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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 379 OF 2023**

1. Mr. Pawan Ravindra Panchal,
 2. Mrs. Vaishali Pawan Panchal,
- Both residing at Room No. 145/5,
Abdul Khwaja Chawl, S.V. Road,
Old Khar, Khar(West), Mumbai – 400 052.
- ... Petitioners

vs.

1. State of Maharashtra, Mumbai
 2. Smt. Kusum Ravindra Panchal,
- C/o. Vaibhavi Vithal Panchal,
B/1306, Tricity Luxuria, Motha Khnada
Khandeshwar, Navin Panvel, Taluka Panvel,
Zilla-Raigadh- 410 206.
- ... Respondents

Mr. Y.M. Naik, i/b. Yashashri Naik, for Petitioners.

Mr. Hemant Ghadigaonkar, for Respondent.

Mrs. M.P. Thakur, AGP for Respondent No.1-State.

CORAM : GAURI GODSE, J.

DATED : 13th MARCH, 2024

ORAL JUDGMENT :-

1. This petition takes an exception to the order passed by the Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (**'Senior Citizens Act'**). By the impugned order, the application filed by respondent no.2, under Section 5 read with Section 9 of the said Act is allowed and the petitioners are directed to vacate the residential premises and not claim any right in respect of the residential premises during the lifetime of respondent no. 2. The impugned order further directs the petitioners not to harass respondent no.2 in any manner. The impugned order further directs petitioner no.1 to pay monthly maintenance of Rs 4,000/- to respondent no.2. Petitioner no.1 is the son of respondent no.2 and petitioner no.2 is the wife of petitioner no.1.

2. Respondent no.2 on 26th August 2022 filed an application under Section 5 of the Senior Citizens Act, claiming monthly maintenance from petitioner no.1 and for getting the peaceful and vacant possession of the residential premises. Respondent No. 2 was 69 years of age at the time of filing the application. Respondent No.2, contended that her husband died on 27th June 2021 and after her husband's death petitioner no.1 was given a job in Mumbai Municipal Corporation on compassionate basis. Respondent no. 2

contented that she as well as her three daughters had given no objection to granting service to petitioner no.1 on compassionate basis after the death of her husband who was working with the Mumbai Municipal Corporation. Respondent No.2, further contended that the residential premises belonged to her and she was occupying the same along with her husband and continued in possession of the same even after her husband's death. However, later on, petitioners started harassing her. Respondent no.2 has in detail pleaded various conduct on the part of petitioners which has caused serious mental and physical harassment to her. It is contended that considering the conduct of the petitioners, respondent no.2 was constrained to file a police complaint against both petitioners. Respondent no.2 further contended that the harassment caused by the petitioners was to the extent that she was not even provided with proper food and was even unable to use the kitchen and bathroom in the residential premises. Respondent no.2, further contended that only to cause harassment to her, petitioner no.2, filed a false case under the Protection of Women from Domestic Violence Act, 2005 ('**D.V. Act**') making allegations against respondent no.2 and her daughters. Considering the harassment caused to respondent no.2, she was constrained to file an application under the Senior Citizens Act. It was contended by

respondent no.2 that petitioner no.1 had got the job on compassionate basis and was earning a handsome salary and was thus capable of taking care of himself and his family by residing at some other premises. The petitioners appeared in the said proceedings and opposed the said application.

3. The Tribunal has passed the impugned order directing the petitioners to vacate the residential premises and not to claim any right in the same during the lifetime of respondent no.2. Being aggrieved by the said decision, the petitioners have preferred this petition.

4. Learned counsel for the petitioners submitted that since the tenancy of the residential premises was originally in the name of the grandfather of petitioner no.1, even the petitioners are entitled to claim tenancy on the ground that they are tenants in-common along with respondent no.2. It was further submitted that the petitioner no.2 has initiated proceedings under the DV Act claiming right to reside in the residential premises on the ground that the residential premises are her shared household.

