

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.2353 of 2024**

1. Lakhan Lal Poddar, aged about 75 years, son of Late Raghunath Poddar, resident of Village Mamtagarha Bazar Tand, P.O. Ramgarh, P.S. Ramgarh, District Ramgarh, (Jharkhand).
2. Uma Rani Poddar, aged about 72 years, wife of Lakhan Lal Poddar resident of Village Mamtagarha Bazar Tand, P.O. Ramgarh, P.S. Ramgarh, District Ramgarh (Jharkhand).

Petitioners

Versus

1. The State of Jharkhand through the Deputy Commissioner, Ramgarh, having its office at Ramgarh, P.O. Ramgarh, P.S. Ramgarh, District Ramgarh.
2. The Sub-Divisional Officer, Ramgarh, P.O. Ramgarh, P.S. Ramgarh, District Ramgrah.
3. Jeetendra Poddar, aged about 42 years, son of Lakhan Lal Poddar.
4. Ritu Poddar, aged about 40 years, wife of Jeetendra Poddar.
SI. Nos. 3 and 4 are residents of Bazartand, Gola Road, P.O. Ramgarh, P.S. Ramgrah, District Ramgarh, Jharkhand.

Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Petitioners : Mr. Indrajit Sinha, Advocate
Ms. Puja Agarwal, Advocate
Mr. Akhouri Awinash Kumar, Advocate
For the Resp.-State : Mr. Nawal Kishor Pandey, AC to SC(L&C)-I
For Resp. Nos.3 & 4 : Mr. A. K. Sahani, Advocate

14/Dated: 10th February, 2026

1. Heard learned counsel for the parties.
2. The present writ petition has been filed for the following reliefs :-

(a) for issuance of an appropriate writ or any other appropriate writ(s), order(s) or direction(s) for quashing of the order dated 23.02.2024 (Annexure-10) passed by Deputy Commissioner, Ramgarh, in Appeal No. 89 of 2023, whereby and whereunder the respondent no.2 has been pleased to whimsically modified the order dated 23.11.2022 in Case No.2 of

2022 and has allowed Appeal No. 89 of 2023;

(b) for issuance of direction upon the Deputy Commissioner, Ramgarh and Sub-Divisional Officer, Ramgarh, to grant appropriate protection to the petitioners and to restrain the respondent nos. 3 and 4 from interfering with the peaceful use, occupation and possession of the house of the petitioners without any obstruction.”

3. It appears that the property, in question, is a self acquired property of the petitioners. The petitioner No.1 was employed in the Central Coalfields Limited and after his retirement, he is residing in the said house with his wife i.e. petitioner No.2. It is basically a dispute between the parents and the son.

The parents have made allegation that they are being maltreated and accordingly, they have filed a petition numbered as Maintenance Case No.2 of 2022 before the court of Sub-Divisional Magistrate, Ramgarh, who is a competent authority to get the house vacated for living the peaceful life, as the son and the daughter -in- law are torturing the petitioners. The said proceeding has been culminated in favour of the petitioners vide order dated 23.11.2022, directing the respondents i.e. the son and the daughter-in-law to vacate the house.

4. It further appears that the said order has been challenged by the respondents by filing a writ petition being W.P.(C) No.6058 of 2022 and the same has been disposed of by the Co-ordinate Bench of this Court vide order dated 16.08.2023. The order dated 16.08.2023 reads as under :-

The petitioners have filed this application for issuance of an appropriate writ/ order(s) direction particularly in the nature of Certiorari for quashing the order dated 23.11.2022 passed by respondent no.2 to Sub-Divisional Officer, Ramgarh, whereby and wherein, the respondent no. 2 on an application filed by the respondent nos. 3 and 4 directed the petitioners to vacate the house in question within 30 days in case no. 02/2022 under the provisions of Maintenance and Welfare of Parent and Senior Citizens Act, 2007.

It was submitted that an appeal against the aforesaid order will lie before the Deputy

Commissioner Ramgarh, who has been notified as Appellate Authority by notification dated 14.02.2009 issued by Social Welfare, Women and Child Development Department, Government of Jharkhand constituting the Appellate Tribunal.

Learned lawyer appearing for the petitioners seeks permission to withdraw this writ application, so as to move before the Appellate Authority.

Learned lawyer appearing on behalf of the respondent nos. 3 and 4 submitted that she has no objection if the matter is adjudicated by the appellate authority. However, the appellate authority should be directed to dispose of the appeal within a stipulated time period.

In view of the aforesaid facts, the petitioners are permitted to withdraw this application with liberty to prefer an appeal before the Deputy Commissioner Ramgarh, against the impugned order.

