

VRJ

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

WRIT PETITION NO.1464 OF 2024

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Nutan Baban Dumbre

... Petitioner

V/s.

Sambhaji Baban Hule & Anr.

... Respondents

Mr. A.S. Pradhan with Mr. Ketan Kothari for the petitioner.

Mr. S.R. Page with Ms. Sesha Jaifalkar for respondent No.1.

Ms. M.S. Srivastava, AGP for respondent No.2/State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 5, 2024

PC.:

1. The petitioner is challenging order dated 1st January 2024 passed by respondent No.1 challenging order passed by respondent No.2 directing the petitioner to hand over possession of property in dispute to respondent No.1.

2. It appears that the parties entered into a consent deed which refers to sale in favour of petitioner for consideration of Rs.6,00,000/-. The deed also refers that the amount of Rs.6,00,000/- shall be paid to father (applicant) whenever possible either by cash or through bank account.

3. The respondent No.1 filed an application before the Tribunal established under the provisions of Senior Citizens Act, 2019 contending that the petitioner be directed to pay maintenance and

for possession of property in dispute as the petitioner failed to maintain respondent No.1.

4. The Tribunal recorded a finding that respondent No.1 is Senior Citizen having four children. It is not in dispute that the respondent No.1 was exclusive owner of the property in dispute. As per the deed of settlement, the petitioner was to pay Rs.6,00,000/-. Though it is the case of the petitioner that she has paid Rs.7,00,000/-, no proof was produced before the Tribunal.

5. The Tribunal, therefore, recorded a finding that since respondent No.1 is exclusive owner of the suit property, he is entitled to possession of the suit property. It needs to be noted that there is no registered document on record to transfer respondent No.1's right in favour of the petitioner. In the absence of transfer of such title, the petitioner has no right to remain in possession of the property. The Tribunal has power to direct family member to hand over possession of property in favour of senior citizen.

6. In view of absence of dispute regarding respondent No.1's title over the property in dispute, and in view of absence of evidence of payment either maintenance or Rs.6,00,000/- as agreed, the Tribunal was within its power to direct petitioner to handover possession of the property in dispute. There is no error apparent on the face of record nor patent illegality calling for interference under Article 226 of the Constitution of India.

7. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)