5. Learned counsel for the petitioners also submits that the ration card and electricity connection were transferred in the name of petitioner no.1. However, respondent no. 2, illegally got them

transferred in her name. Respondent no.2's mother-in-law i.e. grandmother of petitioner no.1 was residing along with them in the residential premises and respondent no.2 had harassed her mother-in-law to the extent that there was a criminal complaint filed against her. Respondent no.2's mother-in-law expired on 19th March 2022 and by taking undue advantage of her demise, respondent no.2 with the help of her daughters filed a false case under the Senior Citizens Act on 26th August 2022.

6. Learned counsel for the petitioners further submitted that petitioner no.1 is regularly paying all the medical bills of respondent no.2 and also paying a monthly amount of Rs. 3,000/- from 3rd March 2017 for her expenses. Learned counsel thus, submitted that a false case was filed by respondent no.2 and that the daughters of respondent no.2 helped her file such a false complaint as they intended to grab the residential premises. Learned counsel for the petitioners further submitted that except the residential premises, no other premises are available for their accommodation who are residing there along with their two children. If petitioners are directed to vacate the residential premises, serious hardships would be caused to the petitioners and their children.

7. Learned counsel for respondent no. 2 submitted that the

electricity connection and ration card were illegally transferred by petitioner no.1 in his name. However, by following due procedure the same has been rectified on the application filed by respondent no.2. Learned counsel for respondent no.2, further submitted that harassment caused by the petitioners is to the extent that petitioner no.2 has installed CCTV cameras in the residential premises which amounts to a breach of privacy of respondent no.2 and her right to live peacefully in her own house where she has been residing along with her husband, since beginning.

8. Learned counsel for respondent no.2 further submitted that after the death of respondent no.2's husband, she is entitled to get tenancy rights transferred in her favour as she has been residing there and is regularly paying the monthly rent. The Tribunal has directed the petitioners to vacate the residential premises and further restrained them from claiming right in the residential premises only during the lifetime of respondent no.2. Thus, assuming that petitioner no.1 has any right to claim any tenancy, the said right is not affected by the impugned order. Considering the serious allegations made against the petitioners, the Tribunal has rightly directed the petitioners to vacate the residential premises. Though respondent no.2 was unable to produce relevant documents

before the Tribunal, the learned counsel for respondent no. 2 submits that service quarter is allotted to petitioner no.1 and he has also acquired certain premises at Badlapur. Learned counsel for respondent no. 2 relied upon copies of the additional documents produced along with an affidavit. He further submitted that petitioner no.1 has secured a job in Mumbai Municipal Corporation on compassionate basis after the death of respondent no.2's husband. He thus, submitted that no hardships would be caused to the petitioners if they vacate the residential premises. Learned counsel for respondent no.2, further submits that though petitioner no.2 has initiated proceedings under the DV Act in the year 2017, there are no orders passed granting any interim protection in favour of petitioner no. 2. He further submits that proceedings under the DV Act are filed on false allegations and the same are simply kept pending to harass respondent no. 2. Since no orders are passed under the DV Act in favour of petitioner no.2, only the pendency of proceedings under the DV Act cannot be a ground for interfering with the well-reasoned order passed by the Tribunal. He further submitted that except for the residential premises, respondent no.2 has no other shelter and thus, at this age, she is entitled to reside in her own premises peacefully. He submitted that due to harassment caused by petitioners, she is required to stay at the mercy of her

daughter though the premises where she is entitled to reside as a matter of right is available for her use. Learned counsel for respondent no. 2 thus, submitted that there is no case made out by the petitioners for invoking powers under Article 227 of the Constitution of India for interfering with the impugned order.

9. I have considered the submissions made on behalf of both parties. Perused the record. It is not disputed that petitioner no.1 has secured service on compassionate basis in Mumbai Municipal Corporation after the death of respondent no. 2's husband. It is also not disputed that respondent no. 2 and her three daughters had submitted No Objection for granting service to petitioner no.1 on compassionate basis and petitioner no. 1 had undertaken that he will take care of the family. So far as proceedings initiated under the DV Act are concerned, there are no orders passed in favour of petitioner no.2, though proceedings have been pending since the year 2017. Learned counsel for respondent no.2 relied upon certain documents to submit that service quarter is allotted to petitioner no.1 and that he has also secured premises at Badlapur. Though the said documents were not produced before the Tribunal, the same are not disputed by the petitioners in the present petition.

