in (2011) 11 SCC 334*** and ***Shailesh Dhairyawan v/s Mohan Balkrishna Lulla reported in (2016) 3 SCC 619*** to reiterate that a purposive construction should be preferred to a literal one where the latter defeats the object of the statute and also cited *S. Vanitha (supra)* wherein it was held that courts must read social-welfare legislation liberally to effectuate its purpose. In conclusion, learned senior counsel submitted that Section 16 must be interpreted in a manner that advances the object of the Act and ensures fairness to all affected parties and that the omission of the words "children or relatives" is a curable *casus omissus*.

### **APPRECIATION & CONCLUSION**

A-1 The question which we are required to answer is "whether an appeal under Section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is maintainable only at the instance of any senior citizen or a parent, or it is maintainable at the instance of any aggrieved person ?"



A-2. The Senior Citizen Act, 2007, is an act to provide more effective provisions for the maintenance and welfare of parents and senior citizens, which is granted and recognised under the Constitution. The Definition 2(d) defines the word "parent" means a father or mother, whether biological, adoptive or stepfather or stepmother, irrespective of whether they are a senior citizen or not, because it is separately defined in Definition 2 (h), according to which a citizen of India who has attained the age of 60 years or above. Therefore, as per these two definitions, there are only two categories of persons, i.e. parent and senior citizen, for whose benefits this Act has been promulgated.

A-3. Definition 2(a) defines the "children" which includes son, daughter, grandson and grand-daughter, and all should be major. Apart from children, the "relative" under Definition 2(g) means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death.

A-4. Definition 2(j) defines the "Tribunal" which is constituted under Section 7, and it is called the Maintenance Tribunal. Since this act deals with the welfare of parents and senior citizens, the welfare is also defined in Definition 2(k), which is provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

A-5. By virtue of Section 3, this Act has been given overriding effect over all enactments, keeping in mind the welfare intention behind its enactment.

A-6. Chapter II deals with the "Maintenance of Parents and Senior Citizens. Section 4 deals with the maintenance of a parent and a senior citizen who is unable to maintain himself from his own earnings or property owned by him. They can make an application under Section 5



against one or more of their children and against such relatives referred to in Clause (g) of Section 2 if they have no children. Section 4(3) & (4) casts an obligation upon children and relatives, as the case may be, to maintain parents or senior citizens, as the case may be, having sufficient means. Therefore, the children have not been given any option to deny, but are under an obligation to maintain their parents and the senior citizens, as the case may be.

A-7. Under Section 5, the cognizance by the Tribunal can be taken *suo motu* or on an application preferred by senior citizens or parents, as the case may be. Sections 5 & 6 further provide the procedure and jurisdiction of a Maintenance Tribunal. In this procedure, the children or the relatives get a complete opportunity to defend themselves against their parents or senior citizens.

A-8. Section 7 provides for the establishment of the Maintenance Tribunal, under which the State Government notify in the official gazette about the constitution of each Sub-division one or more Tribunals, and such Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State. The procedure to be adopted for conducting an inquiry under Section 5 shall be a summary procedure with all powers of the 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, etc. After completing the procedure, the order of maintenance is liable to be passed under Section 9. Section 9(2) provides for minimum maintenance, which shall not exceed ten thousand rupees per month. Section 11 gives power to enforce the order of maintenance.

A-9. There is a provision of the constitution of the Appellate Tribunal



under Section 15, under which the State Government may, by notification in the Official Gazette, constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal, which shall be presided over by an officer not below the rank of District Magistrate. Section 15 is reproduced below:-

**"15. Constitution of Appellate Tribunal**

1. The State Government may, by notification in the Official Gazette, constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal.
2. The Appellate Tribunal shall be presided over by an officer not below the rank of District Magistrate."

A-10. As per Section 15, the constitution of the Appellate Tribunal is only to hear the appeal against the order of the Tribunal. Section 16, which requires consideration/ interpretation in this case, as to who can file an appeal before the Appellate Tribunal. For ready reference, Section 16 is reproduced below:-

**"16. Appeals**

1. Any senior citizen or a parent, as the case may be, aggrieved by an order of a 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:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the murmer directed by the Appellate Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal alter the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

2. On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.
3. The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.
4. The Appellate Tribunal may, after examining the appeal and the records called for either allow or reject the appeal.



5. The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final:

Provided that no appeal shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorised representative.

