

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9856 OF 2019

Kishor Dnyanoba Gaikwad

... Petitioner

Vs.

1. Additional Collector, Pune

2. The Sub Divisional Magistrate, Pune

3. Dnyanoba Rambhau Gaikwad

4. Neela Dnyanoba Gaikwad

5. State of Maharashtra

... Respondents

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Ms. Sneha Bhange with Mr. Swapnil Sawgle and Mr.
Chaitanya Nikte for the Petitioner.

Smt. V.R. Raje, AGP for respondent Nos. 1 & 2-State.

Mr. Sachin Gite for respondent No.4.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 17, 2026.

PRONOUNCED ON : AUGUST 21, 2026

JUDGMENT:

1. The present Writ Petition, instituted under Articles 226 and 227 of the Constitution of India, takes exception to the legality, validity, and propriety of the order dated 27 June 2019 passed by Respondent No.1, the Additional Collector, Pune, in Appeal No.6 of 2019. The said appeal was preferred by Respondent Nos.3 and 4 under Section 15 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. By the impugned order, Respondent

No.1 was pleased to quash and set aside the order dated 8 February 2019 passed by Respondent No.2, the Sub-Divisional Magistrate, Pune, in the application instituted by Respondent Nos.3 and 4 under Section 5 of the said Act.

2. The facts and circumstances giving rise to the filing of the present Writ Petition, as pleaded by the Petitioner, may briefly be stated thus. The Petitioner asserts that he has been residing at the address in question since his birth along with Respondent Nos.3 and 4, who are his parents. The Petitioner got married in the year 2012, and since then, his wife has been residing at the said address. According to the Petitioner, the property in question was constructed out of the income generated from the ancestral properties belonging to the Petitioner and Respondent Nos.3 and 4 and, therefore, constitutes joint family property. It is contended that the name of the Petitioner has been duly in the occupancy certificate issued in respect of the said building.

3. The Petitioner states that his brother, Ashok Gaikwad, has been residing separately since the year 2004. It is alleged that Ashok Gaikwad was involved in an illicit relationship with one Shubhangi. According to the Petitioner, on account thereof, the wife of Ashok Gaikwad, namely, Mrs. Anita Gaikwad, instituted various criminal complaints and proceedings under the Protection of Women from Domestic Violence Act as well as proceedings under Section 125 and Sections 323, 504 and 506 of the Criminal Procedure Code read with Section 34 of the Indian Penal Code against the members of the Petitioner's family. The Petitioner contends that the disputes arising from the said circumstances

constituted a continuing source of discord between him and the other members of his family.

4. It is the case of the Petitioner that, in September 2015, Respondent Nos.3 and 4 sold the property bearing Survey No.77/1/13 to one Imran Pansare without informing or consulting him. According to the Petitioner, the said transaction was entered into by Respondent Nos.3 and 4 in collusion with their elder son, Ashok Gaikwad. The Petitioner alleges that, after the sale of the said property in favour of Imran Pansare, certain persons, allegedly acting on behalf of the purchaser, visited the residence on several occasions, threatened the Petitioner and his wife and called upon them to vacate the premises. It is alleged that the Petitioner and his wife were subjected to intimidation and threats to their lives.

5. The Petitioner thereafter lodged a complaint dated 20 October 2015 with the Wakad Police Station, alleging that he was being harassed by persons acting at the instance of Imran Pansare. It is pleaded that, on 21 October 2015, Respondent Nos.3 and 4 entered into another agreement for sale in respect of a property bearing Survey No.79/03/16, known as Dnyan Leela Sadan, situated at Shri Ram Colony, Jyotiba Nagar, Kalewadi, Pune, by executing a registered Agreement for Sale dated 21 October 2015. Thereafter, a Sale Deed dated 5 January 2016 in respect of the said property came to be executed between Respondent No.4 and one Deepak Pandit Makane.

6. The Petitioner thereafter instituted Regular Civil Suit No.232 of 2016 before the Civil Judge, Senior Division, Mazalgaon. The

Petitioner states that, on 8 October 2016, he lodged FIR No.568 of 2016 with the Pimpri Police Station against Respondent Nos.3 and 4, their elder son Ashok Gaikwad, and Deepak Pandit Makane. According to the Petitioner, after the aforesaid proceedings and steps did not yield the desired result, Respondent Nos.3 and 4 instituted an application under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before Respondent No.2, the Sub-Divisional Magistrate, Pune. Respondent No.2, by order dated 8 February 2019, rejected the application preferred by Respondent Nos.3 and 4. Aggrieved thereby, Respondent Nos.3 and 4 preferred Appeal No.6 of 2019 before Respondent No.1. Respondent No.1, by the order dated 27 June 2019, allowed the said appeal and set aside the order passed by Respondent No.2. Being aggrieved by the appellate order, the Petitioner has approached this Court by way of the present Writ Petition.

