

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6049 OF 2021

**PURAN RATANLAL SHARMA AND OTHERS
VERSUS
SONIBAI ALIAS SUMITRABAI RATANLAL SHARMA AND OTHERS**

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Advocate for Petitioners : Mr. A. T. Kanawade
AGP for Respondent Nos. 3 & 4 – State : Mr. K. B. Jadhavar
Advocate for Respondent Nos. 1 & 2 : Mr. R. M. Sharma

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CORAM : SMT. BHARATI DANGRE, J.

DATE : 24th JANUARY, 2022

PER COURT :

1. Heard the learned counsel for petitioners, who are aggrieved by the order dated 16-07-2020, passed by the competent authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The respondent Nos. 1 and 2 filed an application under the said Act and the same is placed on record at Annexure 'A' to the petition.

Perusal of the application would reveal that the applicants sought the relief, which read as under:-

“It is therefore prayed that application filed by the applicants may kindly be allowed and the vacant possession of the following houses may please be given to the applicants by evicting the non-applicants.

1) House No.14-144 & 14-145, Bearing P.R. Card No.1381 & 1380 which is bounded as under:

East- House of Nandlal Laxminarayan Mundada
West- House of Mahesh Kailash Bora
South- House of Nandlal Laxminarayan Mundada
North- Govt. Road

2) House No. 13-153, P.R. No.1410 bearing P.R. Card No.1410 which is bounded as under:

East- House of Sunil Jagannath Pingalkar
West- House of Ajij Chause
South- Govt. Road
North- Govt. Road

3) House No. 13-136 bearing P.R. No.1430 & 1431 which is bounded as under:

East- House of Govind Dwarkadas Mundada
West- House of Radhabai Dwarkadas Mundada
South- Govt. Road
North- Govt. Road”

On the application the order is passed to the effect that the respondent Nos. 1 to 4 shall vacate the premises and the possession should be made over to the applicants. The petitioner is, however, aggrieved by the direction issued by the said authority vide direction No.2 under which the respondent Nos. 1 and 3 are directed to pay amount of Rs.5,000/- each to the parents separately (i.e. Rs.10,000/- each) within a period of seven days. The learned counsel for petitioner, by inviting my attention to application filed by the senior citizens, state that the application contain the following averments :

“15) That as stated above the non-applicants are not maintaining the applicants and nothing are providing towards the livelihood of the applicants. The applicants are being the old aged persons, they have no source of income to maintain themselves, and the applicants are leading

measurable life. Now the applicants want to get vacant possession from the non-applicants in respect of the above said three houses, with a view to lease out the above said three houses on the rent basis to other person and intended to generate their source of income for their livelihood. Since last six months the applicants are requesting to the non-applicants to hand over the vacant possession of the above said three houses of the applicants, but the non-applicants are avoiding to hand over the vacant possession to the applicants. Lastly on 22nd December, 2019 the non-applicants have flatly denied the request of the applicants for handing over the vacant possession of their above said three houses.”

The submission advanced is that the applicants wanted the premises to be vacated so that they lease out the premises and earn their income to sustain themselves. They never claimed any amount of maintenance and therefore, learned counsel submit that he shall vacate the premises in terms of the directions issued by the competent authority, as directed in clause No.3 of the impugned order within a period of 3 months from today. The said statement is taken as an undertaking given to this Court and on failure of the petitioners to abide by the same, they shall be liable for an action under the Contempt of Court Act for disobeying the undertaking given to this Court. Time is granted to the petitioners to vacate the shop premises till 30th April, 2022. During this interregnum period the petitioners undisputedly shall continue to pay the amount of maintenance as directed by direction No.1 and also pay rent of the premises occupied by them, which include

two residential premises and one godown. After 30th April, 2022 also, if the petitioners are desirous of using the godown, subject to the consent being given by the respondent Nos. 1 and 2, they shall continue to occupy the godown, subject to they paying rent to the parents. The learned counsel for petitioners also state that it is not the case that presently the respondents are without any shelter as they are residing in the same premises on the ground floor.

2. The order passed by the competent authority, therefore, cannot be sustained as far as the direction No.2 is concerned, where the maintenance was directed to be paid per month to the applicants, however, since the petitioners have failed to vacate the premises within the period set out in the impugned order, the petitioner undertake to continue to make payment of maintenance till he vacate the premises, on his own accord. Necessarily, the impugned order is set aside to the extent where it direct the petitioners to pay an amount of maintenance but the order is upheld qua the clause Nos. 3 and 4. Resultantly, the writ petition is partly allowed. No order as to costs.

(SMT. BHARATI DANGRE, J.)