1. The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

2. A copy of every order made under sub-section (3) shall be sent to both the parties free of cost."

A-11. As per plain and simple language of Section 16(1), the right to file an appeal is given only to **a senior citizen** or **a parent**, as the case may be, aggrieved by an order of a Tribunal, within sixty days from the date of the order. As per the proviso, the Appellate Tribunal has the power to entertain the appeal beyond the period of sixty days if the appellant was prevented by sufficient cause. On receipt of the appeal, the Appellate Tribunal shall cause a notice to be served upon the **respondent**. In the appeal. The Appellate Tribunal has the power to call the record of a Maintenance Tribunal.

A-12. Sub-section (4) of section 14 gives a power to the Appellate Tribunal to either **allow or reject** the appeal. It is important to note here that the Appellate Tribunal has not given power to set aside or quash the order of the Tribunal because the same is in favour of the parents or a senior citizen. By reading Section 16(1) & (4) conjointly, it gives impression that in the appeal filed by senior citizens or parents the order of Tribunal by which their case has either been dismissed or less amount of maintenance has been fixed, the Appellate Tribunal after examining the appeal and the record, may either allow the appeal by granting maintenance or enhanced it or maintained the order of Tribunal as the case may be.

A-13. Learned senior counsel for the petitioner submitted that the



proviso to section 16(1) of the Act gives the impression that the children or relatives can also prefer an appeal because during the pendency of the appeal, they are continued to pay such maintenance amount so ordered. We are of the opinion that this proviso has been inserted to deal with the situation that, in case of enhancement claimed by the parent in the appeal, the children will continue to pay the maintenance, and, as part of that, the Appellate Tribunal has not been given any power to stay the order of the Tribunal. Even if the senior citizens or parents file an appeal, that will not operate to stay on the order of the Tribunal, and children and relatives are liable to pay the maintenance during the pendency of the appeal. Therefore, Section 16(1) confines the right of appeal only to senior citizens or parents, not to children or relatives. The Appellate Tribunal, in an appeal, either allow the appeal or rejects the appeal, maintaining the order of the Tribunal.

A-14. Again, emphasis has been laid on sub-section (5) of Section 16, which gives authority to the Appellate Tribunal to adjudicate or decide the appeal against the order of the Tribunal unless the opportunity has been given to both parties. Even if it is provided in the Act, it goes without saying. If the appellate authority is constituted and power has been given to entertain the appeal, then naturally the Appellate Authority / Tribunal is liable to adjudicate and decide the appeal by giving an opportunity to both parties. There is any intention of Parliament that the right to file an appeal has been given to children or relatives. Since this Act has been enacted for the welfare of the parents and senior citizens, therefore, the Appellate Authority is required to pass the order within one month from the date of receipt of the appeal, and there is a finality of the order.



A-15. It has been brought on record that now a bill has been prepared to be presented before the Parliament for amendment in Section 16(1) for the purpose of giving right of appeal to the children and relatives, meaning thereby, the Government is conscious that at present such a right is not available in Section 16(1), therefore, such an amendment is required. Hence, unless the bill is passed and the right to file an appeal is given to the children and relatives, no appeal would be maintainable at the instance of aggrieved persons.

A-16. Recently, the Apex Court in the case of *Urmila Dixit (supra)* has discussed the intention of the Central Government behind bringing this Act as beneficial legislation. Paragraphs 8 to 18 are reproduced below:-

"8. To answer the issue at hand, it is imperative for this Court to discuss the rules of interpretation to be applied when interpreting a beneficial legislation akin to the Act at hand. While dealing with certain provisions of the *Motor Vehicles Act, this Court, in Brahmopal v. National Insurance Company*, observed that a beneficial legislation must receive a liberal construction in consonance with the objectives that the concerned Act seeks to serve.

9. This Court in *K.H. Nazar v. Mathew K. Jacob* reiterated the above expositions and stated that:

"11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335]

...

13. While interpreting a statute, the problem or



mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances the remedy should be adopted. [Indian Performing Rights Society Ltd. v. Sanjay Dalia, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] . It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48: (2008) 237 CLR 285], Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly.”

(emphasis supplied)

10. More recently, in *Kozyflex Mattresses (P) Ltd. v. SBI General Insurance Co. Ltd.*, this Court held the definition of a consumer under the Consumer Protection Act, 1986 to include a company or corporate person in view of the beneficial purpose of the Act.