10. So far as the claim of the petitioners that they are tenants-in-common along with respondent no. 2 is concerned, the same cannot be adjudicated in the proceedings under the Senior Citizens Act by the Tribunal, in as much as the jurisdiction to decide the issue of tenancy is exclusively with the Rent Court. A perusal of the reasons recorded by the Tribunal and the operative part of the order indicates that the petitioners are restrained from claiming rights in the residential premises only during the lifetime of respondent no.2. Thus, assuming, petitioners have any claim of tenancy rights, the said rights are not affected by the impugned order.

11. The allegations made by the petitioners against respondent no. 2 concerning her mother-in-law are irrelevant, so far as the present matter is concerned, in as much as the impugned order is passed on the application filed by respondent no.2 under the Senior Citizens Act for protecting her right to live peacefully in the premises where she has been residing along with her husband. It is not the case of the petitioners that respondent no.2 has any other premises for her residence.

12. The Tribunal has in detail examined the allegations made by respondent no.2 as well as the response of the petitioners. It

appears that respondent no.2 was constrained to file a police complaint against the petitioners due to harassment caused to her by the petitioners. Petitioners do not dispute that petitioner no. 1 has installed CCTV cameras in the residential premises. Respondent no. 2 is right in making a grievance that such conduct on the part of petitioner no. 1 amounts to a breach of her privacy and a breach of her peace of mind. Respondent no. 2 cannot be denied her fundamental right to live in peace in the house where she has been always residing along with her husband.

13. The Tribunal has in paragraphs 3.13 and 3.14 in detail considered the allegations made by respondent no.2 against the petitioners. So far as petitioner no.2 is concerned, except for raising the defence that she has already filed proceedings under the DV Act against respondent no.2 and her daughters no other ground is raised for opposing the allegations made by respondent no.2. It is not in dispute that there is no order passed in favour of petitioner no.2 under the DV Act proceedings.

14. Learned counsel for the petitioners relied upon the decision of this Court in the case of *Ritika Prashant Jasani Vs Anjana Niranjana Jasani and Ors*¹ and submitted that considering the documents on record in support of the claim of joint tenancy, it is necessary that

¹ 2021(5) ALL MR 352

the Tribunal should have recorded the finding concerning the rights of the petitioners. It is submitted that this Court in the said decision held that the Tribunal was required to find out whether the concerned property exclusively belonged to the senior citizen or it was an ancestral property and if the petitioners had rights of ownership and/or right of residence. This Court had thus, remanded the matter back to the Tribunal for recording findings on the same. It is thus submitted that considering the facts of the present case, the same principle would apply to the present case and the matter is required to be remitted back for a decision on petitioners' claim of joint tenancy along with respondent no.2.

15. Reliance placed by the learned counsel for the petitioners on the decision in the case of *Ritika Prashant Jasani*, is of no assistance to the arguments made on behalf of the petitioners. This Court in the said case held in paragraph 26 that under sub-section (3) of Section 5 of the Senior Citizens Act, the Tribunal is mandated upon receipt of an application for maintenance to provide an opportunity for hearing to both the parties and to hold an enquiry for determining the amount of maintenance. Further, with reference to the facts of that case, it is held that though the procedure contemplated under the Senior Citizens Act is summary in nature

nonetheless the Tribunal is required to find out whether the flat in question exclusively belonged to the senior citizen or it was an ancestral property where the petitioner therein i.e. the daughter-in-law of the senior citizen also had a right of ownership and/or residence through her husband. Thus, considering the rival claims on the residential premises it was further held that the Tribunal was required to deal with the contention that being a shared household the petitioner therein could not be evicted. Thus, in the absence of any such findings, the matter was remitted back to the Tribunal for a fresh decision.