The petitioners are directed to file an appeal before the Appellate Tribunal within 15 days from today. The Appellate Tribunal shall dispose of the appeal within 3 months from the date of the appearance of the respondent nos. 3 & 4 after issuance of notice.

With this direction this writ petition is dismissed as withdrawn."

Thus, from mere perusal of the aforesaid order, it appears that with the consent of the parties, locus has been relaxed and the Deputy Commissioner, Ramgarh has been asked to decide the appeal.

5. This Court has framed the issue vide order dated 13.01.2026, which reads as under :-

"1. The only issue involved in the present writ petition is that whether by mandamus the right to appeal can be created or not?

2. Both the parties are directed to come prepared on the above issue to address this Court.

3. Prima facie, the order dated 23.02.2024, passed by the Deputy Commissioner, Ramgarh, in Appeal No.89 of 2023, as the appellate tribunal, at the instance of the respondents, is without jurisdiction and accordingly it is, hereby, stayed till further orders.

4. As prayed for, put up this case on 10.02.2026."

6. The law is settled that by mandamus, neither the authority can be created nor proceeding, rather it is only for culmination of a proceeding or for performance of duty in a prescribed manner following the prescribed procedure in accordance with law.

7. In the present case, the appellate authority is there,

created by the Statute and there is a prescribed procedure also, but the locus has not been given to the son, the only locus to prefer an appeal is with the senior citizens.

8. But, from mere perusal of the order, it appears that both the parties have agreed for relaxation of the locus and on that basis, the order dated 16.08.2023 has been passed by the Co-ordinate Bench of this Court in W.P.(C) No.6058 of 2022 and the appeal has been heard and decided accordingly.

9. In view of above discussions, this Court finds that there is no requirement to enter into the jurisdiction of the appellate proceeding in the present case, especially, in view of the fact that only locus has been relaxed and that too with the consent of the parties.

10. So far as merit of the case is concerned, the factual matrix is clear :-

- (i) the property, in question, is a self acquired property of the senior citizens i.e. the petitioners.
- (ii) there is allegation by the senior citizens and the same has been inquired into by the appellate authority and it has been found that there is serious property dispute also between the parties.

11. The jurisprudence under which the present Act has been created is ***The Maintenance and Welfare of Parents and Senior Citizens Act, 2007***. The aims and objects and Section 23(1) of the Act, 2007 reads as under :-

“An Act 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 or incidental thereto.

Be it enacted by Parliament in the Fifty-eighth year of the Republic of India as follows:-

Statement of Objects and Reasons. - *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.

2. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting-up oldage homes for providing maintenance to the indigent older persons.

The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.

3. The Bill, therefore, proposes to provide for:-

(a) appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens;

(b) providing better medical facilities to senior citizens;

(c) for institutionalisation of a suitable mechanism for protection of life and property of older persons;

(d) setting up of oldage homes in every district.

4. The Bill seeks to achieve the above objectives.

23. Transfer of property to be void in certain circumstances

(1). Where any senior citizen who, after the commencement of this Act, has by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal."

12. Thus, the jurisprudence is clear that it is for the benefit of the senior citizens. The mental harassment is more or less in the area of perception than the actual facts. Ascertaining the actual facts and interaction between the parties is a difficult area. The report collected by the appellate authority as well as the original authority, clearly suggests that there is a dispute and disliking for each other. The ambiance and finding clearly suggests that they cannot co-exist in the same house. When the co-existence in the same house is not possible then the mandate of law is clear that the house in question should be handed over to the senior citizen, who has acquired this property by working throughout his active life. At the last phase of the life, he needs a secure and peaceful

life. It is also the mandate of the Hon'ble Supreme Court, as has been held in para - 7, in the case of ***Kamalakant Mishra Vs. Additional Collector & Ors.***, reported in **(2025) SCC Online SC 2077**.

13. Thus, whatever claim of the son and daughter-in-law is there i.e. through inheritance and not otherwise. Every inheritance requires certain duty also. If the son and daughter-in-law wants to take some benefit of inheritance, then they are duty bound to give a proper ambience to the parents through whom the property is being claimed that they should feel secure and comfortable.

14. In view of above discussions, this Court finds that the order passed by the appellate authority dated 23.02.2024 (Annexure-10) is not as per the Aims and Object of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and the same is, hereby, set aside.

15. With above observation, the present writ petition stands disposed of.

16. Pending interlocutory application, if any, stands disposed of.

(Rajesh Kumar, J.)

10th February, 2026
Ravi-Chandan/-
Uploaded on 11.02.2026