11. While considering the provisions of the Medical Termination of Pregnancy Act, this Court in *X2 v. State (NCT of Delhi)*, reiterated that interpretation of the provisions of a beneficial legislation must be in line with a purposive construction, keeping in mind the legislative purpose. Furthermore, it was stated that beneficial legislation must be interpreted in favour of the beneficiaries when it is possible to take two views.

12. It is in the above background that we must proceed to examine the Act. The statement of object and reasons of the Act indicates the purpose behind the enactment, as relied upon by this Court in *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District and Ors.*, is:

“Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family.



Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.”

13. The preamble of the Act states that it is intended towards more effective provisions for maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution.

14. Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be interpreted and a construction that advances the remedies of the Act must be adopted.

15. Before advertent to the provisions of the Act, we must be cognizant of the larger issue that this case presents, i.e., the care of senior citizens in our society. This Court in *Vijaya Manohar Arbat Dr v. Kashirao Rajaram Sawai and Anr.* highlighted that it is a social obligation for both sons and daughters to maintain their parents when they are unable to do so.

16. In *Badshah v. Urmila Badshah Godse and Anr.*, this Court observed that when a case pertaining to maintenance of parents or wife is being considered, the Court is bound to advance the cause of social justice of such marginalised groups, in furtherance of the constitutional vision enshrined in the preamble. Recently, this exposition came to be reiterated in *Rajnesh v. Neha and Another*.

17. While issuing a slew of directions for the protection of senior citizens in *Ashwani Kumar v. Union of India*, this Court had highlighted:

“3. The rights of elderly persons is one such emerging situation that was perhaps not fully foreseen by our Constitution-framers. Therefore, while there is a reference to the health and strength of workers, men and women, and the tender age of children in Article 39 of the Constitution and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want in Article 41 of the



Constitution, there is no specific reference to the health of the elderly or to their shelter in times of want and indeed to their dignity and sustenance due to their age.

4. Eventually, age catches up with everybody and on occasion, it renders some people completely helpless and dependent on others, either physically or mentally or both. Fortunately, our Constitution is organic and this Court is forward looking. This combination has resulted in path-breaking developments in law, particularly in the sphere of social justice, which has been given tremendous importance and significance in a variety of decisions rendered by this Court over the years. The present petition is one such opportunity presented before this Court to recognise and enforce the rights of elderly persons—rights that are recognised by Article 21 of the Constitution as understood and interpreted by this Court in a series of decisions over a period of several decades, and rights that have gained recognition over the years due to emerging situations.”

(emphasis supplied)

18. Keeping in mind the beneficial intention of the statute and the above expositions, we now proceed to consider the issue at hand."

A-17. In the aforesaid judgment, the Apex Court has finally concluded that the Senior Citizen Act is a beneficial piece of legislation aimed at securing the rights of senior citizens, and in this backdrop, it must be interpreted, and a construction that advances the remedies of the act must be adopted. At this stage it is necessary to look into the verdict of the the Supreme Court of India given in the case of *Renaissance Hotel Holdings Inc. v/s B. Vijaya Sai reported in (2022) 5 SCC 1* as under:-

"67. Another principle that the High Court has failed to notice is that a part of a section cannot be read in isolation. This Court, speaking through A.P. Sen, J., in *BalasinorNagriik Coop. Bank Ltd. v. Babubhai Shankerlal Pandya* [*BalasinorNagriik Coop. Bank Ltd. v. Babubhai Shankerlal Pandya*, (1987) 1 SCC 606] , observed thus : (SCC p. 608, para 4)

“4. ... It is an elementary rule that construction of a section is to be made of all parts together. It is not permissible to omit any part of it. For, the principle that



the statute must be read as a whole is equally applicable to different parts of the same section.”

This principle was reiterated by this Court in *Kalawatibai v. Soiryabai* [*Kalawatibai v. Soiryabai*, (1991) 3 SCC 410] : (SCC p. 418, para 6)

“6. ... It is well settled that a section has to be read in its entirety as one composite unit without bifurcating it or ignoring any part of it.”

