



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 WRIT PETITION NO. 7674 OF 2024

RAJABHAU MAHADEV TAMBARE
VERSUS
THE DISTRICT MAGISTRATE AND OTHERS

Mr. D. A. Madake, Advocate for the petitioner
Mr. S. B. Jadhav, AGP for the respondent/State
Mr. A. R. Tapse, Advocate for respondent Nos. 3 and 4.

CORAM : R. M. JOSHI, J.
DATE : 27th FEBRUARY, 2025

PER COURT :-

1. This petition takes exception to the order dated 26/03/2024 passed by the District Magistrate, Osmanabad under Section 16 the Maintenance and Welfare of Parents and Senior Citizens Act (for short 'the Act'), whereby the order dated 03/08/2023 passed by the Sub-Divisional Officer the Act came to be confirmed.

2. There is no dispute about the fact that the petitioner is the son of respondent Nos. 3 and 4 who are aged about 81 and 80 respectively. They filed application by invoking provisions of the Act against the petitioner-son, since he refused to maintain them. This application was opposed by the petitioner on the ground that he has no sufficient means to meet the demand of maintenance so also he has

responsibility of his wife and two daughters. It is also contended by the petitioner that he has no fixed income and he barely earns around Rs.7000/- to Rs. 8,000/- per month.

3. The Sub-Divisional Officer by order dated 03/08/2023 directed a total sum of Rs.5,000/- each to be paid to respondent Nos.3 and 4 towards their maintenance. This order came to be challenged under Section 16 of the Aft before the District Magistrate, Osmanabad unsuccessfully, hence this petition.

4. At the outset it is necessary to take note of the fact that this Court by order dated 24/07/2024 has granted ad-interim relief subject to the condition the petitioner deposits 50% of the arrears as per impugned order within a period of four weeks. He was further directed to deposit Rs.10,000/- per month. However, in spite of the said order, till date not a single paisa was deposited by the petitioner. It is only today, when the matter is taken up for final hearing, the petitioner's counsel has sought permission to deposit a sum of Rs.25,000/-, which is directed to be deposited without prejudice to the rights and contention of the parties.

5. Learned counsel for the petitioner submits that the respondent Nos.3 and 4 have filed application only against the petitioner

and that no maintenance is sought from their daughter. It is his submission that the respondents have sold the agricultural land to their daughter and the said fact is suppressed from the authorities below. It is his further argument that in absence of sufficient income of the petitioner, he cannot be directed to be paid Rs.10,000/- per month by way of maintenance to the contesting respondents. It is his contention that respondent No.3 is having agricultural land in his own name and as such this is not a case wherein the respondents are unable to earn anything out of land.

6. Learned counsel for the respondents supported the impugned order. It is his submission that the petitioner has received 5 acres of land in the partition and that he is cultivating the same and earning yields therefrom. Apart from this he is doing work as a driver and earning additional income. It is his submission that since 02/08/2023 no amount of maintenance is paid by the petitioner and which indicate his conduct and approach towards old aged parents.

7. There cannot be any statutory mandate for the senior citizens to file application for maintenance against any particular child or all of them. Thus, the contentions of the petitioner that application was not filed for maintenance against the daughter has no bearing on merit of

the case.

8. The whole purpose of enacting the Act is to ensure that the senior citizens who are not maintained by their children, a forum is created for seeking appropriate and quick remedy for maintenance/ subsistence. Herein this case admittedly the petitioner has received land during the partition. He further accepts the fact that he is working as a driver too. Thus, it is difficult to accept his contention that he is earning Rs.6,000/- to 7,000/- per month only. As against this the observations made by the Sub-Divisional Officer by considering the material placed on record with regard to the income of the petitioner are more probable and hence sustainable.

9. Petitioner being son is responsible to maintain his old aged parents who are aged 80 plus years. It is highly objectionable for the petitioner to argue that the persons of age 80 years and more are expected to work in the agricultural field. Since the contesting respondents on account of their old age are not able to work, the factum of land being own by them would be of no consequence.

10. Apart from the fact that there is no perversity in the findings recorded by the both authority below, the conduct of the petitioner also

disentitles him to seek any relief from this Court.

11. In view of the above, there is no merit in the petition, petition stands dismissed. The amount of Rs.25,000/- deposited in this Court are permitted to be withdrawn by respondent No.3.

(R. M. JOSHI, J.)

ssp