

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1823 OF 2016

Shri. Birendra Munnilal Thakur

.. Petitioner

Versus

Shri. Sudama Harandiram Kanojia and another

.. Respondents

Shri. Balasaheb Deshmukh i/by Shri. Pravartak Pathak , for the
Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 28th MARCH 2016

PC.

1. The writ jurisdiction of this Court is invoked against the order dated 17.07.2015 passed by the Appellate Authority i.e. the District Collector, Nashik, by which order the Appeal filed by the Petitioner came to be dismissed and resultantly, the order dated 18/23.12.2014 passed by the Competent Authority and Sub Divisional Officer, Nashik, came to be confirmed.

2. The Respondent Nos.1 and 2 herein are the Applicants who have filed the application in question under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short "the said Act"). It is the case of the Respondent Nos.1 and 2 that the Petitioner herein who is their

adopted son has been ill-treating them and that he has also forcibly taken the jewellery of the Respondent No.2. It is the case of the Respondents i.e. the Applicants in the application that the Respondent No.1 is suffering from paralysis and the Respondent No.2 is required to undergo an eye surgery as her eye sight is affected. However, it is the case of the Respondents that the Petitioner who is their adopted son is not giving any heed to the said requirements of the Respondents. The Respondents have sought maintenance under Section 9 of the said Act. The application in question was opposed to on behalf of the Petitioner. It was the case of the Petitioner that he has been looking after his parents and that he is also providing them financial assistance. It is also the case of the Petitioner that the Respondents are financial well off as both the Respondents have properties in and around Nashik. The Maintenance Tribunal i.e. Sub Divisional Officer considered the said application and has allowed the same by the impugned order dated 18/23.12.2014. The Maintenance Tribunal has directed the Petitioner to pay an amount of Rs.5000/- each to the Respondent Nos.1 and 2 making a total amount of Rs.10,000/- and vide directions issued in clause (3) has directed the Petitioner to return the ornaments of the Respondent No.2 which are mentioned in the said clause (3) and the concerned Police Officer has been directed to submit a report in that regard to the Maintenance Tribunal. The Maintenance Tribunal has

adverted to the fact that the Petitioner is running a Hair Cutting Saloon, agreement in respect of which shop premises was fraudulently got executed in favour of the Petitioner though the payment was made by the Respondent No.1. The Petitioner is also taking the entire income of the Hair Cutting Saloon. The Maintenance Tribunal has also adverted to the fact that the Petitioner is not treating the Respondents in a manner required of a son. The Maintenance Tribunal was of the view that having regard to the illnesses from which the Respondents are suffering, it was required on the part of the Petitioner to give them psychological support and confidence to bear the said illnesses which was not being done by the Petitioner. As indicated above, the Maintenance Tribunal has by the impugned order dated 18/23.12.2014 allowed the said application filed by the Respondents.

3. The Petitioner herein aggrieved by the said order dated 18/23.12.2014 filed an Appeal before the Appellate Authority i.e. the Collector Nashik. The Appellate Authority having regard to the material on record did not deem it appropriate to interfere with the order passed by the Maintenance Tribunal and has accordingly by the impugned order dated 17.07.2015 dismissed the Appeal.

4. It is sought to be contended on behalf of the Petitioner that

both the Authorities without recording a finding that the Petitioner is ill-treating the parents have issued the directions as contained in the impugned orders and therefore the same have been issued in excess of the jurisdiction of the Authorities. It was sought to be contended on behalf of the Petitioner that the Petitioner is already paying an amount of Rs.5000/- to his parents and is thereby taking care of his parents and therefore the allegations made by the Respondents are mis-founded. In my view, it is not possible to accept the said contentions urged on behalf of the Petitioner in the light of the finding of fact recorded by the Maintenance Tribunal as confirmed by the Appellate Authority. As indicated above, both the Authorities on the basis of the material on record have deemed it appropriate to issue the directions as contained in the impugned orders. Having regard to the object of the said Act and having regard to the facts and circumstances of the present case, the directions as contained in the impugned orders cannot be said to have been issued in excess of the jurisdiction conferred on the Authorities under the said Act. Hence, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]