66. It is thus trite law that while interpreting the provisions of a statute, it is necessary that the textual interpretation should be matched with the contextual one. The Act must be looked at as a whole and it must be discovered what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. As already discussed hereinabove, the said Act has been enacted by the legislature taking into consideration the increased globalisation of trade and industry, the need to encourage investment flows and transfer of technology, and the need for simplification and harmonisation of trade mark management systems. One of the purposes for which the said Act has been enacted is prohibiting the use of someone else's trade mark as a part of the corporate name or the name of business concern. If the entire scheme of the Act is construed as a whole, it provides for the rights conferred by registration and the right to sue for infringement of the registered trade mark by its proprietor. The legislative scheme as enacted under the said statute elaborately provides for the eventualities in which a proprietor of the registered trade mark can bring an action for infringement of the trade mark and the limits on effect of the registered trade mark. By picking up a part of the provisions in sub-section (4) of Section 29 of the said Act and a part of the provision in sub-section (1) of Section 30 of the said Act and giving it a textual meaning without considering the context in which the said provisions have to be construed, in our view, would not be permissible. We are at pains to say that the High Court fell in error in doing so.

65. We find that the High Court has failed to take into consideration two important principles of interpretation. The first one being of textual and contextual interpretation. It will be apposite to refer to the guiding principles, succinctly summed up by Chinnappa Reddy, J., in the judgment of this Court in *RBI v. Peerless General Finance & Investment Co.*



Ltd. [RBI v. Peerless General Finance & Investment Co. Ltd., (1987) 1 SCC 424] : (SCC pp. 450-51, para 33)

“33. Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. It is by looking at the definition as a whole in the setting of the entire Act and by reference to what preceded the enactment and the reasons for it that the court construed the expression “Prize Chit” in Srinivasa [Srinivasa Enterprises v. Union of India, (1980) 4 SCC 507] and we find no reason to depart from the court's construction.”

A-18. In the case of *Suresh Chikara (supra)*, the Apex Court has held that the Senior Citizens Act, 2007, has been enacted for the purpose of making effective provisions, maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution. The maintenance Tribunal has been established under Section 7 to exercise various powers under the Act.

A-19. Learned Senior Counsel appearing for the writ petitioner submitted that the State Government has framed the rules in which Chapter III deals with the procedure prescribed for the Appellate Tribunal. As per Rule 15 M.P. Senior Citizen Rules, an appeal aggrieved



by an order of the Tribunal shall be filed before the Appellate Tribunal in Form 1. Therefore, in this rule, the word 'aggrieved' is used; thus, whosoever is aggrieved by the order of the Tribunal, may be children or a relative, may prefer an appeal. In the rule the word *aggrieved* is used because the same word is used in Section 16(1) of the Senior Citizen Act, 2007 which says that "any senior citizen or parent, as the case may be, *aggrieved* by an order", therefore, the word 'aggrieved' in Rule 15 is there only for an appeal to be filed by senior citizen or parent not by any person.

A-20. It is a settled law that the rules made under the act cannot give a new right or an expansion of right more than given in the parent act. The rule has to be read within the scope of the act. Section 32 of Senior Citizens Act, 2007 give a power to the State to make rules and as per sub-section (2), without prejudice to the generality of the foregoing power, the State Government may provide rule for holding an enquiry under Section 5 and sub-section (1) of Section 8 of the Act and the maximum maintenance allowance which may be ordered by the Tribunal under Section 9(2), therefore, no such power has been given to frame a rule for giving right of appeal by the State Government which has not been given by the Parliament under the Act. Thus, the contention of Shri Sharan, learned Senior Counsel for the respondent No.1, is not acceptable.

A-21. Learned Senior Counsel appearing for the respondent has laid down much emphasis on a judgment passed by Punjab and Haryana High Court in the case of *Paramjeet Kaur (supra)*, in which the Division Bench had held that Section 16(1) of the Senior Citizens Act, 2007 must read to provide for a right of appeal to any of affected person as there is



no negative provision in the act denying the right of appeal other than parents and senior citizen. The Writ Court of this High Court in the case of *Nitin Jaat (supra)* placed reliance on this judgment and remanded the matter back to the Appellate Tribunal to entertain the appeal filed by the children. Because of this order, the learned Writ Court in this matter has requested the Chief Justice to refer this issue to a Larger Bench. As discussed above, the language of Section 16(1) of the Senior Citizens Act, 2007, has to be read as it is without any addition or subtraction. Had there been any intention of the lawmakers to give a right of appeal to children or relatives, simply aggrieved person would have been used in Section 16. The entire act has been brought into force only for the welfare of senior citizens therein; therefore, the right to approach the Tribunal as well as the Appellate Tribunal has been given to them only.

