

Housing Insecurity and Legal Advocacy for the Elderly in India

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ABSTRACT

India is going through a phase where a large portion of the population is moving towards old age. For years, in the tradition of Indian families taking care of the elderly was considered a natural responsibility, but as changes occurred in society migration towards cities increased, nuclear families replaced joint families, and the socio-economic structure transformed the sense of loneliness, neglect, and insecurity deepened in the lives of the elderly.

Today, many elderly people are not only emotionally alone but also fear whether they will be able to keep their own home or not, residential insecurity has emerged as a major challenge for them. In such a situation, it has become necessary that we understand this problem not only from a social or emotional perspective but also from a legal point of view.

This research paper is based on the interpretation and practical use of the "Maintenance and Welfare of Parents and Senior Citizens Act, 2007." It also highlights important judicial decisions given by the Supreme Court and the Delhi High Court to protect the dignity of the elderly, especially when they wish to protect their rights against their own heirs. But it is not just about laws. The real challenge is when an elderly person knocks on the door of a tribunal or court for their rights, how many procedural obstacles, delays, and mental exhaustion they have to face. This study also brings forth this practical reality.

The core objective of this article is not merely the demand for maintenance or care, but it emphasizes the need for a rights-based approach where the elderly are not just recipients of help, but are given respect, decision-making power, and legal protection.

In reality, this topic is not just a matter of policy or law, it is a test of a society's sensitivity.

And this is the dialogue that must not stop now.

Introduction

India is currently going through a major phase of social and demographic transformation. Especially the rapidly increasing elderly population is not only challenging our policies but also the direction of our

thinking. According to the 2011 census, about 8.6% of the country's total population was aged 60 years or above, and by 2050 this number is expected to almost double. In such a situation, it has become necessary that we not only talk about the welfare

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and rights of senior citizens but also take concrete steps particularly in the context of residential security and protection related to property.

Traditionally, the elderly has had a special place and respect in Indian society. In the joint family system, they held an important place where they used to be decision-makers, guides, and emotional anchors. This family structure worked like a protective shield. But with time, this system started to break down. Due to urbanization, higher education, and the search for employment, the younger generation migrated, leaving the elderly alone in villages and semi-urban areas. As a result, the concept of nuclear families grew, and the traditional family support system began to weaken. This is not just a structural change, but a deep upheaval in the very nature of society which cannot be ignored.

The sad reality is that today many senior citizens are victims of neglect, humiliation, and property-related fraud. Even though they may own property, they often have no regular source of income, which makes them extremely vulnerable to financial exploitation. In some cases, they are threatened with eviction from their own homes or are deprived of their legal rights. When family support weakens and even the law is not strong enough, the elderly become extremely insecure.

The reality is that neglect is not limited to just the emotional level. It often includes physical abuse, financial pressure, and mental torture. Especially in property matters, cases arise where elderly people are tricked into signing documents or where family members try to forcibly seize their property.

Considering these complexities, the Government of

India implemented the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSA Act). This law emerged as an important shield of protection for the elderly, giving them the legal right to demand maintenance from their children or heirs. Not only that, if any heir behaves inhumanely, the senior citizen can also demand eviction of that person from the property. The purpose of this law is clear to provide a legal basis for the elderly to live with dignity and self-respect.

The MWPSA Act is not limited to just food, clothing, or shelter. It also provides for medical assistance, care, and a dignified life. The Maintenance Tribunals established at the district level are tasked with hearing these cases and helping the elderly reclaim their rights, especially when they are neglected or harassed by family members.

If we look at it from a comprehensive perspective, it becomes clear that with the changing population structure of India, we also need to deeply reform our social and legal frameworks. Today many senior citizens are surrounded by risks such as housing instability, neglect, and helplessness.

The MWPSA Act is an important beginning, but without effective enforcement, procedural simplicity, and strengthening of support structures, it cannot fulfill its intended purpose.

Legal Framework

The “Maintenance and Welfare of Parents and Senior Citizens Act, 2007” (MWPSA Act) is a very important and sensitive law passed by the Government of India. Its aim is not only to ensure financial assistance but also to ensure that our elderly get dignity, security, and self-reliance in the

final phase of their life.

In the current social structure, where joint families are disintegrating and urbanization is increasing distances in relationships at such a time, this Act provides legal protection to the elderly so that they do not continue to struggle with neglect and insecurity.

