

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****REVIEW PETITION NO. 18 OF 2021****IN****WRIT PETITION NO. 7982 OF 2018**

- 1 Nayana Sudhir Shah,
adult Indian inhabitant, age:
57 years, Occupation: Business.
- 2 Samkit Sudhir Shah,
adult Indian inhabitant, age:
32 years, Occupation: Business.
- 3 Shraddha Sudhir Shah,
adult, Indian inhabitant, age:
28 years, Occupation: Business.
All Residing at 8/114 Adarsh Nagar,
Prabhadevi, Mumbai- 400025 and
Presently residing at 403, Vaitarna,
Sir Pochkanwalla Road, Worli,
Mumbai -400030. ...Petitioners.

Vs.

- 1 Sudhir Premji Shah,
Adult Indian Inhabitant, Age:
62 years, Occupation : Retired,
residing at Room No.12,
VishwaLaxmi Building,

TodankarWadi, A.V
Nagwekar Road, Prabhadevi,
Mumbai - 400 025.

- 2 Collector of Mumbai,
The Appellate Authority under the
Maintenance and Welfare of Parents
and Senior Citizens Act, 2007,
having its office at Old Customs
House, Fort, Mumbai - 400 001.
- 3 Deputy Collector & Presiding Officer,
Tribunal for Maintenance of Parents
and Senior Citizens, Mumbai 1 City,
having its office at Old Customs House,
Fort, Mumbai - 400 001.

...Respondents.

Mr. Vivek Kantawala a/w Mr. Vishal Narichania, Mr. Amey Patil i/by
M/s. Vivek Kantawala & Co. for the Petitioners.
Mr. Shashank Thatte a/w Mr. Ranjit Agashe, Ms. Vrushali Salvi and
Mr. Krishnan Iyer for the Respondent No.1.
Mr. S.D. Rayrikar, AGP for the Respondent Nos.2 and 3-State.

CORAM : A. S. GADKARI, J.
DATE : 9th DECEMBER, 2021.

JUDGMENT:-

The present Review Petition is filed by the Original
Petitioners for review of Judgment dated 19th May, 2020 passed by this
Court.

2 Heard Mr. Kantawala, learned counsel for the Petitioners at length, Mr. Thatte, learned counsel for the Respondent No.1, and Mr. Rayrikar, learned AGP for Respondent Nos. 2 and 3. Perused record.

3 It is the contention of the Petitioners that-

(i) this Court after hearing the Petitioners reserved it for Judgment on 27th September, 2019 and pronounced it on 19th May, 2020;

(ii) that, this Court referred to and relied upon the decision of the learned Single Judge of this Court (Shri. R.D. Dhanuka, J.) in the case of *Dattatrey Shivaji Mane Vs. Lilabai Shivaji Mane & Ors., (Writ Petition No.10611 of 2018 dated 26th June, 2018)* which deals with Sections 4 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, "*the Senior Citizens Act*") and has expressed concurrence with the views expressed by the learned Single Judge in para No.29 of the present Judgment dated 19th May, 2020;

(iii) that, in the interregnum, another learned Single Judge of this Court (Shri S.C. Gupte, J. as he then was) in the case of *Ranjana Rajkumar Makharia Vs. Mayadevi Subhkaran Makharia (Writ Petition (L) No.3509 of 2019 dated 24th February, 2020)* pronounced a

decision and by relying on the decision in the case of *Mane (Supra)* has further elaborated the provisions of Sections 4 and 23 of the Senior Citizens Act, which have not been considered by this Court in the present case while pronouncing the Judgment on 19th May, 2020.

4 At the outset, it is to be noted here that on 19th May, 2020, none of the counsel appearing before me pointed out that, the Co-ordinate Bench of this Court in the case of *Ranjana R. Makharia (Supra)* has pronounced a decision also dealing with Sections 4 and 23 of the Senior Citizens Act. It is to be noted here that however, it makes no effect on the decision of the Judgment dated 19th May, 2020 passed in the present case.

5 Be that as it may, this Court in the present case has taken into consideration the elaborate interpretation and enunciation of the provisions and in particular Sections 4 and 23 of the Senior Citizens Act delivered by a learned Single Judge in the case of *Mane (Supra)* and has recorded categorical finding of concurrence and respectful agreement with the views expressed in the case of *Mane (Supra)*.

6 It is to be noted here that, in the case of *Ranjana R. Makharia (Supra)* though another learned Single Judge of this Court in paragraph No.10 has adverted or referred to the facts in the case of

Mane (Supra), but has not taken into consideration the various provisions of law interpreted and enunciated by the other learned Single Judge of this Court in the said case i.e. *Mane (Supra)*, which was pronounced on 26th June 2018.

It is thus clear that, the decision in the case of *Mane (Supra)* was having binding effect while pronouncing the decision in the present case on 19th May, 2020.

7 It is to be further noted here that, the Division Bench of this Court in the case of *Shweta Shetty Vs. State of Maharashtra & Ors. (Writ Petition (L) No.9374 of 2020 dated 25th November, 2021)* in its Judgment has also referred to and relied upon the decision in the case of *Mane (Supra)* and in particular paragraph Nos.14, 22, 24, 25 and 31 thereof (which this Court has also relied upon in the present Case) and in paragraph No.23 of the said Judgment has entirely endorsed the views of the learned Single Judge in the case of *Mane (Supra)* and accepted them as their own. It is thus crystal clear that, the Division Bench of this Court in the case of *Shweta Shetty (Supra)* has affirmed the views expressed by the learned Single Judge in the case of *Mane (Supra)*.

8 In view thereof, I find that, there are no merits in the present Review Petition and is accordingly dismissed.

Interim relief granted by Order dated 17th July, 2020 is vacated with immediate effect.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed by
SANJIV SHARNAPPA
MASHALKAR
Date: 2021.12.13
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