

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5830 OF 2019

Shamim Sayeed Khan & Anr. ... Petitioners

V/s.

Sayeed Rashid Khan & Ors. ... Respondent

Mr. Mandar Kale a/w Ms. Akshta Sawant for the
Petitioners.

Mr. Sandeep Naik for the Respondent No.1

Mr. M.M. Pable, AGP for the State.

**CORAM: S.C.DHARMADHIKARI,&
R.I.CHAGLA, J.J.
DATED : 19/11/2019**

P.C.

1. The Petitioners are husband and wife.
2. The first Respondent is the original Applicant who had invoked the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
3. On his application, the competent Authority under that law made a impugned order. The operative direction says that the son and the daughter-in-law namely, the Petitioner before us opponent to that original application should vacate and allow the first Respondent to occupy

and possess the immovable property/premises known as Room No. 53, Sangam Nagar, Near Rakesh Dairy, Saibaba Mandir, Saltpen Road, Antop Hill, Wadala, Mumbai 400 037. The challenge was laid to this order by this present petition.

4. Since, the Petition was moved before the vacation Bench on 07.05.2019, it granted limited protection in terms of prayer clause (d). Prayer clause (d) of the petition reads as under:

“d. Ad-interim relief in terms of prayer clause (d) above be kindly granted.”

5. Prayer clause (c) of the petition reads as under:

“c. Pending the hearing and final disposal of the present Writ Petition effect operation, execution and implementation of the impugned order dated 20.02.2019 passed by the Respondent No.2 be stayed.”

6. This petition was placed before us at the instance of the first respondent, who urged that as a senior citizen, he is not able to live peacefully and has to face harassment from the Petitioners. The blanket ad-interim relief protection is misused to continue the harassment.

There is an Affidavit-in-Reply and rejoinder filed. The Writ Petition was placed before us on 08.11.2019 and it was directed that it will be listed today and heard.

7. After it was heard for some time and we were not inclined to pass any orders in our writ jurisdiction, much less, to quash and set aside the order of the Tribunal impugned in the petition, upon instructions from the petitioner No.1, who is present in the Court, the Counsel appearing for the Petitioners says that the Petitioners would withdraw the Writ Petition and not press the challenge, provided, they are granted four weeks time to move out of the existing premises and make alternate arrangement.

8. This request is not seriously opposed by the Advocate appearing for Respondent No.1.

9. Respondent No.1 is also present in the Court.

10. Writ Petition is dismissed as withdrawn. However, the order passed by the Presiding Officer of the Tribunal shall not be enforced for the period of four weeks, so as

to enable the Petitioners to find an alternate accommodation and move therein. This order is passed because there is finding of fact rendered that the Petitioners have another accommodation available to them in the city of Mumbai. Hence, we grant four weeks time to vacate and if the Petitioners fail to do so, they shall be evicted from the existing premises occupied by them and if that occasion arises, the nearest police station can render the assistance to the competent authority and to the senior citizens.

(R.I.CHAGLA,J.)

(S.C.DHARMADHIKARI, J.)