

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1791 OF 2016

Shri Santosh Surendra Patil. ... Petitioner.
Versus
Shri Surendra Narasgopnda Patil & ors. ... Respondents.

Mr. Abhaykumar Apte, advocate for petitioner.

Mr. Tejpal S. Ingale, advocate for respondent Nos. 1 and 2.

Ms. Veera Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
RESERVED ON : MARCH 30, 2017**

PRONOUNCED ON : JUNE 23, 2017

P.C.:

1 This is an unfortunate litigation between old aged parents and middle aged sons. The Petitioner herein impugned the order dated 20th February, 2016 passed by the Sub Divisional Officer, Pune in Criminal/SR/2/2015 confirming the order passed by the learned Additional Collector, Pune in Appeal No. 2 of 2016 under the provisions of the Maintenance and Welfare of Parents and Senior

Citizen Act, 2007(for short “the said Act”) and Rules made thereunder.

2 The Petitioner herein happens to be the elder son of Respondent Nos. 1 and 2 and respondent No. 3 happens to be the younger brother of the Petitioner.

3 The Petitioner had challenged the impugned Order before the Vacation Court (Coram : P.D. Naik, J). It was submitted before the Vacation Court that the Appeal was rejected by the Additional Collector on 30th April, 2016 directing the Petitioner to vacate residential premises, constructed and owned by respondent Nos. 1 and 2. It was submitted that the reasoned order of the Appellate Authority was not available and therefore, the advocate representing the Petitioner had no idea as to whether any reasoned order is passed. He had drawn the attention of the Vacation Court to the single line operative order. It appears that the learned APP had placed on record the communication received by Nigadi Police Station directing the

police to execute order dated 30th April, 2016 and file a compliance report. It was also submitted that the Petitioner was willing to take care of Respondent Nos. 1 and 2 and that no prejudice would be caused to the Respondent Nos. 1 and 2 in the eventuality that the order is stayed. Considering the submission, this Court (Coram : P.D. Naik, J) was pleased to issue notice to Respondent Nos. 1 to 3. On the date of filing of the petition, spare copies were not supplied and therefore, notices could not be issued to the Respondent Nos. 1 and 2. The spare copies were supplied only on 16th May, 2016. Thereafter on 10/6/2016, the matter was listed for admission. The Respondent Nos. 1 and 2 had caused their appearance. On 15/7/2016 interim relief was continued.

4 Before reverting to the facts of the case, it would be necessary to see the need for enactment of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Filial responsibility laws are derived from England's Elizabethan Poor Laws of 1601, which made blood relatives responsible for the support of their family

members, including aging parents. In fact, such a law can be traced back to the third century in Roman Society. The moral obligation to support one's aged parents can be found in many different cultures and religions. A peculiar tension arises in the eventuality when this moral obligation crystallizes into a duty enforceable by law. Just like all other religious code, the need for enactment of the present act was the question which needed to be answered as to whether besides filial responsibility laws, no legal rules satisfies what duty, if any, children owe to their parents. The argument that, such coercive legislation may do little to encourage positive and normal relationship and merely enables indigent and helpless parents to sue their children for financial support or seek enforcement of mental peace against their children cannot hold any substance as by enacting this Act, the State has taken upon itself the guardianship of Senior Citizens and old aged infirm parents.

5 It is in this backdrop that the facts of the present case need to be examined which are as follows :

(i) On 29/7/2015 the respondent Nos. 1 and 2 filed an application before the District Collector under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The respondent No. 1 had contended in his application that at the time of filing of the application, he was about 78 years old. That in 1991 he retired from M/s. Advani Orlicorn Company, where he was working as machine shop supervisor. Since it was a private job, he was not entitled for pension. On retirement he had received Rs. 6 Lakhs towards Provident Fund, Gratuity, etc.

(ii) The respondent No.2 was working as a teacher in Municipal School during the period 1966 to 1995 and was officiating as a Head Mistress during the period 1995 to 2001. At the time of filing of the complaint, she was receiving pension of Rs. 13,000/- per month and therefore, she could run the family and meet the medical expenses of her husband. Upon retirement, the respondent No. 2 had received Rs. 3,75,000/- towards pension and gratuity.

(iii) While in service, respondent No. 1 had obtained loan from Pawana Sahakari Bank and Cosmos Bank and had constructed the ground floor of his house. He had also borrowed money from his brother-in-law. He had repaid that amount.

