

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43583 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Ram Autar Rai Son of Late Bachan Rai R/o Mohalla Azadnagar Back Side of
B.R.B. College Mohanpur Road, P.S. Mufassil, District Samastipur
... .. Petitioner

Versus

- 1. The State Of Bihar
- 2. Yugeshwar Gope Son of Late Raghunath Gope R/o Mohalla Azadnagar
Back Side of B.R.B. College Mohanpur Road, P.S. Mufassil, District
Samastipur
- 3. Deo Laxmi Devi Wife of Yugeshwar Gope R/o Mohalla Azadnagar Back
Side of B.R.B. College Mohanpur Road, P.S. Mufassil, District Samastipur
- 4. Shobha Devi Wife of Ram Autar Rai R/o Mohalla Azadnagar Back Side of
B.R.B. College Mohanpur Road, P.S. Mufassil, District Samastipur

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Bijay Bhushan Prasad, Advocate Ms. Rani Shashi Bharti, Advocate
Amicus Curiae	:	Mr. Sarvesh Kumar Singh, Sr. Advocate
For the State	:	Mr. Chandar Sen Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 20-01-2025

The present petition has been preferred by the petitioner seeking quashing and setting aside of the proceeding bearing no. 05 of 2015 initiated before the Maintenance Tribunal constituted under Maintenance and Welfare of the Parents and Senior

Citizens Act, 2007 on the application of the Opposite Party Nos.2 & 3 wherein notice vide letter no. 850 dated 24.03.2015 was issued.

2. The relevant facts of the case as emerging from the record is that the Opposite Party Nos.2 & 3 are father-in-law and mother-in-law of the Petitioner and they have filed an application before the Maintenance Tribunal against the Petitioner and his wife (daughter of Opposite Party Nos.2 & 3), Shobha Devi, who is the Opposite Party No.4 herein. From the perusal of the application, it transpires that the applicants have not sought for any maintenance from the Opposite Parties, who is the Petitioner and Opposite Party No.4 herein, nor has he sought any declaration regarding transfer of any property as void. As per the application, they are aggrieved by the ill-treatment/torturing and nuisance created by them on the land belonging to the petitioner and causing intimidation to them. It further transpires that on the application, notice has been issued to the Petitioner and his wife (Opposite Party No.4 herein) to appear before the Tribunal and file their objection, if any, with documents.

3. I heard learned counsel for the Petitioner, learned Amicus Curiae and learned APP for the State. However,

nobody is present on behalf of the Opposite Party No.2, 3 and 4 despite service of notice.

4. Learned counsel for the Petitioner submits that as per the averment made in the application before the Maintenance Tribunal, there is no cause of action to file such application before the Tribunal. He further submits that the Maintenance Tribunal has been constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 under which there is provision for providing maintenance to parents and senior citizens and getting any transfer of property declared to be void under certain circumstances, but no such relief has been sought for by the applicants. As per the alleged facts and circumstances, at most criminal prosecution of the petitioner and his wife may be initiated by them and they have already resorted to criminal remedy under criminal law by filing written report dated 16.10.2014, whereupon Mufassil P.S. Case No. 417 of 2014 has been registered against the Petitioner and his wife and their sons and daughter. Hence, in view of learned counsel for the Petitioner, the proceeding before the Maintenance Tribunal is liable to be quashed for want of any jurisdiction of the Maintenance Tribunal.

5. Learned APP for the State as well as learned Amicus

Curiae agree to the legal submissions of learned counsel for the Petitioner submitting that as per the facts and circumstances, there is nothing in the application which comes under the jurisdiction of the Maintenance Tribunal, neither any maintenance has been sought for by the applicant nor any relief in regard to any transfer of property has been sought for. If the applicants are aggrieved by the acts of the Petitioner and his wife, Shobha Devi (Opposite Party No.4), they may resort to legal remedy available under civil and criminal law and as per record, they have already filed written report alleging commission of offence by the Petitioner and his wife and their children against the Opposite Party No.2 and 3. Hence, there is nothing to be decided by the Maintenance Tribunal under its jurisdiction.

6. I considered the submission advanced by both the parties and perused the material on record.

7. As per the statutory provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, it clearly transpires that the Act has been enacted to provide for effective provision for maintenance and welfare to parents and senior citizens granted and recognized under the constitution and for matters connected therewith and instituted thereto. The detail

provision of the Act shows that parents and the senior citizens can seek for maintenance from the persons concerned who are liable under the Act or they can also get the transfer of any property made in favour of the person concerned declared void subject to fulfillment of the conditions but none of such relief has been sought for by the applicants.

8. Hence, as per the facts and circumstances of the case, no jurisdiction is made out before the Maintenance Tribunal to entertain the application made by the Opposite Party Nos. 2 & 3 before it.

9. The alleged facts and circumstances of the case at most constitute a dispute of civil nature as well as criminal nature and the applicants have their remedy under civil and criminal law and they have already invoked criminal law to file FIR.

10. Hence, the proceeding before the Maintenance Tribunal is not maintainable.

11. Accordingly, the present petition is allowed quashing the proceeding pending before the Maintenance Tribunal, Samastipur, initiated on the application of Opposite Party No.2 & 3 dated 12.02.2015.

12. The assistance provided by learned Amicus Curiae, Mr. Sarvesh Kumar Singh, Sr. Advocate is appreciated and the

Secretary, Patna High Court Legal Services Committee is directed to pay an honorarium of Rs. 10,000/- to him within two weeks of receipt of this order.

13. Send a copy of this order to Secretary, Patna High Court Legal Services Committee for information and needful.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22.01.2025
Transmission Date	22.01.2025