16. In the present case, there is no dispute that the residential premises is a tenanted premises and the rent receipts stand in the name of respondent no.2's husband. It is also not disputed that respondent no. 2 since her marriage has been residing in the residential premises with her husband. Hence, the Tribunal held that respondent no. 2 has better rights in the residential premises. The Tribunal has further restrained the respondents from claiming any right in the residential premises during the lifetime of respondent no.2. However, considering the serious allegations against the petitioners, they are directed to vacate the residential premises and are restrained from causing any harassment to respondent no. 2.

Thus, the Tribunal has considered the rival contentions and held that respondent no. 2 has better rights in the residential premises. Thus, the necessary inquiry has been done by the Tribunal and considering the nature of the rival claims of the parties no further inquiry is required. Hence, in the facts of the present case, unwarranted remand will defeat the objects of the Senior Citizens Act.

17. Learned counsel for respondent no.2, relied upon the decisions of this Court in the case of *Ashish Vinod Dalal and Ors Vs. Vinod Ramanlal Dalal and Ors*² and *Dinesh Bhanudas Chandanshive Vs. The State of Maharashtra and Ors*³. He submits that this Court has categorically held in the decision of *Dinesh Chandanshive*, based on the earlier decisions of this Court that during the lifetime of parents, children cannot assert legal rights of whatsoever nature in the property of the parents who are claiming exclusive ownership and possession. This Court has held that the proper remedy for children is to file a suit in the event they are also claiming rights on the premises, however, the same cannot be during the lifetime of the senior citizen. Learned counsel for respondent no.2 submitted that

² Writ Petition No. 2400 of 2021

³ Writ Petition No. 7392 of 2021 with Interim Application No. 17712 of 2023.

the principle of law laid down in the decisions of ***Dinesh Chandanshive*** as well as ***Ashish Dalal*** squarely applies to the present case.

18. The learned counsel for respondent no. 2 further submits that even the Hon'ble Supreme Court in the decision of ***Smt. S. Vanitha V/s Deputy Commissioner, Bengaluru Urban District and Ors***⁴ has considered the orders passed under the DV Act and orders passed by the Tribunal and held that a harmonious approach is required to be taken in the event of conflict of two legislations. He submits that in the present case, except for the pendency of the proceedings under the DV Act, no order is passed in the said proceedings. Hence, he submits that there would not be any question of any clash of any orders passed under the two special legislations.

19. Considering the nature of the dispute in the present case, and for examining the rival arguments made by both parties it is necessary to understand and correctly apply the proposition of law laid down by the Hon'ble Supreme Court in the decision of ***S. Vanitha***. In the said decision the Hon'ble Supreme Court while dealing with the competing reliefs under the DV Act and the Senior Citizens Act held in paragraphs 35 to 38 as under:

4 AIR 2021 SC 177

“35. In the present case, Section 36 of the PWDV Act, 2005, albeit not in the nature of a non obstante clause, has to be construed harmoniously with the non obstante clause in Section 3 of the Senior Citizens Act, 2007 that operates in a separate field.

36. In this case, both pieces of legislation are intended to deal with salutary aspects of public welfare and interest. The PWDV Act, 2005 was intended to deal with the problems of domestic violence which, as the Statements of Objects and Reasons sets out, “is widely prevalent but has remained largely invisible in the public domain”. The Statement of Objects and Reasons indicates that while Section 498-A of the Penal Code, 1860 created a penal offence out of a woman's subjection to cruelty by her husband or relative, the civil law did not address its phenomenon in its entirety. Hence, consistent with the provisions of Articles 14, 15 and 21 of the Constitution, Parliament enacted a legislation which would “provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society”. The ambit of the Bill has been explained thus:

“4. The Bill, inter alia, seeks to provide for the following—

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the

nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

(ii) It defines the expression “domestic violence” to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

(iii) It provides for the rights of women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.

(iv) It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other

place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.

(v) It provides for appointment of Protection Officers and registration of non-governmental organisations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter, etc.”