(iv) After retirement, he had constructed the first floor of the house. While constructing the first floor of the house, he had anticipated that he would give the said premises on rent and earn regular income from the same and therefore, had invested the said amount in constructing the first floor.

(v) That he was diagnosed with diabetes in the year 1982. In the year 2002 due to blood hemorrhage in the left eye, he had to undergo laser treatment but had lost vision of right eye and had blurred vision in left eye. He was thereby incapacitated to work and earn his living after retirement.

(vi) That his sons were not looking after him. He had to be operated on his left leg. During the said operation, he was bed ridden for almost 5 months.

(vii) His elder son i.e. present petitioner got married on 5/12/1994. He was working as a partner in Shriyash Classes. That his younger son Sandeep was running an industry, which had to be closed down. The parents were not aware of the nature of business of the younger son. His younger son got married on 26th March, 1998. Since there was difference of opinion in the house, the elder son i.e. the Petitioner and his wife had started living separately in the same bungalow. The elder son i.e. the petitioner had not provided any help to the Respondents-parents.

(viii) His daughter was married in the year 1990 and was living in the matrimonial home. The younger son i.e. respondent No. 3 had lived with respondent Nos. 1 and 2 initially for a period of 10 years and subsequently, he had also decided to live separately. Their daughter

was residing in a tin shed on the second floor and she used to look after them.

(ix) According to the respondent No. 1/complainant, his elder son was doing an independent business and residing separately with his wife. He had never paid a single farthing to his parents. He had not even enquired about their welfare. Thereafter the complainant got his younger son married. The younger son i.e. respondent No. 3 had stayed with the complainant for almost 10 years.

(x) The complainant and his wife were running family. The complainant-father had no source of income and therefore, there used to be intermittent quarrel. For some time, they had stayed with their daughter. She had also lent helping hand them to the best of her capacity.

(xi) Sunanda Patil i.e. respondent No. 2 was working as principal of school, run by Pimpri Chinchwad Municipal Corporation. She is

earning pension of Rs. 13,000/-. She had earned about Rs. 3,75,000/- from her provident fund and gratuity fund, which was her only financial asset. She had spent a lot of money towards domestic expenses such as releasing their mortgaged property at their native place, children's education, their marriage etc. Most of the pensionary amount was spent towards their medical expenses and therefore, they could not give any financial assistance to their sons. That the respondent No. 3 was pestering his parents to give financial help.

(xii) It is specifically contended that in the year 2004 when the couple i.e. respondent Nos. 1 and 2 were suffering from several ailment, their elder son had got executed a Memorandum of Understanding(for short MOU) on Rs. 100 non-Judicial stamp paper which spelt that the ground floor of the house would remain in his possession. That the MOU was drafted type without the consent of the respondent Nos. 1 and 2 and he had obtained their signatures when they were ailing and bed ridden. He had brought alongwith him a public notary advocate advocate Shri Kumthe.

(xiii) As per the said MOU, the elder son was to pay the tax towards ground floor. In fact, the respondent Nos. 1 and 2 were paying tax towards whole building and the elder son had reimbursed his share. As per the MOU the elder son was to pay an amount of Rs. 3000/- per month to the respondent Nos. 1 and 2 commencing from 30/6/2004. Thereafter, he was to pay Rs. 4,000/- per month and thereafter, pay Rs. 5,000/- per month commencing from 31/7/2015 for 108 months. It is pertinent to note that the elder son had resiled from the MOU.

(xiv) The respondent No. 3 was not residing with his parents. However, portion of the first floor, which is to be shared by him was given on rent without the consent of the respondent Nos. 1 and 2. He used to collect rent and had never enquired about his parents. The respondent Nos. 1 and 2 had no knowledge about the quantum of rent received by him. The younger son i.e. Respondent No. 3 had obtained loan from Rupee Bank and the same was repaid by the respondent Nos. 1 and 2. The amount was Rs. 2,65,000/-. In fact,

the respondent No. 2 had sold 15 tolas of gold to repay the said amount.

(xv) It is contended in the complaint that their daughter Sujata Jain was residing in the tin shed on the terrace of their house and was paying Rs. 500/- towards rent. In the year 2009, both the sons had quarreled with Sujata. She had vacated the said premises. She was divorced in the year 2010. The respondent Nos. 1 and 2 were residing in 2 rooms on the first floor. It is also contended that the tin shed was given on rent and a portion of the rental amount was given to Sujata as she was divorced and her son was pursuing his education in engineering and the daughter was studying MBA.

