

Court No. - 39

Case :- WRIT - C No. - 18408 of 2025

Petitioner :- Ishak

Respondent :- State of U.P. and 4 others

Counsel for Petitioner :- Akhilesh Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Arindam Sinha,J.

Hon'ble Dr. Yogendra Kumar Srivastava,J.

(Per : Dr. Yogendra Kumar Srivastava,J.)

1. Mr. Firdaus Ahmad, learned advocate holding brief of Mr. Akhilesh Kumar Singh appears on behalf of petitioner and submits, his client seeks direction upon respondent no.2 to ensure his life and property as is said respondent's duty under Rule 21 of UP Maintenance and Welfare of Parents and Senior Citizens Rules, 2014¹. On query he submits, his client wants to construct gate on his property but private respondent nos.2 to 5 are obstructing and holding out threats. His client is a senior citizen.

2. Mr. Gireesh Chandra Tiwari, learned advocate, Standing Counsel appears on behalf of State.

3. On observations made, Mr. Ahmad, in addition to referring to Rule 21 of the Rules 2014, as aforesaid, also relies on Sections 20 and 21 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007² to submit that the provisions come to aid of senior citizens, not only against children and relatives but also against any one who causes distress to them.

¹ the Rules 2014

² the Act 2007

4. We find petitioner is complaining of obstruction for constructing gate on his property. It is not a situation where petitioner requires discharge of duty by the administrative authority under Rule 21, to come to his aid. The rules have been promulgated for carrying out objects of the Act 2007. Section 20 the Act 2007 relates to medical support for senior citizens and Section 21 is in regard to measures for publicity, awareness, etc., for welfare of the senior citizens. The said provisions are in no manner relevant to the controversy involved in the present case.

5. The statement of objects and reasons given in the Act clearly say that due to withering of the joint family system, a large number of elderly are not being looked after by their family, as a consequence many older persons are forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. Taking into consideration that aging has become a major social challenge and there is need to give more attention to the care and protection for the older persons, the Act 2007 was enacted to provide for more effective provisions for maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matters connected therewith or incidental thereto.

6. Section 4 of the Act 2007 provides for entitlement for maintenance to a senior citizen including parent who is unable to maintain himself from his own earning and out of the property owned by him against one or more of its children not being a minor and in the case of childless

senior citizen against his relatives who would inherit his property.

7. In terms of Section 5 of the Act 2007, an application for maintenance under Section 4 may be made by a senior citizen or a parent, or, if he is incapable by any other person or organization authorized by him. The application is to be made before the Maintenance Tribunal constituted under Section 7. The Tribunal may also take cognizance *suo motu*.

8. The Act 2007 is primarily aimed to provide for ensuring effective provisions for maintenance and welfare of parents and senior citizens. The maintenance tribunals constituted under the Act have been empowered to entertain applications relating to claims for maintenance against children, or in case of a childless senior citizen against his relative who would inherit the property. There is no conferment of jurisdiction to adjudicate questions relating to property and ownership rights particularly where there is a dispute with third parties. Disputes in this regard are to be adjudicated before the Civil Courts of competent jurisdiction.

9. The present being a case where the grievance sought to be raised by the petitioner is regarding alleged obstruction by his neighbour in the construction of a gate on the petitioner's property, the same in our view would not come within the purview of provisions of the Act 2007.

10. Petitioner has not been able to demonstrate a legal right infringed as available under the Act 2007. The writ

petition is dismissed. The dismissal will not prevent him from finding his remedy as may be available in law.

Order Date :- 16.7.2025
Shahroz

(Arindam Sinha,J.)

(Dr. Y.K. Srivastava,J.)