7. Ms. Bhange, learned Advocate appearing for the Petitioner, submits that Respondent Nos.3 and 4, being the parents of the Petitioner, had instituted an application under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. She submits that the Petitioner and Respondent Nos.3 and 4 are not residing together in a common household. According to her, the building in question comprises 15 separate flats, out of which the Petitioner resides in one independent flat along with his wife, whereas Respondent Nos.3 and 4 reside in a separate flat. She submits that the possession of the Petitioner over the flat occupied by him was neither forcible nor unauthorized. It is contended that

the name of the Petitioner is as an occupant in the records of the Municipal Corporation and that a No Objection Certificate for inclusion of his name as an occupant was issued by his father as well as his brother. She submits that the application filed by Respondent Nos.3 and 4 was confined only to seeking eviction of the Petitioner and the other tenants occupying the residential building known as Mauli Krupa Building, situated at Jyotiba Colony, Jyotiba Nagar, Pune. No relief towards maintenance was sought in the said application. According to the learned Advocate, the proceedings have been instituted at the instance and under the influence of the elder brother of the Petitioner. She submits that the Petitioner has already instituted a suit seeking partition, which includes the property in question, and the said suit is pending.

8. She submits that the application preferred by Respondent Nos.3 and 4 came to be rejected by the Sub-Divisional Magistrate by order dated 8 February 2019. Respondent Nos.3 and 4 thereafter challenged the said order before the Additional Collector. By the impugned order dated 27 June 2019, the Additional Collector, Pune, allowed the appeal preferred by Respondent Nos.3 and 4. She submits that, except for recording a finding that the building stands in the name of the father of the Petitioner, the impugned order does not disclose any reasons for allowing the appeal. According to her, there is no finding that the Petitioner had subjected Respondent Nos.3 and 4 to any harassment or ill-treatment. There is no finding in respect of any entitlement of the Respondents to claim maintenance under the provisions of the Act. She submits that it is the specific case of the

Petitioner that the property in question was acquired out of the income generated from the joint family properties and that the Petitioner, therefore, claims a share therein. It is for this reason that the Petitioner has instituted proceedings for partition. According to the learned Advocate, the proceedings initiated by Respondent Nos.3 and 4 under the Act are, in substance, intended to secure eviction of the Petitioner under the garb of the provisions of the Senior Citizens Act. She submits that the proceedings have been initiated at the instance of the elder son and that the object behind seeking eviction was to facilitate sale of the property.

9. She submits that the father of the Petitioner has admitted that the property was sold in September 2015. According to her, no case satisfying the requirements of Section 23 of the Act has been made out by Respondent Nos.3 and 4. It is submitted that the Respondents have not pleaded that they require the property for their maintenance or that the property is necessary for enabling them to maintain themselves, which, according to the learned Advocate, is an essential requirement for invoking Section 23 of the Act. In support of the said submission, reliance is placed on the judgment in *Ranjana Rajkumar Makharia v. Mayadevi Subhkaran Makharia & Others*, reported in 2020 (3) Mh.L.J. 587.

10. She submits that an order of eviction cannot be passed under the provisions of the Act in the absence of any claim or prayer for maintenance by the senior citizens. In support of the said submission, reliance is placed on the judgment of this Court in *Jitendra Gorakh Megh v. Additional Collector & Another*, Writ Petition (L) No.31614 of 2025, decided on 8 December 2025.

11. She submits that the wife of the Petitioner was not impleaded as a party to the proceedings before the authorities under the Act. It is, therefore, contended that no order resulting in her eviction from the premises could have been passed in the said proceedings without affording her an opportunity of being heard. In support of the said submission, reliance is placed on the judgment of this Court in *Jyoti Tushar Pawar & Anr. v. The District Collector, Nanded & Others*, reported in 2024 SCC OnLine Bom 7074.