(xvi) It is specifically contended in the complaint that the bungalow was constructed in such a manner that it would accommodate both the sons and the daughter. However, ground floor was in the possession of the elder son and on the first floor two rooms were given on rent by the younger son. The elder son had agreed to vacate

the ground floor on the condition that the first floor would be transferred in his name. The state of affairs had driven the couple i.e. respondent Nos. 1 and 2 in depression. They were suffering from Arthritis. They were unable to ascend and descend steps from the first floor. They had fallen and had to undergo surgery. However, their children had ignored them and did not provide for medical aid. Their daughter-in-law Sanyogita had threatened them that in the eventuality they insisted upon them to vacate the premises she would file criminal case against them. The parents of Sanyogita had also advised respondent Nos. 1 and 2 to behave according to whims of Sanyogita or else they would be prosecuted.

(xvii) In the year 2013 and on 15/5/2015 the respondent Nos. 1 and 2 had lodged complaint against Santosh and his wife. They had also issued a legal notice to him on 13.5.2013. They had not filed any complaint further due to love and compassion for their sons. They were fed up with the atrocities meted out to them by their sons and daughter in law and therefore, they were constrained to approach the

Collector under the Provisions of Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and Rules made thereunder(hereinafter referred as Act of 2007).

(xviii)The Sub-Divisional Officer, Pune (Tribunal constituted under said Act) by the Judgment and Order dated 20/2/2016 was pleased to allow the Petition. The Authority had directed the Petitioner to vacate the ground floor of the bungalow and had further directed the Petitioner to pay an amount of Rs. 2,500/- per month as maintenance to the Respondent Nos. 1 and 2.

(xix) Being aggrieved by the said order, the Petitioner had filed an appeal before the Appellate Authority. The Appellate Authority had stayed the order on 31st March, 2016. The Appellate Authority had extended the same from time to time and after giving hearing to both the parties, the Appeal was dismissed.

6 Being aggrieved by the said Order, the Petitioner has filed this Criminal Writ Petition. The order was stayed by the Vacation Court on 10/5/2016. The order passed by the SDO directing the Petitioner to vacate the bungalow was stayed mainly on the ground that the reasoned order of the Appellate Authority was not available on the date of filing of the Petition.

7 On the first date of the hearing, the Petitioner had shown his willingness to take care of the respondent Nos. 1 and 2 and in view of that, the interim relief was extended from time to time. On 11/8/2016, the matter was heard at length. The learned Counsel for the Petitioner had submitted that he was willing to part with the ground floor premises in favour of the Respondent Nos. 1 and 2 and that he would stay on the first floor.

8 It was brought to the notice of this Court that the Respondent No. 3 i.e. younger son of the respondent Nos. 1 and 2 had come to stay in the said premises only after interim orders were

passed by this Court on 10/5/2016. During the pendency of the proceedings and even prior to that, the Respondent No. 3 was residing separately with his family. Upon a query made by this Court, the learned Counsel for the Respondent No. 3 had submitted that the Respondent No. 3 had grave apprehension that the parents are filing the complaint against the sons only to secure the future of their daughter who is divorcee and in order to secure his own interest in the property, he had come to reside in the said premises. The learned Counsel for Petitioner and Respondent No. 3 have submitted that their sister is instrumental in instigating their parents to file complaint against them.

9 On the day of the hearing, the Petitioner was in possession of the ground floor of the said bungalow, on the first floor, the respondent No. 3 had occupied 3 rooms, whereas the old parents were residing in two rooms. The learned Counsel for the Petitioner had attempted to resolve the issue before the Court by submitting that

he was willing to reside on the first floor and that the parents would stay on the ground floor.

10 The respondent-parents were present in the Court and had submitted that the orders passed by the Authorities should be implemented and that the Petitioner and Respondent No. 3 be directed to withdraw themselves from the bungalow and vacate the residential premises. On the basis of their past experience with their sons, they do not wish to permit them to stay in the said bungalow, as they were deeply hurt by the conduct of the Petitioner and the Respondent No. 3. At that juncture, the Court had asked the learned Counsel for the Petitioner as to how much time, they would require to vacate the said premises. The learned Counsel for the Petitioner and the Respondent No. 3 expressed that the matter be decided on merits. The learned Counsel had requested for time to take instructions. The matter was adjourned and the interim orders were continued.

