

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO. 777 OF 2022**

Sachin s/o Nilkanth Sahastrabuddhe and others

vs.

State of Maharashtra and others

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

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Mr. A. R. Wagh, Advocate for petitioners.  
Ms. T. H. Khan, AGP for respondent No.1.  
Mr. Rohit Joshi, Advocate for respondent Nos.2 & 3.

**CORAM : MANISH PITALE J.**

**DATE : 20/07/2022**

During the course of arguments a very disturbing aspect of the present case has come to light.

2. The petitioners by this writ petition challenged order dated 03/08/2021, passed by the respondent No.1 under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The said proceeding was initiated by respondent Nos.2 and 3. The petitioner No.1 is the son of the said respondents and petitioner No.2 is the daughter-in-law. On the basis of the grievance raised by respondent Nos.2 and 3 under the

provisions of the said Act, the respondent No.1 heard the contesting parties i.e. the petitioners and respondent Nos.2 and 3 and by a detailed reasoned order allowed the application filed by the respondent Nos.2 and 3 and directed that the petitioners shall handover possession of the house property in question to respondent Nos.2 and 3 within 30 days and if the order was not complied with, the possession would be handed over to the said respondents with the help of the police.

3. The present writ petition was filed by the petitioners challenging the said order. On 17/02/2022, a statement was made on instructions of the petitioners that they shall vacate the said house property in question within one week. Thereafter, the petition was adjourned and upon an undertaking filed by the petitioners, notice came to be issued on 21/03/2022. In the said undertaking on affidavit dated 01/03/2022, the petitioners stated that the said house property had been vacated on 24/02/2022, and the keys were handed over to the respondent No.1 Sub-Divisional Officer.

4. An affidavit was filed on behalf of the respondent Sub-Divisional Officer stating that although keys were handed over by the petitioner

No.1, when respondent Nos.2 and 3 were conveyed that the keys could be collected, the respondent No.3 attended the office of respondent No.1 and produced documents to indicate that the petitioners had not actually vacated the said house property.

5. In the reply on affidavit filed on behalf of the respondent Nos.2 and 3, the sequence of events was specifically stated as follows :-

*“17. On 24/02/2022, the answering respondents received a call from Naib Tahsildar informing them that the petitioners had vacated the suit premises and had handed over 4 keys. It would be pertinent that when the answering respondents were in possession of suit premises, they had installed 12 locks. Thus, the petitioners ought to have handed all the keys of all the locks of the suit premises. It seems that the purported handing over of the suit premises was in pursuance to the orders passed by this Hon’ble Court.*

*18. The answering respondents did not immediately visit the suit premises considering their past experience of getting dispossessed within hours of gaining possession. The answering respondents visited the suit premises 2 days after the phone call was received from Naib Tahsildar. The answering respondents found that a banner was placed on suit premises stating that property is disputed and therefore no sale of*

*the same shall take place. Copy of banners placed on suit premises by the petitioners is annexed herewith and marked as ANNEXURE-R-13.*

19. *In March,2022, the answering respondents again renewed their request for possession of the suit premises with the help of police aid. The request was acceded to by the learned SDO and by order dated 19/04/2022 directed handing over of the suit premises with help of police aid to the answering respondents. Copy of the order dated 19/04/2022 passed by the learned SDO is annexed herewith and marked as ANNEXURE-R-14. The order was executed on 24/05/2022 and the answering respondents were handed over possession of the suit premises. Possession receipt in this regard was executed a copy whereof is annexed herewith and marked as ANNEXURE-R-15.*

20. *The answering respondents upon coming in possession of the suit premises, and in order to protect the same, immediately reinforced the gates. The answering respondents left the suit premises for an hour or so. Upon returning to the suit premises, the answering respondents found that the petitioners had again breached into the suit premises. The answering respondents informed about the same to the Naib Tahsildar and asked him to take necessary action. The Naib Tahsildar refused the request of the answering respondents and stated that he had done his job and asked them to not to badger*

*him. The answering respondents approached the police station to lodge their complaint. Their complaint was not received by the police authorities. The answering respondents had no other option but to issue a letter to the Superintendent of Police, Chandrapur seeking indulgence in the matter. Copy of letter dated 09/06/2022 issued by the answering respondents to the Superintendent of Police, Chandrapur, is annexed herewith and marked as **ANNEXURE-R-16**.*