12. She submits that the conduct of Respondent Nos.3 and 4 is wholly mala fide. According to her, Respondent Nos.3 and 4 have purchased several properties since the year 2012 and have regular income from such properties. It is contended that the proceedings under the Act have been instituted only with a view to exert pressure upon the Petitioner. She submits that the mother of the Petitioner had instituted proceedings under the Domestic Violence Act against the Petitioner, which were not thereafter pursued and ultimately came to be dismissed. It is submitted that an FIR was registered by the State of Maharashtra against the parents in relation to alleged fraudulent documents and that a charge-sheet has been filed in FIR No.568 of 2016 dated 8 October 2016. According to the learned Advocate, the material forming part of the said proceedings indicates that an amount of approximately Rs.12 lakhs was gained in the year 2015 as a result of the alleged fraud. She reiterates that, in any event, the application instituted by Respondent Nos.3 and 4 does not contain any claim for maintenance.

13. Per contra, Mr. Gite, learned Advocate appearing for Respondent No.4, while inviting attention to the handwritten application submitted by the senior citizen, submits that the application was personally drafted and presented by the senior citizen, who was not financially in a position to engage the services of an Advocate. Mr. Gite invites attention to the contents appearing on the last page of the handwritten application. He submits that the senior citizens have stated therein that they were unable to afford payment of rent and were unable to bear the expenses towards medicines and medical treatment. It is stated that, since the opponent was not paying any rent, the senior citizens were compelled to sell the building for the purpose of repayment of the loan. The application contains a request for assistance in securing the amount of rent for a period of six years and for obtaining possession of the premises. According to the learned Advocate, these averments clearly indicate the inability of the senior citizens to maintain themselves from the property owned by them. He submits that there is no dispute regarding the ownership of the property in question by the senior citizen applicants. According to him, once it is established that the senior citizens are the owners of the property and that the opponent has no independent legal right to continue in occupation of the flat, the averments in the application regarding their inability to maintain themselves are sufficient to sustain the order passed by the authority below. He, therefore, submits that the impugned order does not warrant interference and prays for dismissal of the Writ Petition.

REASONS AND ANALYSIS:

14. I have considered the submissions made by Ms. Bhange, learned Advocate appearing for the Petitioner, and Mr. Gite, learned Advocate appearing for Respondent No.4. I have gone through the application submitted by the senior citizens, the orders passed by the Sub-Divisional Magistrate and the Additional Collector, as the judgments relied upon by both sides. After considering the entire material, I am of the view that no case is made out for exercising jurisdiction under Articles 226 and 227 of the Constitution of India.

15. The main contention raised on behalf of the Petitioner is that the application filed by Respondent Nos.3 and 4 was only for seeking eviction and there was no prayer for maintenance. At the first instance, this submission appears to have some substance. In *Jitendra Megh*, the Division Bench had considered the same question. As noticed in paragraph 50 of *Mughda Sahal Indian Citizen v. Senior Citizen Appellate Tribunal & Ors.*, reported in 2026 SCC OnLine Bom 4504, the question before the Division Bench in *Jitendra Megh* was as under:

“Whether an eviction order can be passed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 without any claim towards maintenance being made by the senior citizen ?”

16. However, the observations made in *Jitendra Megh* will have to be understood in the facts of that particular case. In paragraph 20, the Division Bench observed that when the senior citizen had not made any claim for maintenance, “we fail to see how the said

application which has been filed by the senior citizen under Section 5(2) of the Act, is maintainable, in the first place.” In paragraph 24, it was observed that the Act “cannot be (mis) used by the senior citizen as a tool for summary eviction without the fulfillment of statutory requirements.” However, the later decision of this Court in *Mughda Sahal* has considered the scope of this principle in more detail. The Court has explained that merely because there is no separately drafted prayer for maintenance, it cannot always mean that the proceedings themselves are not maintainable. Paragraph 64 of *Mughda Sahal* holds:

“it cannot be laid down as an immutable and absolute Rule of Law that an application for eviction simpliciter, sans the prayer for maintenance, is not maintainable, even when the senior citizen claims that she has been deprived of her property unlawfully or that she requires the property to live a normal, dignified and peaceful life.”

17. Thus, the submission that the entire proceedings are without jurisdiction only because the application does not contain a separate prayer for maintenance cannot be accepted as an absolute proposition.

18. The application made by Respondent Nos.3 and 4 will have to be read as a whole. Mr. Gite has invited attention to the handwritten application submitted by the senior citizens. It is stated therein that they were not in a position to afford rent and were unable to bear the expenses of medicines. It is stated that since the opponent was not paying rent, the senior citizens were required to sell the building for repayment of loan. They have sought help in respect of rent and possession. These statements

cannot be ignored only because there is no prayer under the heading of maintenance. In substance, these averments are connected with residence, financial support and use of the property for meeting their requirements.