11 On 27/9/2016 the matter was heard at length. Taking into consideration the conduct of the Petitioner and the arguments advanced across the bar, interim relief was vacated and this Court had passed order to the effect that pendency of this Petition shall not be construed as a stay to the execution and implementation of the impugned order dated 30/4/2016.

12 On 21st March, 2017, the learned Counsel for the original complainant i.e. the present respondent Nos. 1 and 2 had made a statement that despite the fact that the interim relief was vacated, the Petitioner and the respondent No. 3 had ingressed the house and had kept their lien on the said premises. The Respondent Nos. 1 and 2 had specifically submitted before the Court that their movements are restricted because of the encroachment by the Petitioner and the respondent No. 3. They are unable to live in peace. That the situation was life threatening. It was in those circumstances that the PSI of Nigadi Police Station was directed to visit the premises and

take photographs as well as record the statement of the tenants and neighbours.

13 The matter was finally heard on 30th March, 2017 and the photographs were placed on record for the perusal of this Court. It had shocked the conscience of the Court that sons had occupied the garage. All the house hold articles and domestic appliances were stocked just outside the main door of the house. The Petitioner had put up the furniture and was staying in the said area. The Petitioner and the Respondent No. 3 had covered the said area with tarpaulin and were staying there. The Respondent Nos. 1 and 2 were present in the Court and had demonstrated their grief by disclosing the atrocities meted out to them at the hands of the Petitioner and Respondent No.3 after the interim relief was vacated.

14 By virtue of Chapter IV of the Constitution issues pertaining to the elderly were taken into consideration. In fact, they were not enforceable by law. Maintenance of parents by their

children is contemplated under Section 20 of the Hindu Adoption and Maintenance Act 1956. There is similar provision under the Muslim Law. However, these provisions were only moral obligations. In the Code of Criminal Procedure, 1973 a provision was introduced wherein elderly persons could approach the court seeking maintenance under Section 125 of the Code of Criminal Procedure, 1973 and what was necessary to be considered by the Court was that there should be sufficient material to indicate that the children have neglected to maintain their elderly parents, who cannot maintain themselves.

15 By Maintenance and Welfare of Parents and Senior Citizens Act, 2007, a provision was made to the effect that if Petitioner would substantiate before the Tribunal that there is a neglect, it may order the children/relatives to give monthly allowance upto Rs. 10,000/-. The procedure of filing the complaint was made simpler. It was also provided that any voluntary organisation could help the senior citizen to approach the tribunal. Further provision

was made that the Tribunal could take up cause suo moto on failure to comply with the maintenance order.

16 Keeping in view the growing problems of the elders, the legislature has made earnest endeavour to introduce an Act in the interest of senior citizens and parents who are old and infirm. It was also noticed by the Legislature that apart from the economic stringencies, due to lack of source of income, senior citizens and parents were also exposed to emotional neglect and social insecurity. The procedure to ventilate the grievances were made simpler.

17 It is also provided in the Act that if the children or relatives, so ordered, fails without sufficient cause to comply with the order, the Tribunal may, for every breach of the order, issue a warrant for levying fine and sentence such person to imprisonment, which may extend to one month or only payment of maintenance.

18 In the facts of the present case, it is apparent that even after interim relief was vacated by this Court, the maintenance amount was not paid and that the Petitioner and the Respondent No. 3 had continued to harass the respondent Nos. 1 and 2 by staying in the same premises, which in fact is a self acquired property of the respondent Nos. 1 and 2. The Petitioner had candidly submitted before this Court that he holds lien over the said property by virtue of being the son of the Respondent Nos. 1 and 2. Needless to state that this is not an ancestral property.

19 Learned Counsel for the Petitioner has placed implicit reliance upon the Memorandum of Understanding purportedly executed between the Petitioner and the Respondent Nos. 1 and 2 on 30/6/2004. A non-judicial stamp was purchased by the Petitioner on 22/6/2004. The Court cannot be oblivious of the fact that the said MOU was executed when the Respondent No. 1 was hospitalised and was in dire need of care, emotional security, medical aid etc. It was agreed in the MOU that the Respondent Nos. 1 and 2 would

permit the Petitioner to reside in the said bungalow. That under no circumstances the Respondent Nos. 1 and 2 could ask the Petitioner to vacate the premises. That the Petitioner would renovate the said premises at his own cost. The Petitioner was to seek a loan of Rs. 2 Lakhs for the purpose of renovation. That the Petitioner would pay the property tax only to the extent of the ground floor. The water bill would be paid on the basis of the consumption made by the respective parties. That the Petitioner would pay Rs. 3000/- to his parents for the first 12 months, Rs. 4000/- for the next 12 months and thereafter Rs. 5000/- per month during their life time.