21. *It is submitted that all the tenants have left the premises. The petitioners have taken over possession of the 14 rooms which were in occupation of the said tenants. The petitioners are now in possession of entire premises. The respondent No.2 & 3 are presently residing with respondent No.4. It is submitted that petitioners had given an Undertaking to this Hon'ble Court on the basis of which this Hon'ble Court was pleased to issue notice dated 21/03/2022. The petitioners have forcibly evicted the respondent No.2 & 3 on three occasions before 21.03.2022 and once thereafter.*

22. *From the above narration of facts, it is crystal clear that the petitioners have suppressed material facts from this Hon'ble Court. The petitioners have not disclosed the fact that the suit premises have been handed over to the answering respondents on more than one occasion and that they have again forcibly entered into the same. The answering respondents further submit that the petitioners*

*have breached the Undertaking given to this Hon'ble Court. The petitioners had given a specific Undertaking to this Hon'ble Court that they would vacate the suit premises. The petitioners after vacating the suit premises have again regained possession of the suit premises by forcibly dispossessing the answering respondents. It is submitted that as on date, the petitioners are in possession of the suit premises.*

23. *The conduct of the petitioners is highly deplorable. The petitioners are unscrupulous litigants have no regards or respect for Majesty of Courts, Judicial order passed by this Hon'ble Court and Rule of Law. The petitioners have repeatedly breached their own undertaking by reentering the suit premises by forcibly dispossessing the answering respondents time and again. The powers under Article 226 & 227 of the Constitution of India are discretionary in nature. Such powers should not be exercised in favor of litigants who do not abide with their own Undertaking, or the orders passed by the Courts of Law. The petition as such should be dismissed looking at the disgraceful conduct of the petitioners."*

6. In view of the serious allegations made in the said reply-affidavit, this Court on 27/06/2022, granted time to the petitioners to file rejoinder affidavit within two weeks. It was noted that this

was a serious matter, demonstrating breach of undertaking on the part of the petitioners.

7. Today, when the petition is called out for hearing, the learned counsel for the petitioners submitted that he did contact the petitioners and asked them to report to him for preparing the rejoinder affidavit. He made them aware about the serious consequences, if the statements made by the respondent Nos.2 and 3 on affidavit were correct.

8. The learned counsel for the petitioners submits that despite the petitioners being made aware of the aforesaid circumstances, they chose not to report to him for preparation of the rejoinder affidavit and they have refused to contact the aforesaid counsel. In these circumstances, an application is moved before this Court by the learned counsel for the petitioners seeking withdrawal of his Vakalatnama, by stating that he has sent notice dated 07/07/2022, to the petitioners in that regard.

9. In view of the aforementioned circumstances, this Court is not inclined to adjourn the present writ petition. The serious charge levelled against the petitioners in the aforesaid reply-affidavit of respondent Nos.2 and 3 has remained

uncontroverted. Therefore, it is clear that the petitioners have shown scant regard for the orders of this Court, undertakings given to this Court and they have acted in defiance of undertakings given to this Court. This is a petition arising out of the provisions of the aforesaid Act, which is meant for protecting the rights of senior citizens and parents. The petitioner Nos.1 and 2 have shown no regard for the authority of law and the majesty of this Court. Therefore, no indulgence can be granted to the petitioners any more. Accordingly, the writ petition is dismissed.

10. In view of the dismissal of the writ petition, the respondent No.1 – Sub-Divisional Officer is directed to ensure that possession of the said house property is taken from the petitioners forthwith and handed over to respondent Nos.2 and 3, in any case within a period of two weeks from today. The respondent No.1 shall take assistance of police force, if required, for ensuring compliance of the aforesaid direction of this Court.

11. This petition be kept for compliance on **03/08/2022**.

12. In view of the contumacious conduct of petitioner Nos.1 and 2, issue notice to petitioner No.1

Sachin s/o Nilkanth Sahastrabuddhe and petitioner No.2 Sau.Madhavi w/o Sachin Sahastrabuddhe, as to why action ought not to be taken against them for contempt of this Court. The said proceeding shall be registered independently as Sou-Motu Contempt Petition. The notice shall be returnable on 03/08/2022.

**JUDGE**