



ISSN Print: 2394-7500
ISSN Online: 2394-5869
Impact Factor: 8.4
IJAR 2020; 6(10): 967-968
www.allresearchjournal.com
Received: 13-08-2020
Accepted: 16-09-2020

Dr. Sanju Kumari
A.B.R College,
Sasaram, Bihar, India

Maintenance and welfare of parents and senior citizens: A constitutional and legal obligation

Dr. Sanju Kumari

Abstract

‘Maintenance’ is amount paid to the dependent wife, child, or parents to maintain themselves. Maintenance And Welfare of parents and Senior Citizens Act, 2007 is effective provision for parents and senior citizens. The expression ‘maintenance’ under the Act includes provisions for food, clothing, residence and medical attendance and treatment. The Tribunal constituted under the Act has wide powers to provide maintenance and to restore possession of property and also for eviction of children from the house owned by the parents and senior citizens. The remedy is easy, inexpensive and speedy remedy for welfare of senior citizens and parents. The Act, being a special measure has overriding effects on other provisions of law.

Keywords: maintenance, parents, senior citizens

Introduction

The life expectancy has increased due to industrial revolution, development of medical science and advancement of science and technology. Thus, the problem of old and aged senior citizens now has become more pronounced than ever before. So, all the developed and developing countries are now undertaking various social legislative, reformatory and welfare measures to protect the interest of the old. These legislative measures makes it a legal obligation for children and heirs and even government to provide maintenance to senior citizens and parents, by monthly allowance and to provide day to day care to the senior citizens. India is welfare country and, therefore, it is the constitutional obligation of the state, both state government and Union of India, to provide facilities for care and protection of senior citizens who do not have a child or heirs.

Maintenance and Welfare of parents and Senior Citizens Act, 2007.

Maintenance and welfare of parents and Senior Citizens Act, 2007^[1] is a legislation, enacted by Union of India, to provide more effective provisions for care, maintenance and welfare of parents and senior citizens. It makes it a legal obligation for children and heirs to provide maintenance to senior citizens and parents by monthly allowance. It also provides, simple and inexpensive mechanism for the protection of life and property of the older person. After being passed by the Parliament of India, the Act received the President’s assent on December 29, 2007.

As per clause (b) of section 2 of the Act, the word “maintenance” includes “provision for food, clothing, residence and medical attendance and treatment”. The expression “children” means “son, daughter, grandson and grand-daughter”. The expression “parents” means “father or mother whether biological, adoptive or step-mother, as the case may be, whether or not the father or mother is a senior citizen. The expression ‘senior citizen’ means any person being a citizen of India, who has attained the age of ‘sixty years’. The word ‘welfare means’ provision for food, health care, recreation centers and other amenities necessary for senior citizens’.

A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application for maintenance under section 5 of the Act (S. 4). The application under section 5 of the Act, can be filed before the Tribunal (a) by a senior citizen or a parent, as the case may be, or (b) if he is incapable, by any other person or organization authorized by him, or (c) the Tribunal may

Corresponding Author:
Dr. Sanju Kumari
A.B.R College,
Sasaram, Bihar, India

take cognizance suo moto. The expression 'organization' means any NGO registered under Societies Registration Act or any other law for being time being in force.

Tribunal ought to give adequate opportunity to the children to cross examine the witnesses or to confront the adverse materials and should also summon the affected senior citizen person and if the senior citizen was not capable to appear before Tribunal due to illness or other physical incapability, then it should depute a commissioner to go and record the statement of the senior person. In case tribunal acts in own motion on the basis of media coverage without following the principles of a fair trial and natural justice, the procedure adopted is illegal and the order is liable to be set aside. [2].

Tribunal has jurisdiction to provide two remedies- one to order for summary eviction, and another to allow maintenance to parents or senior citizens and where the tribunal has initiated both proceeding on one and the same complaint, it is justified [3].

It is open to the senior citizen or parents to claim maintenance from a particular son, who has sufficient means, and excludes other sons who are either unemployed or minor [4].

The District Magistrate or Tribunal is empowered to pass an eviction order from house of senior citizen who are allegedly misbehaving with the parents or senior citizens [5].

The provisions of the Act are special in nature and have overriding effect on other laws if found inconsistent with the Act. The Act is simple, inexpensive and speedy mechanism for providing protection to parents and senior citizens. State government and Union of India, apart from children and heirs, are also under duty to provide protection to the senior citizens.

Conclusion

Society should take proper care to senior citizens and parents who are unable to maintain and looking after themselves at the twilight of their life. Day care centre should be established to give physical protection, medical aid and economic surety to the old. Government should also undertake various welfare schemes to provide due protection to old men by way of free medical aid, accident benefits etc. Apart from proper economic security by way of monthly income scheme and financial assistance against the properties etc. should also be provided.

References

1. Sonal Jain. The Maintenance and Welfare of Parents and Senior Citizens Act, (2018, capital Law House, Delhi) 2007.
2. Priti Dhoundial Ors, Vrs... Tribunal (Under Maintenance & Welfare of the Parents * Senior Citizens Act, 2007) & ors 2010;114:362.
3. Sanjeev Kumar, V.D.M. (U. T. Chandigarh) 2016;(1):720.
4. Pawan Sharma V, State & ors 2011;4:2650.
5. Manjit Singh V. District Magistrate-cum-Deputy Commissioner, Karnal 2015;5:4027.
6. Senior Citizen Welfare Organization. V State of Uttarakhand & another; W. P. No. 52/2013 (Uttar.).