

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1942 OF 2024

Savitra Appaso Irkar

...Petitioner

V/s.

Hindurao Dyanu Irkar and Anr.

...Respondents

Ms. Seema S. Dighe *i/b. Mr. Priyal G. Sarda for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

Dated : 28 February 2025.

P.C. :

1) The Petition challenges order dated 8 December 2023 passed by the Collector and Appellate Authority, Sangli, partly allowing the appeal preferred by Respondent No.1 and directing the Petitioner and Respondent No.2 to each pay an amount of Rs.2,000/- to Respondent No.1 towards monthly maintenance.

2) I have heard Ms. Dighe, the learned counsel appearing for the Petitioner. Despite service of notice, none has appeared on behalf of the Respondents. This Court made it clear by order dated 13 August 2024 that if none was to appear on behalf of Respondent No.1, the Petition would be heard in absence of representation by the said Respondent.

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3) It appears that Respondent No.1-senior citizen filed an application before the Maintenance Tribunal for seeking maintenance of Rs.5,000/- each from Petitioner and Respondent No.2 as well as for cancellation of Mutation Entry No.1706 in respect of land bearing Gut No.428. The Maintenance Tribunal proceeded to dismiss the application of Respondent No.1 by order dated 2 May 2023. Aggrieved by the order of the Maintenance Tribunal, Respondent No.1 filed appeal before the Collector and Appellate Authority, which has been partly allowed by order dated 8 December 2023, directing Petitioner and Respondent No.2 to pay monthly maintenance of Rs.2,000/- each to Respondent No.1. Prayer for cancellation of Mutation Entry No.1706 pertaining to land bearing Gut No.428 is however not granted by the Appellate Authority.

4) Respondent No.2 is the son of Respondent No.1. Petitioner is daughter-in-law of Respondent No.1. Petitioner's husband – Appasaheb Hindurao Irkar has unfortunately passed away in an accident on 8 August 2008. The daughter-in-law is not included in the term 'children' under the provisions of Section 2(a) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Though it is true that daughter-in-law can be included in the definition of the term 'relative' appearing under the provisions of Section 2(g) of the Act, the same can be done only if the daughter-in-law holds the property of a senior citizen. This view has been taken by me in ***Priya***

Sameer Holkar Vs. The Deputy Collector (Gad), Mumbai City and Ors.¹ In the present case, there is nothing on record to indicate that Petitioner-daughter-in-law holds any property of Respondent No.1-senior citizen. In that view of the matter, Petitioner is not under obligation to maintain father-in-law under the provisions of the Act. The Appellate Authority has erred in directing Petitioner to pay monthly maintenance of Rs. 2,000/- to Respondent No.1-senior citizen. Order passed by the Appellate Authority is unsustainable and liable to be set aside.

5) Petition accordingly succeeds. Order dated 8 December 2023 passed by the Collector and Appellate Authority, Sangli, is set aside.

6) It is clarified that order directing Respondent No.2 to pay monthly maintenance to Respondent No.1 is however not disturbed.

7) Writ Petition is allowed in above terms. There shall be no orders as to costs.

[SANDEEP V. MARNE, J.]

¹ MANU/MH/1371/2024