

Senior Citizen Article

- [1] The Central Government enacted the Maintenance and Welfare of Parents and Senior Citizens Act in the year 2007. Under the Act the Senior Citizens and parent are entitled to get the maintenance from son, daughter, from family members who would inherit the property of the senior citizen/parent. At the same time any transfer of the property under the misrepresentation obtained from the senior citizen can be declared illegal. Even the senior citizens can claim the right of residence in the property of son/daughter.
- [2] In the whole of the India, the Himachal Pradesh Government was the first to come out such legislation in the year 2001. Under the present Act, the senior citizen means the person beyond the age of 60 years. They can proceed against the son/daughter, grandson/granddaughter. The competent authority can pass order to maintain the senior citizen properly as well as can also order to provide medicine food etc. to the senior citizen. Under the procedure, pending the application for permanent maintenance, even the application for temporary maintenance can be filed is required to be decided within 90 days.
-
- [3] The legal proceedings can be initiated by the senior citizen himself or through a representative or through recognized voluntary organization. In every collector office, the Sub-

divisional Magistrate or the Deputy Collector can be appointed as the Tribunal which can, in certain cases, even initiate proceedings Suo-motu. However, it is failed these revenue officers have no legal knowledge and therefore the judicial officer or law officer should be appointed to head the tribunal. The maximum amount of maintenance which can be awarded under the Act is also very much less, Rs.10,000/- which is absolutely inadequate in the present day situation. There is also a provision prohibiting an appearance of the advocate which is also unreasonable. Recently Kerala High Court delivered a judgment where under the advocate can be permitted to appear. A good feather of the Act is, the provisions of the Act can be availed in addition to the Civil Court proceedings or the proceedings of maintenance under Section 125 of the Code of Criminal Procedure. The order of the Tribunal can be implemented through the police.

[4] There is a provision to file the appeal before the appellate tribunal within 60 day of the order of original tribunal where the head of the appellate tribunal is collector. The government is required to be appoint the maintenance officer in each district who can also represent the senior citizens.

[4] Under the Act, the Government is required to establish old age home in each district within the reasonable time wherein it is also stipulated, to maintain at least 150 poor senior citizens.

- [5] Even in all Government or Government aided hospitals, separate beds are to be kept for senior citizens and even a separate queue for senior citizen is to be provided.
- [6] If any persons neglects to maintain a senior citizen the same is considered to be cognizable offence requiring the police to register the FIR where imprisonment up to the period 3 months is provided.
- [7] Though a laudable provision is made to impart the training to the Government Officers for effective implementation of the Act and also to give wide publicity of the provisions of the Act through the television, radio, news paper, the same is not implemented in its letter and spirit. Practically the proceeding before the tribunal takes several months. The officers conducting the proceedings have no legal knowledge which has frustrated the object behind the enactment.
- [8] Recently a public interest litigation is filed before the Gujarat High Court praying for the appointment of judicial officer in addition to or in place of the administrative officer. It is also prayed to impart the training to the police officers and revenue officers. It is also prayed to direct the tribunal to conclude all the cases within three months and to direct the completion of criminal cases within six months. It is also prayed to create a specialized cell to conduct the criminal cases under the Act and
-

also to designate special courts in each district. Certain provision of the acts are also challenged as unconstitutional.

Nimish M. Kapadia, Advocate.

5, Balgayatri soc-2,
Shyamal Cross Road,Satellite,
Ahmedabad.
Ph. 079-26751545,26762762
E mail:
mckapadiaassociates@gmail.com