20 The Petitioner submits that he has incurred expenses for renovation. That he is paying the property tax to the extent of the ground floor which is in his possession. and that he is also extending said amount to the respondent Nos. 1 and 2. According to the learned Counsel for the Petitioner, the Memorandum of Understanding was voluntarily executed by his parents and that the

parents had undertaken that they would not evict the Petitioner from the said premises under any circumstances.

21 On 15/5/2015 the parents had to approach the police station complaining therein that the Petitioner is addicted to alcohol and is insisting upon them to transfer the property in his name and that he abused them and has also assaulted them. A non-cognizable offence is registered against the Petitioner on the basis of the said complaint. On 13/5/2016 the respondent Nos. 1 and 2 had filed complaint, which was again registered as non-cognizable offence.

22 The subsequent conduct of the Petitioner and his wife is also brought before this Court. On 5/11/2016 Sanyogita, wife of Petitioner Santosh had filed a complaint before the learned JMFC, Pimpri, Morwadi, Pune, thereby alleging domestic violence against the respondent Nos. 1 and 2. The said case is registered as 1057 of 2016. On 10/11/2016 the Petitioner broke open the lock of the ground floor from the rear side and occupied the same by keeping his

household articles. The respondent Nos. 1 and 2 were constrained to call the police and it was of no avail. On 10/11/2016 the Petitioner had called upon the brother of the Respondent No. 2 and insisted upon the respondents-parents to let out the premises on rent to them. They had coerced the Respondent Nos. 1 and 2 to sign on some document, which was not read over to them. On 13/11/2016 the police from the Nigadi Police Station had prepared a false panchanama showing that the Petitioner had complied with the order dated 8/11/2016 passed by the High Court and have handed over the vacant possession. The Petitioner and Respondent No. 3 had continued to harass their parents by threatening them of dire consequences and danger to their life. The parents were being abused by the Petitioner. It is apparent that they had no regard for the judicial orders passed by this Court.

23 This Court, to resolve the rival contentions, had called for the photographs of the said building, as there was an allegation by the parents that their movements are restricted and the Petitioner

and his wife were only creating nuisance to make their life miserable. The learned APP has placed on record the photographs taken by the police which clearly substantiate the allegations made by the parents.

24 The learned Counsel for the Petitioner has also candidly admitted that the Petitioner has made his house in the open premises i.e. within the compound of the bungalow. It is contended by the learned APP that the Petitioner has also parked his car inside the premises. The learned Counsel for the Petitioner has not denied the said contention and has submitted that the Petitioner has a car which he uses for his emergency purposes.

25 Upon perusal of the records, taking into consideration the facts of the case and the arguments advanced by the respective parties, it is crystal clear that the parents i.e. the Respondent Nos. 1 and 2 who are above 70 years old are being harassed by the Petitioner and the Respondent No. 3. That the Petitioner and

Respondent No. 3 are interested only in the property of the Respondent Nos. 1 and 2. That Respondent Nos. 1 and 2 are drawing pensionary benefits and that is the only source of their income. However, it is not sufficient to help them to take sufficient medical aid. They are not only being neglected by their son, but also traumatized by the ill-treatment meted to them by their sons, who are forcing them to transfer their property in their own name.

26 It is apparent that aging has become a major social challenge and despite provisions of the Code of Criminal Procedure, 1973 for maintenance, it was deemed necessary to have inexpensive and expeditious measures to claim maintenance for the parents. The Act of 2007 casts an obligation upon the children to maintain their old aging parents and make them fully secured in the advanced stage of life and not just claim right of inheritance in the properties, which they have earned by soil and toil. It is to make the children aware that the parents need medical care and it is incumbent upon them to extend all possible medical aid. It was found necessary to remind the

children that they were given all possible medical care in their childhood by the parents. In today's set of affairs, the contention of the grown-up children is that it was the duty of the parents to look after their children and the same was not demanded by them. Similarly, the statutory duty is now cast upon the children also to look after their aged parents and not just claim right of inheritance.