19. The fact that the application was handwritten has some relevance in the facts of the present case. It is the submission of Mr. Gite that the senior citizen had himself stated that he could not afford the services of an Advocate. Such an application cannot be examined with the same strictness as a pleading drafted by a legally trained person. What is required to be seen is the real grievance of the person. The grievance appearing from the application is that the senior citizens were not receiving rent, were facing difficulty in meeting their expenses including medical expenses, and required possession and income from the property. Therefore, it cannot be said that the application contains no claim touching maintenance.

20. Paragraph 55 of *Mughda Sahal* explains the basis for taking such an approach. The Court observed that the definition of “maintenance” includes residence and the obligation concerning residence has both positive and negative aspects. The positive obligation may require providing residence where the senior citizen does not possess any property. The negative obligation is explained by observing that the child or relative should “not to deprive a senior citizen of her own residence.” Thus, in a proper case, a claim for possession can have direct connection with the right of maintenance and the right of the senior citizen to live a normal life. Therefore, the manner in which the prayer is drafted

cannot by decide the real nature of the proceedings. The real question is whether the senior citizens have shown that their right to live peacefully and to use and enjoy their property has been affected because of continued occupation of the Petitioner. On considering the material placed on record, I find that there was sufficient material before the authorities to take such a view.

21. Ms. Bhangе next submits that the Petitioner and his parents are not residing together. According to her, the building consists of fifteen separate flats. The Petitioner is residing in one flat with his wife, whereas his parents are residing in another flat. This factual position may not be in dispute. However, separate residence by does not decide the controversy. The grievance of the senior citizens is not merely that the Petitioner is residing in the same flat or physically sharing their residence. Their case, as reflected from the application, is that the Petitioner continues to occupy a portion of the property, does not pay rent, and such occupation affects their ability to use the property and derive income from it for meeting their requirements. Therefore, merely because the parties occupy separate flats, the proceedings cannot fail only on that ground.

22. The Petitioner has submitted that his possession was not forcible. It is submitted that his name has been entered as an occupant in the municipal records and that the father and brother had given NOC for inclusion of his name. There is some substance in this submission to the limited extent that the entry of the Petitioner in the premises cannot be described as forcible. His occupation was apparently known to the family. However, that

circumstance does not mean that his occupation creates a indefeasible right against the owners. An entry in municipal or occupancy records does not by confer title. Similarly, an NOC given for recording the name of a person as an occupant may explain the circumstances in which his occupation started. It does not establish a permanent proprietary right in the property. The occupation of the Petitioner may have commenced as a family arrangement or with consent of his parents. That is different from establishing an enforceable right to continue in possession against the wishes of the owners.

23. The Petitioner has relied upon the fact that he has filed a suit for partition. His case is that the property was acquired from income generated from ancestral or joint family properties and that he has a share in it. This submission cannot be brushed aside. The Petitioner has in fact instituted civil proceedings asserting such a right. However, the said claim is yet to be decided by the competent Civil Court. Pendency of the partition suit cannot result in a final determination in favour of the Petitioner in the present proceedings. At the same time, proceedings under the Senior Citizens Act cannot be converted into proceedings for deciding title. The scope of the present controversy is narrower. The Respondent parents are the owners. The alleged proprietary right of the Petitioner has not yet been adjudicated. Until such right is declared by the competent Civil Court, mere assertion of a claim in a pending suit cannot defeat the right of the senior citizens to seek protection of their residence and property under the Act.

24. The submission that the proceedings were initiated at the

instance of the elder brother does not carry the case of the Petitioner further. There appear to be disputes within the family. There have been civil and criminal proceedings between different family members. There may be ill-feeling between the brothers. However, existence of family disputes cannot establish that the grievance made by the senior citizens is false. The application filed by them has to be considered. The application refers to their financial difficulties, medical expenses, rent, loan liability and possession. These averments cannot be discarded merely because another member of the family may be supporting the parents.

25. Ms. Bhangé has relied upon the alleged sale of the property in September 2015, subsequent transactions concerning another property, the FIR and the charge-sheet, and has submitted that the parents had derived substantial amounts through alleged fraudulent transactions. These circumstances show that the parties are involved in several disputes. However, the proceedings under the Senior Citizens Act cannot become a trial for deciding every allegation arising out of those transactions. Unless there is a binding adjudication by a competent Court establishing such allegations, those allegations cannot be treated as conclusive proof that the senior citizens are financially secure or that their present grievance concerning rent, medical expenses and possession is false.

