

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2870 OF 2024

Shraddha Mangesh Chavan & ors.

.Petitioners

Versus

The State of Maharashtra
through the Secretary,
Ministry of Social Justice
and Special Assistance & ors.

.Respondents

WITH
INTERIM APPLICATION (L) NO. 6339 OF 2024
IN
WRIT PETITION NO. 2870 OF 2024

Shraddha Mangesh Chavan & ors.

.Applicants

Versus

The State of Maharashtra
through the Secretary,
Ministry of Social Justice
and Special Assistance & ors.

.Respondents

Mr. Kunal M. Patel, Advocate, for the Petitioners
Mr. Vikrant Parshurami, AGP, for Respondent Nos. 1 & 2
Ms. Kalyani Mangave, Advocate, for Respondent No. 3
Ms. Mohini A. Sharma i/b. Mr. Rahul Salve, Advocate, for Respondent
No. 4

CORAM: MADHAV J. JAMDAR, J.
DATE: 14.06.2024

P. C.

1. Learned Counsel for Respondent Nos. 3 and 4 seek time to file
affidavit-in-reply.

2. Prima facie it is clear that the proceedings under the
Maintenance and Welfare of Parents and Senior Citizens Act, 2007

are initiated with an oblique purpose against the Petitioners by the Respondent No.3, mother-in-law of the Petitioner No.1.

3. The position on record shows that a matrimonial dispute is pending before the Family Court, Mumbai between Petitioner No.1 and Respondent No.4 i.e. daughter-in-law and son respectively of Respondent No.3. Even Petitioner No.1 has also filed proceedings under the *Protection of Women from Domestic Violence Act, 2005* and the Appeal is pending in the said proceedings. It is also required to be noted that the premises in question is consisting of two separate parts - one on the ground and another on the first floor. It is an admitted position that the first floor is being used by Respondent No.3. At this stage, learned Counsel for Respondent No.3 states that in fact, the Respondent No.3 is not residing on the first floor and that she has rented it out and she is staying at some other premises. In any case, it is an admitted position that Petitioner No.1 i.e. daughter-in-law is residing on the ground floor.

4. If the mother-in-law is not residing in the said premises and that she is earning a substantial income by renting it out the first floor premises then the entire basis of the impugned order of eviction passed, wherein it is observed that Respondent No.3 is being harassed by the Petitioner No.1 i.e. daughter-in-law, as both of them are residing in the same premises is not valid. It appears that the Respondent No. 3 has not disclosed to the Tribunal the said aspect.

5. The material on record clearly shows that the proceedings have

been filed with a mala fide purpose of evicting the daughter-in-law from the premises in question.

6. Learned Counsel for the Petitioners relies on the decision of the Supreme Court of India in *S. Vanitha v. Commr.*¹.

7. Accordingly, arguable questions are raised.

8. **Rule.**

9. There shall be ad interim relief in terms of prayer clause (b) till further orders.

10. Respondent Nos.3 and 4 are at liberty to file Affidavit-in-replies on or before 05.07.2024. Re-joinder, if any, to be filed on or before 12.07.2024.

11. Stand over to **19.07.2024**.

[MADHAV J. JAMDAR, J.]

¹ (2021) 15 SCC 730