A-22. The Division Bench of High Court of Bangalore in the case of *Sri K. Lokesh (supra)* has distinguished the Division Bench of the judgment passed by the Punjab and Haryana High Court in the case of *Paramjeet Kaur (supra)*, by observing that it is held by the Supreme Court that when right to appeal is not created, such right cannot be assumed by logical analysis or in a situation where there is no provision restricting such right to appeal. It is also observed that when the right to appeal is created/provided to a class, it is only to be understood that the other class is excluded or not provided by such an act. Para 44 & 45 are reproduced below:-

"44. Further, the principle that appeal being a statutory right and no party have a right to file appeal except in accordance with the prescribed procedure is well-settled. The right of appeal may be lost to a party in face of relevant provisions of law in appropriate cases. Thus, the right to appeal is not a right which can be assumed by logical analysis much less by exercise of inherent jurisdiction. It should essentially be



provided by the law in force. In absence of any specific provision creating a right in a party to file an appeal, such right can neither be assumed nor inferred in favour of the party.

45. The reasoning of the Punjab and Harayana High Court that there is no negative provision in the Act denying the right of appeal to other party cannot be countenanced. As observed herein-above, it is held by the Hon'ble Supreme Court that when right to appeal is not created, such right cannot be assumed by logical analysis or in a situation where there is no provision restricting such right to appeal. When right to appeal is created/provided to class, it is only to be understood that other class is excluded or not provided with such right. The provision need not in specific debar other class from right of appeal."

A-23. The last contention of the learned senior counsel for the petitioner is that if right of appeal is not given under Section 16 of the Senior Citizens Act, 2007, then they are remediless and they cannot approach even civil Court as the jurisdiction of civil Court is barred under Section 27, especially in respect of any matter to which any provision of this act applies. It is further submitted that even the civil Court cannot grant an injunction in respect of anything which is done or intended to be done by or under this Act. Shri Sharan, learned Senior Counsel for the respondent No.1 elaborated above submission that in a given facts and circumstances that where the learned Tribunal passes an order without authority or beyond the territorial jurisdiction or with a *malafide* intention without considering the other legal issue, in such situation, there would be no remedy of appeal for the children and they will have to comply the order of the tribunal.

A-24. Needless to advise them that the remedy of writ petition under Article 226 of the Constitution of India is always available to any citizen of this country to challenge the order of a statutory authority, quasi-judicial authority, tribunal, even a civil court, etc. All the matters which



travel up to the Supreme Court at the instance of the children or a relative, the writ petitions were filed in the High Court directly challenging the order of maintenance and all the writ petitions were maintained. Therefore, it cannot be said that if the right of appeal is not given to children or relatives, under Section 16 of the Senior Citizens Act, 2007, they are remediless. As discussed above, the purpose of the act is to provide more speedy and effective provisions for the maintenance and welfare of parents and senior citizens as guaranteed and recognised under the Constitution of India. Thus, two-tier remedies are provided under this act, the first is by way of a filing application before the Maintenance Tribunal, and the second is by way of an appeal before the Appellate Tribunal. If the Tribunal passes a favourable order or rejects the claim, then further remedy has been provided to the senior citizens or parents to go into the appeal either to seek modification, enhancement of the order passed by the Tribunal, or to get an order or maintenance against the rejection of the claim. Under Section 16(4), the Appellate Tribunal may either allow or reject the appeal, but the order of the Tribunal is not liable to be set aside or quashed if there is an order of maintenance. Under any circumstances, the children are duty-bound to maintain their parents.

C-1. In view of the above discussion, we respectfully disagree with the view taken by the Punjab and Haryana High Court in the case of *Paramjeet Kaur (supra)*, therefore, we are of the opinion that the view taken by the Single Bench of this Court in the case of *Nitin Jaat (supra)* is not a correct view hence, the same is hereby overruled.

C-2. We hereby answer the sole question of law ***that an appeal under Section 16 of the Maintenance and Welfare of Parents and***



***Senior Citizens Act, 2007, is maintainable only at the instance of any senior citizen or a parent, and it is not maintainable at the instance of any aggrieved person.***

Let the writ petition be listed before a Single Bench.

(VIVEK RUSIA)  
J U D G E

(BINOD KUMAR DWIVEDI)  
J U D G E

Ravi