

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

WRIT PETITION NO.5338 OF 2022

Mrs. Manjiri Mayur Mayekar ..Petitioner
Versus
Mrs. Meena Sudhir Mayekar and Anr. ..Respondents

Ms. Rushita Jain, for the Petitioner.
Mr. Kishor Patil i/by Rajeev Matkar, for the Respondent
No.1.

CORAM : NITIN W. SAMBRE, J.

DATE : 14th JUNE, 2022

P.C.

1. Heard respective counsels.
2. The order impugned is dated 15th February, 2022 passed at the behest of the respondent, who happened to be mother-in-law of the petitioner.
3. It appears that the petitioner is in matrimonial discord with her husband. The husband is residing at a different place than the one which is occupied by the respondent/mother-in-law. The premises which is subject matter of the present proceedings is tenanted one, in relation which there already exist dispute which is subject matter of challenge in an independent proceeding before this Court.
4. The respondent/mother-in-law invoked provisions

under Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (for short "Senior Citizen Act") with a prayer against the petitioner that she may be asked not to reside in the suit premises. The said prayer came to be allowed vide order impugned dated 15th February, 2022.

5. Submissions of counsel for the petitioner are, in view of matrimonial discord, proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short "DV Act") are already initiated which are pending adjudication on the file of 5th Metropolitan Magistrate's Court at Dadar vide Case No.71/DV/2021, so also the proceeding being No.CC/104/DV/2021 which are initiated against each other by the parties to the petition.

6. I am also informed that the petitioner has taken out an interim application against her husband and the respondent herein, mother-in-law, seeking maintenance and residential arrangement as it is informed that the petitioner is custodian of minor children. Said prayer of the petitioner moved in the DV Act proceedings is informed to be under consideration.

7. In the aforesaid background, the contentions of counsel for the petitioner are, in the premises in relation to which the order impugned is passed, the petitioner is residing with her three minor children. In case, if the order is given effect to, the petitioner will not have another place

to accommodate herself. It is also urged that under DV Act, it is equally responsibility of the respondent/mother-in-law to all the present residence to be shared with petitioner. It is claimed that both the provisions are under the Senior Citizen Act and DV Act need to be harmoniously construed. Support is drawn from the judgment of Apex Court in the matter of **Smt. S. Vanitha Vs. The Deputy Commissioner, Bengaluru Urban District and Ors.** reported in **LAWS(SC)-2020-12-40**. Further contention is, there is enough material on record to infer that due to matrimonial discord with husband, the petitioner continued to stay in the shared household accommodation with respondent who is a working woman.

8. Counsel for the respondent No.1, Mr. Kishor Patil would oppose the prayer for grant of interim relief, as according to him, admissions given by the petitioner as regards various accommodations available with her specifically dis-entitles her to such reliefs. According to him, though initially petitioner resided with the respondent No.1, however, subsequent thereof she shifted to her parental place which is at Dombivali. It is also claimed that petitioner has purchased flat at Dombivali in March, 2008 and another at Nalasopara which is jointly owned by her along with her husband. As such, sum and substance of contentions of Mr. Kishor Patil are, alternate accommodation owned by the petitioner is available to her

and that being so, the authorities below were justified in passing the order impugned.

9. I have appreciated the aforesaid submissions.

10. It is not disputed by the rival parties to the petition that in the pending proceedings under the DV Act, petitioner has taken out application for issuance of direction to her husband who is not party to the petition, so also respondent No.1 herein for making residential arrangement for herself and her three minor children. I am informed that such application under provisions of DV Act along with application for grant of interim maintenance are pending adjudication.

11. In the aforesaid background, it will be appropriate, in my opinion, to direct the Court of 5th Metropolitan Magistrate at Dadar to decide the interim application of the petitioner in relation to the making residential arrangement for herself and her three children expeditiously and in any case, within three months from today. Aforesaid order is passed keeping in mind the submissions made by the petitioner before the authority which led to passing of the order impugned, wherein it is directed that the petitioner is jointly owner of certain property. However, this Court is equally sensitive to the fact that respondent is also a party to DV Act proceedings. Petitioner as on date is admittedly staying with the

respondent with her children as her husband, son of the respondent has abandoned her.

12. As such, the ad-interim protection ordered by this Court is continued till 30th September, 2022, whereafter same shall cease to operate or till the disposal of the application of the petitioner for issuance of direction for making residential arrangement for herself and her children whichever comes first.

13. With the above observations, the petition stands disposed of.

[NITIN W. SAMBRE, J.]