26. The same position applies to the contention that the parents have purchased several properties since 2012 and have regular income. Ownership of several properties can certainly be a relevant circumstance. However, ownership of property or

existence of earlier transactions does not establish the present financial position of the senior citizens. A person may own property and still face difficulty in meeting recurring expenses because of loan liability, absence of regular income or other financial obligations. In the present case, the senior citizens have referred to repayment of loan, rent and medical expenses. The assertion made by the Petitioner regarding their financial capacity cannot be treated as conclusive.

27. Reliance was placed on Section 23 of the Act and the decision in *Ranjana Rajkumar Makharia*. In my view, this submission does not carry the case of the Petitioner any further. The present proceedings do not primarily concern a transfer made by a senior citizen in favour of the Petitioner subject to a condition that the Petitioner would provide basic amenities and physical needs. The relief sought concerns possession and protection of use of the property by the senior citizens. Therefore, the specific requirements of Section 23 relating to declaration of a transfer as void cannot be treated as controlling the entire controversy. At the same time, the scheme of Section 23 indicates that the Act is concerned with protection of property of senior citizens. Paragraph 61 of *Mughda Sahal* notices that the power under Section 23 forms part of the Chapter dealing with “Protection of life and property of senior citizen”. Paragraph 62 observes that if the Tribunal can, in an appropriate case, declare an inter vivos transfer void, the authority enforcing the right of maintenance and the corresponding obligation of the child or relative may have power to direct removal of a child or relative who has unjustifiably

deprived the senior citizen of the use and occupation of his or her own property, or has created circumstances making such occupation impossible.

28. The Petitioner has next contended that there is no finding that he had harassed his parents. This submission requires consideration. In *Jitendra Megh*, as quoted in paragraph 51 of *Mughda Sahal*, the Division Bench took note of the fact that the application in that case was “bereft of any allegations of harassment and/or cruelty by the Petitioner” and that there was “no finding, let alone any discussion in terms of Section 9 of the Act, that the senior citizen had suffered neglect at the hands of the Petitioner”.

29. However, the facts of the present case cannot be treated as identical. Here, the senior citizens have referred to non-payment of rent, their inability to meet expenses including medical expenses, and their requirement of possession and income from the property. The application refers to the need to sell the building for repayment of loan. Thus, the grievance is not merely that the Petitioner is an unwanted family member. The application refers to financial and residential consequences arising from the continued occupation. Absence of elaborate use of words such as “harassment” or “cruelty” cannot by render the proceedings without substance.

30. I am unable to accept the submission that the impugned order must be set aside only because there is no detailed finding using the expression “harassment”. The protection contemplated

under the Act is not confined only to cases involving physical harassment or verbal cruelty. Where continued occupation of the property is shown to affect the ability of the senior citizen to obtain rent, possession or beneficial use of the property for meeting legitimate requirements, the competent authority is entitled to consider such circumstances.

31. The submission that the Additional Collector has not sufficient reasons requires consideration. The impugned order may not contain detailed reasons in the manner expected from a regular Civil Court judgment. However, exercise of writ jurisdiction is not intended to interfere merely because the reasons could have been more elaborate. The relevant material shows that the parents are the owners. The claim of the Petitioner is still pending adjudication in the civil suit. The handwritten application contains a grievance concerning financial need and possession. On the totality of the circumstances, the conclusion reached by the Additional Collector cannot be said to suffer from such perversity or jurisdictional error as would warrant interference under Article 227.

32. The submission concerning the Petitioner's wife stands on a somewhat different footing. It is correct that she was not separately impleaded in the proceedings. The principal dispute before the authorities was between the senior citizen parents and the Petitioner, who was stated to be the occupant. Mere fact that the Petitioner's wife resides with him does not by establish an independent proprietary right in her favour. However, the order passed in the proceedings will have to be understood with

reference to the parties before the authority. The wife was not heard and no adjudication was made concerning any independent right which she may claim under law. The order cannot be understood as deciding any such independent right. This does not invalidate the finding concerning occupation of the Petitioner. It only means that the order cannot operate as a final adjudication against any independent right of the wife which was not the subject matter of the proceedings.