27 By virtue of the implementation of this Act, boundaries between morality and illegality would be covered in a simpler manner as the purpose of the common overlapping between the two is often to protect most vulnerable section of the society.

28 In the present case, the Petitioner and the Respondent No.3 are aggrieved by the apprehension that the parents are likely to maintain the daughter's share in the property and therefore, they are coercing the parents to transfer the property in their name.

29 In **Ganduri Koteshwaramma v. Chakiri Yanadi, (2011)**
9 SCC 788 it has been held by the Hon'ble Apex Court that in view
of the amendment of section 6 of the Hindu Succession Act, 1956, the
daughter is entitled to share in the ancestral property and is a co-
parcener as if she had been a son with effect from 9/9/2005. The
daughter of co-parcener becomes co-parcener by birth in her own
rights and liability in the same manner as the son. The forcible
entrance of the Respondent No. 3 in the house is deprecated.

30 The Court cannot be oblivious of the fact that the matter
like the present one cannot be dealt with under the caption of moral
obligation or just sensitivity towards a particular case and therefore,
this Court had taken into consideration, at the outset, the need for
enactment of the present Act. In order to strike the balance between
the contentions of both the parties, this Court had called for the
photographs of the bungalow to ascertain the state of affairs after
vacating the interim relief. The conduct of the daughter-in-law i.e.
the wife of the Petitioner in filing a case under the Domestic Violence

Act against the in-laws and her husband speaks volumes for itself. Needless to say that the said Petition was filed after vacating interim relief rather during the pendency of the present petition.

31 Secondly, the Petitioner and the respondent No. 3 are able bodied and have their source of income and yet they have chosen to stay in the compound of the said bungalow. The learned Counsel for the complainant has rightly submitted that the Petitioner could have shifted in a rented premises to demonstrate his bonafide. In the course of hearing of the Petition, the Petitioner had submitted that he is ready to maintain his parents. At the same time, at the stage of final hearing, it is submitted that the Petitioner has no sufficient source of income and therefore, could not take any premises on rent and was therefore, constrained to stay in the compound of the said bungalow. The conduct of the Petitioner and the Respondent No. 3 is more than sufficient to understand acrimony faced by the respondent Nos. 1 and 2.

32 It is apparent that the family responsibilities are as understood, less binding upon the Petitioner and the respondent No. 3. The Petitioner has insisted upon executing the MOU and therefore, according to the Petitioner, he cannot be evicted from the said house during his life time. The respondents-parents had submitted that they were coerced to sign the said MOU. In any case, it shocks the conscience of the Court that the Petitioner could get the MOU executed when the parents were ailing. That was the time when they needed care and medical aid. But the Petitioner had forced them to sign the MOU. The same cannot be executed. It was a conditional MOU. It is submitted that the Petitioner has failed to abide by his obligations.

33 In the facts of the case, it is apparent on the face of the record that the Petitioner and the Respondent No. 3 are making attempts to throw out their aged parents from the property which the parents have acquired during their life time. It is a perfect example of the insensitivity of the children towards their aged

parents/senior citizens. It is clear that the responsibilities towards the parents have degenerated.

34 It is reiterated that in such a case like the present one, the morality of society or the moral conviction of the Court would take back seat, as a duty is cast upon the Court to enforce the statutory provisions and implement the rule of law. It would be in the given facts of the case, the Petition deserves to be dismissed.

35 The manner in which the Petition was contested by the Petitioner attempting to falsify every allegation, reflects upon their conduct. There is record to show that the respondents-parents had to approach the police station on more than two occasions to take coercive action against their own children, is the convincing evidence to dismiss the Petition.

36 It is apparent that the parents in the present case are not only exposed to emotional neglect, feeling of rejection, social

insecurity, but to physical and financial support also. It has become a major challenge to their very peaceful existence. It is fundamental right of the present Respondent Nos. 1 and 2 to seek a life of dignity, peace and liberty at this stage and that it is necessary to enforce the provisions of law.

37 Section 21 of the said Act stipulates thus :

21. Measures for publicity awareness, etc., for welfare of senior citizen.-

The State Government shall, take all measures to ensure that —

- i. the provisions of this Act are given wide publicity through public media including the television, radio and the print, at regular intervals;
- ii. the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act;
- iii. effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.

