



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13951 OF 2023

Dattatray Nathaji Dongre

.....Petitioner

Vs.

The State of Maharashtra Thr Presiding
Officer and others

.....Respondents

Mr. Ajay Talreja a/w Harshada Disale for the petitioner
Mr. Sachin Thorat for respondent nos. 3, 5 and 7
Ms. M. P. Thakur, AGP for the State

CORAM : GAURI GODSE, J.

DATE : 23rd JANUARY 2024.

P.C.

1. This petition takes an exception to the order dated 14th September 2023 passed by the Presiding Officer of the Tribunal constituted under the provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ("the said Act"). By the impugned order, the petitioner and his family are directed to vacate room no. 18 situated on the first floor, Tambawala Building, Umarchadi,

Dongari, Mumbai – 9 (“said property”), and hand it over to respondent no. 3 who is the mother of the petitioner. Respondent no. 3 and her deceased husband had filed an application under Section 5 of the said Act on the ground that there was harassment to them at the hands of the petitioner and his family members. After considering the pleadings and relevant documents, the Tribunal has allowed the application by holding that the petitioner had attempted to prepare forged documents for getting the said property transferred in his name. The Tribunal has further observed that the husband of respondent no. 3 handed over his property in the village and his business to his sons, however, they are not taking care of the parents. It is further recorded that the petitioner has an alternate premises at Ambivli. The Tribunal has further accepted the contentions of respondent no. 3 and her husband and allowed the application.

2. Learned counsel for the petitioner does not dispute that the petitioner has an alternate premises, however, he submits that he is ready to hand over the alternate premises to respondent no. 3 for her residence. He submitted that the petitioner is residing in the said

premises along with his family and hence, there will be prejudice caused to them if they are required to vacate the premises. He further, on instructions submitted that the petitioner is ready to reside in the said property along with respondent no. 3 and is also ready to take care of respondent no. 3.

3. Learned counsel for the petitioner submitted that the said property though stood in the name of his father, even the petitioner has a right to the property as he is always been residing in the said property.

4. Learned counsel for respondent no. 3 submitted that the said property was purchased by the husband of respondent no. 3 and by executing a Will has bequeathed it to respondent no. 3. He submitted that after the impugned order was passed, the husband of respondent no. 3, i.e. respondent no. 2 has expired. He further submitted that respondent no. 3 is at present living at the mercy of her daughters and hence, except for said property, she has no shelter of her own. He thus submitted that there is no reason to interfere in the impugned order passed by the Tribunal which is passed after examining all the

contentions of the parties as well as the documents on record.

5. I have considered the submissions made by both the parties. I have perused the record. A perusal of the record indicates that said property was purchased by respondent no. 2 i.e. husband of respondent no. 3. The Will executed by respondent no. 2 shows that said property is bequeathed to respondent no. 3. It is not disputed that the petitioner has an alternate premises. The proceedings under Section 5 of the said Act are in the nature of a summary enquiry. I do not see any reason to interfere in the impugned order which is passed after examining the pleadings of the parties and documents on record. There is no dispute that respondent no. 3 was residing in the said property and documents on record show that it was purchased by respondent no. 2 and subsequently bequeathed to respondent no. 3. Respondent no. 3 is entitled to reside there and the petitioner cannot force respondent no. 3 to reside along with the petitioner and his family members. The order impugned is passed after giving reasons and after considering all the contentions of the parties as well as documents on record. I do not see any reason to exercise powers

under Article 227 of the Constitution of India for interfering in the well-reasoned order passed by the Tribunal.

6. Petition is devoid of any merits. Hence, the petition is dismissed.

7. It is clarified that the interim protection granted in this petition stands vacated.

8. Needless to record the petitioner shall abide by the directions given in the impugned order by vacating the premises and handing over it to respondent no. 3. Since the impugned order had directed respondent no. 3 to vacate the suit premises within 90 days from the date of the order i.e. 14th September 2023, it will be appropriate to direct the petitioner to abide by the order within two weeks from today.

[GAURI GODSE, J.]