This law gives a clear message that taking care of one's parents is no longer just a moral duty but also a legal responsibility.¹

Key Provisions of the Act

1. Legal Right to Maintenance

Section 4 of the Act provides that every child or heir must maintain their parents or senior relatives. This maintenance is not just about giving money it includes food, clothing, shelter, medicine, and other essential life facilities.

This broad definition shows that elderly people do not just need some money to survive, but a complete, dignified, and respectful life.²

2. Condition and Protection on Property

One of the most powerful sections of the Act is Section 23, under which, if any senior citizen gives their property to a son, daughter-in-law, or anyone else on the belief that they will be taken care of but later that promise is not fulfilled, or physical/mental neglect happens then that property transfer can be declared invalid, and the property can be returned to the senior citizen.

The essence of this provision is that the elderly should not be forced to give up their hard-earned property under emotional or family pressure, and even if they do, the law should stand by them.³

3. Establishment of Maintenance Tribunal

To ensure effective implementation of the law, it

provides for the establishment of a "Maintenance Tribunal" in every district. These tribunals hear complaints of senior citizens and give decisions under simple procedures on issues related to maintenance, eviction, property return, etc. Their biggest feature is that saving elderly people from long legal processes they provide immediate and accessible justice at the local level.⁴

Practical Situation and Challenges

Although this law is strong, its practical success depends on regional differences. In urban areas, where awareness is more and NGOs are active senior citizens are able to take advantage of this law. But in rural and semi-urban areas, there is still a huge lack of awareness. Many elderly people don't even know that they have any such legal rights.

Challenges where tribunals are functioning:

- Delay in hearings,
- Evasion in compliance of decisions,
- Disobedience of orders by sons/daughters such problems are common.

Additionally, if the son/heir is financially dependent or unemployed themselves, then maintenance orders become ineffective.

Judicial protection of residential rights of senior citizens

I. Vinay Varma vs. Kanika Pasricha & Others (2019, Delhi High Court)

This case became a living example of the changing family structure in Indian society and the struggle for the dignity of senior citizens. The petitioner, Mr. Vinay Varma, a senior citizen, approached the court against his daughter-in-law. He alleged that his daughter-in-law was mentally harassing him and

was forcibly staying in his self-owned house. Importantly, this house was neither in the name of his son nor was it any joint property. Mr. Varma demanded that the daughter-in-law be evicted from the house, as she was staying there like a “guest” and his “self-acquired and owned” house was his right to live peacefully.

The Delhi High Court, while balancing the Protection of Women from Domestic Violence Act, 2005 and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, presented a historic perspective. The court accepted that while women have the right to protection from domestic violence, if she is staying in the senior citizen’s property without any legal right and is misbehaving, then the senior citizen has the legal right to evict her from his property. The judgment clearly stated that a “shared household” claim is valid only when the residence is legally and mutually agreed upon not merely due to marital relations. This judgment prioritizes the dignity, independence, and peaceful living rights of the senior citizen.⁵

II. Ashish Randev & Others vs. State (2023, Delhi High Court)

In this case, an elderly couple, distressed by the behavior of their son and daughter-in-law, filed an application before the District Magistrate. They alleged mental harassment, lack of care, and illegal possession of property. The District Magistrate, under the Delhi Senior Citizen Rules, 2016, passed an order to evict the son and daughter-in-law. The petitioner (son) challenged this order in the Delhi High Court, claiming that evicting them from the property was unconstitutional as they were part of the family.

The Delhi High Court dismissed the petition and held that if senior citizens are being harassed in their own home, they have the legal right to evict such persons from their property. The court also stated that senior citizens should not be burdened with the long process of “regular civil court,” and therefore Maintenance Tribunals and DMs have the right to take immediate and effective steps. This judgment was not only legally strong but also displayed human sensitivity acknowledging that senior citizens have full right to mental peace and dignity in the later stage of life. This decision proved that compassion and timeliness are as essential in justice as the law itself.⁶

III. “Disowned Son Eviction” (2022, Delhi High Court)

In this case, a senior citizen filed a petition to remove his son whom he had publicly “disowned” from his property. The property was solely in the senior citizen’s name and was his only residence. Despite being disowned, the son had forcibly continued to live there and was mentally harassing his father. The senior citizen argued that his son now had neither moral nor legal rights to reside in the house, emphasizing that the home was built with his own earnings and was never declared a family property.