33. The allegation of mala fides cannot be accepted on the material available. Mala fides is a allegation. Mere existence of family disputes, other properties or earlier transactions is insufficient to establish that the proceedings under the Act were instituted for an improper purpose. The application contains a direct grievance regarding rent, medical expenses, loan liability and possession. Therefore, there exists a real basis for approaching the authority. The allegation of the Petitioner regarding ulterior motive does not displace that basis.

34. Considerable reliance was placed on behalf of the Petitioner on *Jitendra Megh*. There can be no dispute regarding the binding nature of that decision. However, *Mughda Sahal* explains the importance of factual context. Paragraph 63 states that *Jitendra Megh* was rendered in “the peculiar facts as noted in the observations of the Division Bench”. The principles emerging from those decisions cannot be mechanically applied without examining the factual position in the present case.

35. The facts of the present case have a closer connection with

the principle recognised in *Mughda Sahal* that residence forms part of maintenance. Paragraph 55 explains that the obligation has a negative aspect, namely, an obligation “not to deprive a senior citizen of her own residence.” Paragraph 64 thereafter rejects the absolute proposition that an application seeking eviction cannot be maintainable merely because there is no separate prayer for maintenance.

36. I am unable to accept that the senior citizens are excluded from protection of the Act merely because they own other properties or have entered into earlier transactions concerning properties. The purpose of the Act is not to undertake a comparative inquiry into wealth of the senior citizen and the child. The relevant question is whether the senior citizens require protection in relation to their residence, maintenance or property and whether continued occupation by the child or relative affects their ability to live a normal and dignified life. When the handwritten application is read as a whole, it shows such a grievance. The senior citizens have referred to rent, medicines, loan liability and possession. These matters have direct connection with their support and use of the property. It would be artificial to hold that merely because the word “maintenance” was not separately incorporated in a formal prayer clause, the Tribunal was entirely powerless to consider the application. Such approach would be inconsistent with the reasoning contained in paragraphs 55 and 64 of *Mughda Sahal*.

37. The Petitioner is not the owner of the property. His claim of a share remains pending adjudication. His occupation may have

originated within the family, but such occupation cannot override the established ownership of the parents. If the competent Civil Court ultimately declares a proprietary right in favour of the Petitioner, the consequences of such declaration will follow in accordance with the decree and applicable law. Mere pendency of such possibility cannot defeat the present right of the senior citizens to seek protection under the Act.

38. On an overall consideration, I find that the application preferred by Respondent Nos.3 and 4 was maintainable. I find that the contents of the application disclose a grievance connected with maintenance, residence and use of their property. The assertion of the Petitioner regarding joint family ownership remains unadjudicated and, in the present proceedings, cannot defeat the ownership of the senior citizens. I find that absence of a separately framed prayer for maintenance is not decisive in view of the law explained in *Mughda Sahal*. The substance of the application has to be examined. In the present case, contents of the application disclose a grievance relating to maintenance and residence. The principal contention raised by the Petitioner therefore fails on merits.

39. The plea that the parties reside separately does not assist the Petitioner. The statutory protection is not confined to cases where the child and senior citizen are physically residing in the same flat. The relevant question is whether the senior citizen is being deprived of use, occupation or beneficial enjoyment of his or her property in a manner affecting normal life. The continued occupation of the flat by the Petitioner, coupled with the grievance

regarding non-payment of rent and financial requirements stated by the senior citizens, provided sufficient material for the authority to consider the claim. The allegations concerning the elder brother, criminal proceedings, earlier property transactions and alleged fraud are collateral to the central issue before the authority. Those matters may have relevance in proceedings in which they are directly in issue. However, they do not establish a legal right in favour of the Petitioner to continue in possession. Nor do they disprove the present grievance of the senior citizens.

40. For these reasons, the Writ Petition fails on merits. The order dated 27 June 2019 passed by Respondent No.1, Additional Collector, Pune, in Appeal No.6 of 2019, does not require any interference and is accordingly upheld.

41. The Petitioner shall hand over peaceful possession of the premises in his occupation to Respondent Nos.3 and 4 with in four weeks from today.

42. However, this direction shall not be construed as an adjudication of any independent proprietary or statutory right, if any, of the Petitioner's wife, who was not a party to the proceedings.

43. This order shall also not prejudice adjudication of the claim of the Petitioner in the pending partition suit.

44. The Writ Petition is accordingly dismissed. Rule is discharged. There shall be no order as to costs.

45. At this stage, Ms. Bhange, learned Advocate for the Petitioner requests for stay of operation and implementation of this judgment and order. However, for the reasons assigned herein above, the request for stay stands rejected.

(AMIT BORKAR, J.)