38 The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 necessitates that the State Government shall take all measures to give wide publicity through public media including television, radio and by regular intervals periodic sensitization and awareness on the issues relating to this Act to the public and police officers and the members of judicial services and to make effective coordination between the services provided by the concerned departments dealing with the law, Home Affairs, Health and Welfare to address the issue relating to the welfare of the senior citizens and their periodical review.

39 It is argued that the Respondent Nos. 1 and 2 have not filed an application under Section 125 of the Code of Criminal Procedure, 1973 and therefore, the Respondent Nos. 1 and 2 would not be entitled under the provisions of the Act of 2007. In fact, the provisions of Section 125 of the Cr. P.C. were not sufficient to meet the cause and protect the senior citizens and parents. The present act is not only restricted to maintain the aged parents, but cast an

obligation on the person who inherit the property of the aged parents to maintain such aged relatives. Section 27 of the Act of 2007 stipulates that the jurisdiction of the Civil Code is barred with respect to any matters to which any provisions of the Act of 2007 applies. Further by virtue of section 3 of the Act of 2007, the provisions for an overriding effect notwithstanding anything inconsistent contained in any other statute.

40 Section 11 of the said Act stipulates thus :

11. Enforcement of order of maintenance.-

1. A copy of the order of maintenance and including the order regarding expenses of proceedings, as the case may be, shall be given without payment of any fee to the senior citizen or to parent, as the case may be, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, such Tribunal on being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.
2. A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be executed in the manner prescribed for the execution of such order by that Code.

The intent of the act is to provide simple, inexpensive, speedy remedy to the parents and senior citizens who are in distress by way of summary proceedings. Section 125 of Code of Criminal Procedure would therefore, not be sufficient to meet the welfare of the old aged parents and senior citizens.

41 Under section 23 of the Act of 2007 maintenance tribunal can issue an eviction order to ensure that the senior citizens live peacefully in their house without being forced to accommodate a son who physically assaults and mentally harasses them or threatens to dispossess them.

42 The Petitioner is placing implicit reliance on the MOU which does not have any probative value taking into consideration the circumstances, in which it was executed. The Act of 2007 confers on the maintenance tribunal express power to declare a transfer of property void at the option of the transferor. Under section 23 of the said Act, it is to be presumed that the intent of the legislature is to

empower the maintenance tribunal to pass effective and meaningful orders including consequential directions to give effect to the said order. The Act empowers the tribunal to grant speedy consequential relief. In the present case, although the interim relief was vacated, the Petitioner and Respondent No.3 has continued to harass the parents and therefore, it is necessary to evict the Petitioner and Respondent No. 3 from the said bungalow i.e. i.e. Girnar Bungalow, Plot No. 59, Sector No. 27/A, Pradhikaran, Nigadi, District Pune.

43 It is in these circumstances that the Writ Petition being sans merits stands dismissed on the following terms:

(i) The Order passed by the Learned Sub-Divisional Officer, Pune in Criminal/SR/2/2015 and confirmed by the learned Additional Collector, Pune in Appeal No. 2 of 2016, Pune is hereby maintained.

(ii) The Petitioner and the Respondent No. 3 to pay Rs. 2,000/- each to the parents/Respondent Nos. 1 and 2 from 1st August, 2017.

(iii) The Petitioner and the Respondent No. 3 are further directed to vacate the premises of bungalow i.e. Girnar Bungalow, Plot No. 59, Sector No. 27/A, Pradhikaran, Nigadi, District Pune within two weeks from the date of passing of this order.

(iv) In the eventuality that the Petitioner and Respondent No. 3 do not vacate the premises of above bungalow voluntarily the Respondent Nos. 1 and 2 are at liberty to seek police aid to execute the present order.

(v) The Petitioner to pay cost of Rs. 25,000/- towards the cost of litigation to the Respondent Nos. 1 and 2 jointly within 2 weeks from today. The amount to be deposited before the Tribunal, Pune constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which shall not be included in the maintenance amount.

(vi) The Tribunal at Pune is hereby directed to implement and execute the Order dated 20/2/2016 passed by the Sub-

Divisional Officer, Pune in Criminal/SR/2/2015 within two weeks from today.

44 This Court is hopeful that the Government of Maharashtra would take effective steps to enforce Section 21 to bring about awareness of this Act and implement Section 21 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

45 The Writ Petition is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)