

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

WRIT PETITION (WP) NO. 4823/2022

Dipali Purushottam Ghongale

..VS..

The Sub-Divisional Officer and President and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.S. Patil, Advocate for petitioner

Mrs. Sangeeta S. Jachak, Assistant Government Pleader for respondent nos. 1 to 4

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, J.J.

DATED : 12/08/2022

The respondent no. 5 has initiated proceedings against his son – respondent no. 6 under Section 5 of the Maintenance of Parents and Senior Citizens Act, 2007. In those proceedings the Sub-Divisional Magistrate on 29.04.2022 has passed an order allowing the application and has directed the respondent no. 6 to hand over the possession of the residential house to the respondent no. 5.

According to the petitioner who is wife of the respondent no. 6 she is also in possession of the aforesaid house and for clarifying the order passed by the Sub-Divisional Magistrate, she has moved an application dated 21.07.2022. It is the grievance of the petitioner that the said application is not being considered. On the contrary, on 02.08.2022 a notice has been issued to take possession of the residential house from the respondent no. 6.

Perusal of the notice dated 02.08.2022 indicates that the respondent no. 6 had filed an Appeal against the order passed by the Sub-Divisional Magistrate and that Appeal has been dismissed

on 03.06.2022 by the Collector, Akola. Against the aforesaid orders the respondent no. 6 has preferred a writ petition to challenge the same. Since the order passed by the Sub-Divisional Magistrate has already been subjected to appeal, no direction as prayed for by the petitioner for seeking clarification can be issued.

In that view of the matter, it would be open for the petitioner to take such steps as are permissible in law if she intends to protect her possession.

Keeping all points raised in this writ petition open, the writ petition is disposed of. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S.CHANDURKAR, J.)

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