



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH : NAGPUR.**

**WRIT PETITION NO. 4037 of 2024**

Sandip Ukandrao Shelke (Patil) another

vs.

Smt. Vimlabai Ukandrao Shelke(Patil) another

Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

Court's or Judge's Order

Mr. Vikrant Vinod Raje with Ms Krutika Matdhare, Advocate for petitioner.  
Mr. S. M. Ghodeswar, Assistant Government Pleader for respondent no.2.

**CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.**

**DATE :- 8<sup>th</sup> JULY, 2024**

P C.

Heard.

2. This petition questions the order dated 28.05.2024 passed by the Tribunal constituted under the provisions of the Maintenance and Welfare of Parent and Senior Citizen Act 2007 (for short, the said Act). In exercise of powers under Sections 5 and 9 of the said Act, the Tribunal has directed not only eviction of the petitioners from the premises in question but also directed the petitioners to hand over the possession of the same to the respondent no.1.

3. Deceased Ukandrao from first wife Vatsalabai was blessed with four daughters. After the death of Vatsalabai, Ukandrao performed second marriage with respondent no.1-Vimalbai, out of which they blessed with four sons including the petitioner no.1, who appears to be the youngest. Ukandrao expired on 27.06.2013. The petitioner no.1 is working a teacher whereas the petitioner no.2 is his wife.

4. The property in question consists of Plot bearing No.51, Property No.247/6 in the name of deceased Ukandrao.

5. We are informed that at the behest of petitioner.1 a suit bearing Regular Civil Suit No.79/2022 for partition and separate possession is pending before the competent Civil Court at Mehkar. In this backdrop, it is claimed that the order impugned cannot be said to be sustainable particularly when all the legal heirs of Ukandrao including the petitioner no.1 will have an equal share in the property.

6. Against the order impugned, the petitioners have already filed an appeal before the respondent no.2-Collector, which is pending. We are informed that the petitioners have already prayed for interim relief by filing stay application. The said appeal is informed to be now scheduled on 10.07.2024.

7. In the interregnum, the mother of the petitioner no.1 namely Vimalbai is informed to have entered to the premises in question thereby occupying the ground floor.

8. The counsel for the petitioners on instructions submits that the petitioners shall not be disturbing the possession of Vimalbai, who is occupying the ground floor, until further consequential orders are passed by the respondent no.2-Collector, who is the appellate authority.

9. Since the aforesaid statement is made on instructions, the same is accepted as an undertaking to this Court.

10. In this backdrop, we deem it appropriate to dispose of the writ petition with directions to the respondent no.2-Collector, not only to decide the stay application but also the appeal preferred by the petitioners expeditiously. In any case, we deem it appropriate to direct the respondent no.2-Collector to decide the stay application on the next date of hearing.

11. Till the appeal is decided, we direct status quo to be maintained in regard to the possession of the petitioner no.1, who claimed to be occupying the first floor of the premises in question.

12. With these directions, the writ petition stands disposed of. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

*Andurkar.*