37. The above extract indicates that a significant object of the legislation is to provide for and recognise the rights of women to secure housing and to recognise the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act, 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act, 2005, would defeat the object and purpose which Parliament sought to achieve in enacting the latter legislation. ***The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives.*** Equally, the purpose of the PWDV Act, 2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household

cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act, 2007.

38. This Court is cognizant that the Senior Citizens Act, 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the civil courts, under Section 8. The jurisdiction of the civil courts has been explicitly barred under Section 27 of the Senior Citizens Act, 2007. However, the overriding effect for remedies sought by the applicants under the Senior Citizens Act, 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act, 2005. The PWDV Act, 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. In deference to the dominant purpose of both the legislations, it would be appropriate for a tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act, 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act, 2005. Section 26 of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained from any civil court in any legal

proceedings. *Therefore, in the event that a composite dispute is alleged, such as in the present case where the residential premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act, 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act, 2005 and the Senior Citizens Act, 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to override and nullify other protections in law, particularly that of a woman's right to a "shared household" under Section 17 of the PWDV Act, 2005. In the event that the "aggrieved woman" obtains a relief from a tribunal constituted under the Senior Citizens Act, 2007, she shall be duty-bound to inform the Magistrate under the PWDV Act, 2005, as per sub-section (3) of Section 26 of the PWDV Act, 2005. This course of action would ensure that the common intent of the Senior Citizens Act, 2007 and the PWDV Act, 2005, of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realised. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realisation."*

emphasis applied

20. The petitioners have contended that petitioner no. 2 has initiated DV proceedings to protect her right in the residential premises on the ground that it is a shared household and she cannot be evicted. Perusal of the prayers in the DV proceedings

shows that petitioner no. 2 has not only prayed for protecting her right in the shared household but also prayed for directing respondent no. 2 and her daughters to remove themselves from the residential premises i.e. seeking directions to vacate and prayed for a restraining order prohibiting respondent no. 2 and her daughters from entering the residential premises. Thus, the nature of prayers made in the DV proceedings shows the motive of the petitioners to remove respondent no. 2 from the residential premises. It is pertinent to note that petitioner no. 2 has not made any allegations against petitioner no. 1 in the DV proceedings. It is not her case that to deprive her of her matrimonial and/or shared household her husband i.e. petitioner no. 1 has taken aid of the Senior Citizens Act through his mother i.e. respondent no. 2. In the present case respondent no. 2 has made allegations against her son and daughter-in-law. Even otherwise though the DV proceedings were initiated in the year 2017, there is no order passed in favour of petitioner no. 2. Hence, the mere pendency of DV proceedings cannot be a ground to deprive respondent no. 2 of getting protection guaranteed to her under the Senior Citizens Act.

21. Considering the facts of the present case, in my view the principle of law laid down by this Court in the ***Dinesh Chandanshive***

and ***Ashish Dalal***, squarely apply to the present case. The Hon'ble Division Bench of this Court in the case of ***Dinesh Chandanshive*** held that during the lifetime of the parents, the children cannot assert any legal right whatsoever in respect of the property of their parents claiming exclusive ownership or possession of the parent's property. In the facts of the said case, it was further held that the proper remedy would be to file a suit claiming any right and it cannot be during the lifetime of the mother. In the present case, it is not disputed that the rent receipts of the residential premises stand in the name of respondent no. 2's deceased husband. Respondent no. 2 has been residing since her marriage in the residential premises with her husband. Thus, the Tribunal has rightly held that she has better rights in the premises. At the same time, the Tribunal has passed a guarded protective order and restrained the petitioners from claiming any right in the residential premises only during the lifetime of respondent no. 2. Thus, the petitioners' right if any is not affected.

22. It is a well-settled principle of law that the proceedings under the Senior Citizens Act are summary in nature and the Tribunal has no jurisdiction to adjudicate the rival claims on the title of the property. The issue of tenancy cannot be adjudicated by the Tribunal

under the Senior Citizens Act. Merely raising a contention before the Tribunal in the proceedings initiated by respondent no. 2 will not preclude the Tribunal from passing appropriate reliefs protecting the rights of respondent no. 2 guaranteed under the Senior Citizens Act. Hence the Tribunal has rightly passed a guarded protective order that does not cause any prejudice to the petitioners.