The Delhi High Court refused to interfere with the eviction order and upheld it, stating that the senior citizen’s right to live with dignity in his own property must be protected. The court noted that the property was not ancestral, and the father had exclusive rights over it. Furthermore, given the proven allegations of harassment, the court found no reason to interfere⁷

IV. Delhi High Court Upholds DM Eviction Order (2025)

In this case, the District Magistrate passed an eviction order against a son, based on the complaint of a senior citizen. The son challenged the order in court, claiming that the property was family-owned and that he had been living there for years with his wife and children. The petitioner (the elderly parent) told the court that he had shared the property with his son out of trust, but was now being forced out. He also reported abuse, neglect, and economic exploitation.

The Delhi High Court clearly stated that senior citizens, especially when being harassed in their own property, should not be dragged into the complex process of a civil court. The court upheld the District Magistrate's order as legally valid under the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2016, which empower DMs to offer prompt relief in such cases. The court also reiterated that senior citizens have psychological, emotional, and social rights over their property, which cannot be assessed by legal documents alone. This judgment highlighted the judiciary's empathy toward the elderly ensuring that aging should not become synonymous with humiliation and helplessness.⁸

Role of Tribunals and State Machinery

The tribunals established under the MWPSA Act decide such disputes related to the maintenance and eviction of senior citizens. These tribunals are generally formed under the chairmanship of the Sub-Divisional Officer or District Magistrate and are bound to resolve matters within 90 days as far as possible. The orders are implemented through

simple and summary proceedings, so that senior citizens do not have to go through long legal procedures for justice.

Although the law is strong, its implementation at the ground level shows ambiguity and inequality. In many areas, access to tribunals is difficult, officials are not adequately trained, and the law does not reach elderly individuals. That is why many cases are not resolved in time. Training camps near the courts, workshops to promote sensitivity, and public awareness programs are necessary.⁹

To make tribunals more effective, digitization is also important such as online complaint filing, knowing the status of the case, and facility for virtual hearings. This will especially benefit those elderly persons who are unable to come to court due to physical limitations or technical incapacity.

Sunny Paul & Anr. vs State of NCT of Delhi & Ors. (2018, Delhi High Court)

Background/Facts of the Case

In this case, an elderly parent approached the Maintenance Tribunal alleging that his sons had subjected him to mental and physical harassment and were trying to forcibly dispossess him from his own house. The parents filed a petition seeking protection and removal of the sons from the premises under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSA Act).

Tribunal's Order

The Maintenance Tribunal, after reviewing the facts and hearing both parties, ruled that:

The sons had behaved oppressively towards the senior citizen. Under Section 23 of the MWPSA Act, the Tribunal had the authority to order their

eviction from the property. The Tribunal emphasized the fundamental right of the senior citizen to live peacefully in his own home and issued a removal order against the sons.

Appeal to the Delhi High Court

The sons challenged the eviction order in the Delhi High Court, arguing that:

The Tribunal lacked the authority to pass an eviction order unless there was an active maintenance claim.

Delhi High Court's Judgment

The Delhi High Court upheld the order of the Tribunal, stating clearly that:

Tribunals under the MWPSA Act do have the power to issue eviction orders under Section 23, even if no separate maintenance claim has been filed. The provision must be interpreted broadly and purposefully, in line with the Act's aim to safeguard the dignity, autonomy, and peaceful life of senior citizens. The court reinforced that mere existence of a familial relationship does not entitle someone (like a son or daughter-in-law) to occupy the senior citizen's property against their will.

Legal Significance

This case reinforces the legal standing and authority of Maintenance Tribunals under the MWPSA Act. It sets a precedent that even in the absence of a direct claim for financial support, Section 23 can be invoked to protect a senior citizen's right to peaceful possession. The judgment also promotes the rights of senior citizens to reclaim their home from abusive or non-cooperative adult children or relatives.¹⁰

Participation of Non-Governmental Organizations and Civil Society

Non-governmental organizations (NGOs) have emerged as a crucial link in the protection and awareness of senior citizens' rights. Especially organizations like HelpAge India and Agewell Foundation have not only made senior citizens aware of the law but have also actively helped them reach Maintenance Tribunals.

