



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6887 OF 2024

1. Radhakisan Ramanlal Jaiswal,
Age – 60 years, Occ. – Business,
R/o. Plot No. 44, Gawale Nagar,
Valvadi, Deopur, Tq. & Dist. Dhule
2. Nirun w/o. Radhakisan Jaiswal,
Age – 57 years, Occ. - Household,
R/o. Plot No. 44, Gawale Nagar,
Valvadi, Deopur, Tq. & Dist. Dhule

...PETITIONERS

...VERSUS...

1. The District Collector,
Dhule.
2. Akash s/o. Radhakisan Jaiswal,
Age – 33 years, Occ. – Nil
3. Mayuri w/o. Akash Jaiswal,
Age – 29 years, Occ. – Household
4. Tushar w/o. Tushar Jaiswal,
Age – 28 years, Occ. – Household
5. Sakshi w/o. Tushar Jaiswal,
Age – 28 years, Occ. – Household

**WITH
CIVIL APPLICATION NO. 6918 OF 2025**

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- Mr. S. N. Suryawanshi, Advocate for the Petitioners
 - Ms. K. B. Patil – Bharaswadkar, Addl.G.P. for Respondent No. 1
 - Mr. R. A. Jaiswal, Advocate for Respondent Nos. 2 and 3
 - Adv. S. C. Bhosle, Advocate for Respondent Nos. 4 and 5
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CORAM : ROHIT W. JOSHI, J.
DATE : JULY 21, 2025

ORAL JUDGMENT :

1. The application filed by the applicants/petitioners in Maintenance Application No. 12/2023 under Sections 5 and 9 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, was allowed by the Sub-Divisional Officer, Dhule, who is the competent authority under the said Act. The order, *inter alia*, directed respondent nos. 2 and 3 to vacate house of the petitioner located at plot no. 44 Gawale Nagar, near Akashwani Centre, Valvadi, Deopur, Tal & Dist. Dhule.

2. Respondent Nos. 3 and 4 challenged the said order by filing appeal under Section 16 of the said Act, which came to be allowed *vide* undated order passed by the District Magistrate and appellate authority under the said Act. The appellate authority has held that the competent authority under the said Act did not have jurisdiction to pass order of eviction while entertaining a maintenance application.

3. The petitioner, who is the original applicant, has filed the present petition challenging the order passed by the appellate authority. In view of several judgments of the Hon'ble Supreme Court has also of different High Courts including this Court, it cannot be disputed that the competent authority under the said Act has the jurisdiction to order eviction if the facts of the case so warrant.

4. Ready reference in this regard can be had to a judgment of this Court in the matter of **Chandiram Anandram Hemnani and Another Vs. Senior Citizens Appellate Tribunal/District Collector and Others**¹. However, the learned Advocate for the respondents places reliance on judgment of the Hon'ble Apex Court in the matter of **Samtola Devi Vs. State of Uttar Pradesh & Ors.**² to contend that in every matter order of eviction cannot be passed in favour of senior citizens. Whereas, the ratio of the said judgment cannot be disputed. It is also obvious that if the facts of the case so warrant and order of eviction can certainly be passed by the competent authority.

5. In view of the above, this Court is of the considered opinion that the petition needs to be partly allowed by remanding the matter before the learned Appellate Authority to decide the appeal afresh in accordance with law. The parties will appear before the learned Appellate Authority on 11.08.2025. Separate notice will not be issued for appearance of the parties. The appellate authority shall decide the appeal on merits on or before 31.10.2025.

6. After filing of the present petition the petitioner has filed Civil Application No. 6918 of 2025, alleging that respondent no. 1 had beaten him up. Certain photographs are filed in order to substantiate the said

1 2025 SCC OnLine Bombay 2457

2 2025 LiveLaw (SC) 445

contention. The said application is filed on 22.06.2025. Copy of this application is served the respondent on 30.06.2025. Respondent No. 1 has not filed reply to the said application. In view of the aforesaid in the considered opinion of this Court, it will be expedient that respondent Nos. 2 and 3 vacate the suit property, subject to result of appeal. Respondent Nos. 2 and 3 are directed to vacate the suit property and place the petitioner no. 1 in possession of the same on or before 08.08.2025.

7. It will be open for the appellate authority to pass appropriate orders depending upon the outcome of appeal regarding reentry of respondent Nos. 1 and 2 in the suit house. It goes without saying that all rival contentions are kept open. It will also be open for the respondents to contend that the alleged incident of violence narrated in Civil Application No. 6918 of 2025 has not occurred.

8. The writ petition is **disposed of**, accordingly. Pending civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]