23. As recorded above petitioner no. 1 has a secured job, has been allotted a service quarter and has also acquired premises elsewhere, hence no prejudice will be caused to the petitioners if they vacate the residential premises. However, respondent no. 2 is residing at the mercy of her daughter. Nothing is argued by the petitioners that any other premises are available for respondent no. 2. Hence, if respondent no. 2 is not handed over the possession of the residential premises and there are no protective orders passed, she will be deprived of her right to live a dignified and peaceful life at this age.

24. This Court in the case of ***Ashish Dalal*** has held in paragraphs 10 and 11 as under:

“10. It is thus clear that the intention of the legislature in making such provisions in the interest of senior citizens, covers a wide spectrum of the senior citizens rights, which are fundamental to their very survival and/or livelihood at

their old age. Certainly the Court's approach cannot be narrow and pedantic in applying the provisions of the Senior Citizens Act to the grievances of the senior citizens falling within the ambit of the said Act. *A protection from harassment, exploitation, neglect, psychological disturbances, psychological needs, and all possible facets to safeguard their physical and mental health are required to be recognized when sub-section (2) and sub-section (3) of section 4 clearly provide that the obligation of the children or relatives would be to cater to the needs of the senior citizens so that they 'live a normal life'. The words "normal life" as used in these provisions would possess a far deeper and wider concept, deriving its meaning and having a bearing on the fundamental rights of livelihood as guaranteed and enjoyed by senior citizens under Article 21 of the Constitution. Certainly, this would include a right to prevent themselves from being harassed by children and by relatives.* This is also clearly borne out by the preamble to the Senior Citizens Act which reads thus:—

"An act to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto."

11. The statement of object and reasons in paragraph 3(c) reflects the intention behind the legislation also to provide for institutionalization of the residentialable mechanism for protection of life and property of older persons. Thus, it was certainly appropriate and necessary for the parents in the

facts of the present case to invoke the provisions of the Senior Citizens Act to seek a relief against the petitioners qua their property namely the flat in their possession.”

emphasis applied

25. The Tribunal in the present case has passed a well-reasoned order for protecting the right of residence of respondent no.2. It is not in dispute that petitioner no.1 has acquired service on compassionate basis after the death of respondent no. 2's husband, as respondent no. 2 and her daughters had given no objection. Thus, this is a case where the son secured employment on compassionate basis on a no objection given by the mother and on an undertaking given by the son that he will take care of the family. The facts of the case show that after securing employment on compassionate basis, instead of making efforts to take care of the mother, the son and daughter-in-law harassed the mother to such an extent that she was constrained to file a police complaint and then approached the Tribunal under the Senior Citizens Act for protection of her right of residence. Documents produced before this Court by way of the affidavit-in-reply dated 19th February 2024, indicate that service quarter is allotted to petitioner no.1 and he has also acquired alternate premises elsewhere. It is not the case of petitioner no. 2 that petitioner no. 1 is depriving her of any of her

matrimonial rights. It is not disputed that petitioners are residing together and there is no matrimonial dispute amongst them. Hence, no prejudice would be caused to the petitioners if they vacate the residential premises. Thus, substantial justice is done by the Tribunal.

26. I do not find any error or illegality in the reasons recorded by the Tribunal, warranting invocation of the power under Article 227 of the Constitution of India for interfering with the order passed by the Tribunal.

27. The petition is devoid of any merits. For the reasons stated above, the petition is dismissed.

28. At this stage, learned counsel for petitioners requests for an extension of ad-interim relief granted by this Court on 13th January 2023. Learned counsel for respondent no.2 opposes the extension of interim relief on the ground that respondent no.2 is presently residing at the mercy of her daughters.

29. To enable the petitioners to take steps to approach the Apex Court, the ad-interim relief already granted by this Court, is extended by a period of six weeks from the date of uploading of this Order.

(GAURI GODSE, J.)