These organizations provide several important services to the elderly such as free legal advice, housing, healthcare, and social rehabilitation. Where the government's reach is limited, these institutions have emerged as a ray of hope for the elderly especially in rural and backward areas, where government systems are often weak. For example, HelpAge India not only operates helpline services but also trains government officials to make them sensitive toward senior citizens. Along with this, the organization also helps elderly people file applications with the Maintenance Tribunal.

Another notable effort is the use of Public Interest Litigations (PILs). Many civil organizations have brought attention to social gaps hindering the implementation of elderly rights through such petitions. Through these, the judiciary has often issued necessary directions to the government. These organizations have proven that laws should not remain limited to books but must be enforced on the ground.

Social and Moral Aspects

In legal cases related to the eviction of senior citizens, social, emotional, and moral dilemmas are also attached. The elderly does have legal options, but many times they hesitate to file cases against their own children or relatives. The pain of family relations, public perception, and the reluctance to

drag loved ones into court often silence them.

Especially elderly women, who are already economically and socially dependent, remain more silent. Society still lacks sensitivity toward widows, single women, and elderly women. Even if they want to speak up for their rights, pressures like “family honor” force them into silence.

In such a situation, we need a sensitive society one that does not just rely on laws, but also embraces a culture of respect, compassion, and care. There is a need for awareness campaigns in schools, colleges, and community centers on the rights of the elderly. Family counseling services should be started at the panchayat level, so that intergenerational dialogue can happen and disputes can be resolved before they escalate.

Legal protection remains incomplete unless society fulfills its moral responsibility. Therefore, only with the participation of civil society, community initiatives, and government support can an environment be created where senior citizens receive not only their rights but also respect and a sense of belonging.

Conclusion

The right of senior citizens in India to live with dignity and with ownership of their property is not just a legal framework but also a moral commitment. Progressive laws like the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSA Act) have provided a strong foundation in this direction. This act has opened the doors of justice for those elderly who face neglect, disrespect, or violence.

But the existence of a law alone is not enough the real challenge is how sensitively and effectively

these rights are implemented on the ground. If decisions remain pending in tribunals for years, families themselves turn hostile, or society remains silent on these issues, then legal protection remains incomplete.

Amid all these hurdles, we need a comprehensive and empowered strategy where the legal system is not only enforced but made accessible, simple, and empathetic. For this, judicial reforms, emotional development at the family level, and public awareness about duties are necessary.

Looking ahead, if we want to give our elders not just the right to live, but the right to live with dignity, then the law must be tied with compassion. The law becomes powerful only when it walks alongside our cultural and moral responsibilities.

It would not be an exaggeration to say that the real identity of a society is reflected in how it treats its most experienced but most vulnerable group the elderly. Until an elderly mother or father can live in their own home without fear and with respect, no law can be called truly successful.

Endnote

¹ Government of India, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, Ministry of Law and Justice, New Delhi, 2007

² Ibid sec 4

³ Ibid sec 23

⁴ MWPSA Act 2007, ss. 7–10.

⁵ Vinay Varma v. Kanika Pasricha and Anr., CM(M) 1582/2018, Delhi High Court, decided on 29 November 2019.

⁶ Ashish Randev & Anr. v. State (GNCTD), W.P.(C) No. 7554/2022, Delhi High Court, decided on 21 July 2023.

⁷ ThePrint, “Delhi HC refuses to interfere with eviction order of disowned son,” 29 September 2022; RawLaw, “Delhi High Court Dismisses Petition Challenging Eviction Order under Senior Citizens Act,” 16 January 2025.

⁸ Delhi High Court Dismisses Petition Challenging Eviction Order under Senior Citizens Act, Upholds Balance of Rights: “The Necessity of Safeguarding a Senior Citizen’s Right to Live with Dignity Needs No Emphasis”, RawLaw, 16 January 2025

⁹ Government of India, The Maintenance and Welfare of

Parents and Senior Citizens Act, 2007, Ministry of Law and Justice, New Delhi, 2007.

- ¹⁰ Sunny Paul & Anr. vs State of NCT of Delhi & Ors., Delhi High Court, W.P.(C) No. 10463/2015, judgment delivered 3 October 2018; held that Maintenance Tribunal may issue eviction order under Section 23 even without maintenance claim, ensuring senior citizens' right to peaceful residence

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