

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

WRIT PETITION NO. 5701 OF 2023

Mahesh Ramrao Raipatwar

.. Petitioner

Versus

1. Sub Divisional Officer/
The Senior Citizen Tribunal, Nanded.
2. Tahsildar,
Tahsil Office, Nanded
Tq. & Dist. Nanded.
3. Ram Digambarrao Raipatrao
4. Sow Shantabai @ Bhagyalami w/o Ramrao
Raipatwar .. Respondents

Mr. Sachin G. Joshi, Advocate for the Petitioner.

Mr. S. B. Pulkundwar, AGP for Respondent No. 1.

Mr. M. M. Parghane, Advocate for Respondent Nos. 3 and 4.

CORAM : KISHORE C. SANT, J.

DATED : 21st JUNE, 2023.

P C. :-

1. Heard learned advocates for the parties for some time. Taken up for final disposal.

2. The main ground raised in the petition is that the petitioner was not given an opportunity of hearing by the Senior Citizen Tribunal, Nanded while passing the order. Without giving such opportunity, the

order is passed directing the petitioner to vacate the premises in which he is residing. The order is passed on an application filed by the respondents – parents of the petitioner.

3. Learned advocate for respondent Nos. 3 and 4 opposes the prayer.

4. Learned A.G.P. also opposes the prayer and submits that, no case is made out to show that the opportunity of hearing is denied to the petitioner.

5. On the contrary, it is specifically pointed out that the authority has recorded that the petitioner who was respondent No. 1 before the Tribunal had appeared and advanced oral submissions. It is also recorded that, no written submissions were filed.

6. On going through the order it is seen that, the petitioner was heard by the authority. The authority has even recorded the behaviour of the petitioner which was not proper and was even causing trouble to the respondents-parents. The authority has taken into consideration the complaints filed by the parents from time to time in the police station. The respondents have brought on record such complaints made to the police i.e. dated 23.04.2019, 22.05.2019, 03.01.2020, 12.05.2022, 22.05.2022 and 26.05.2022. Ultimately, the police

recorded FIR on 13.05.2022 against the petitioner for the offences punishable under Sections 294 and 506 of the Indian Penal Code. Therefore, it is sufficient to show the gravity. This fact is coupled with one more factor that respondent No. 4 is suffering from Cancer. There is certificate issued dated 07.06.2022 by the Hospital. These all facts necessarily go to show that the petitioner has indulged into activities of ill treating the respondents. Since looking at the age of both the respondent Nos. 3 and 4 of 75 years and 72 years respectively it is most unlikely that they would file frivolous complaints. Though the petitioner repeated the submission that no opportunity was given to the petitioner to file written statement, however, he has failed to point out even any averment made in his petition to show that he had made an application to the authority to allow him to file written statement. In such circumstances it cannot be held that opportunity of hearing is not given to the petitioner. The petitioner relies upon the judgment of this Court in the case of **Ritika Prashant Jasani Vs. Anjana Niranjana Jasani and others** reported in **2021 SCC Online Bom 1802** wherein, Division Bench of this Court has held that, the nature of enquiry is summary in nature, however, still the Tribunal is required to find out as to whether the property is ancestral property where the petitioners therein are also given ownership and/or residence through the husband. In that case, the question was about the nature of property and whether the title in

law had right of shared household. In this case, it is not the case of the petitioner that he also has right in the property of the respondents. This Court finds that, the this judgment is not applicable in this case.

7. Considering the above, this Court finds that no case is made out to call for any interference in the impugned order. The petition, therefore, stands dismissed.

(KISHORE C. SANT, J.)

PS.B.