

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11866 OF 2024

Eknath Dinkar Kamble & Anr.

....Petitioners

V/S

The State of Maharashtra & Ors.

....Respondents

Mr. Anand Patil a/w Mr. Soham Pawar *for the Petitioners.*

Mr. J.P. Patil, AGP *for Respondent Nos.1 to 3 / State.*

Mr. Pradeep R. Sohani *for Respondent Nos.4 and 5.*

CORAM: SANDEEP V. MARNE, J.

DATE : 23 APRIL 2025.

P.C.:

1. The Petition challenges order dated 31 July 2024 passed by the Appellate Authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (**the Maintenance Act**) by which the Appeal preferred by the Petitioners has been rejected and the order passed by the Maintenance Tribunal on 21 June 2024 has been confirmed. By order dated 21 June 2024 the Maintenance Tribunal has directed Petitioners to vacate House No.626, Taluka Karvir and to pay monthly maintenance of Rs.3,000/- to Respondent Nos.4 and 5.

2. I have heard Mr. Anand Patil, the learned counsel appearing for the Petitioners and Mr. Sohani, the learned

counsel appearing for the Respondent Nos.4 and 5 and Mr. Patil, the learned AGP appearing for Respondent Nos.1 to 3/State.

3. It appears that initially order dated 26 October 2023 was passed by the Maintenance Tribunal directing Petitioners to vacate the house and to pay monthly maintenance of Rs.3,000/- to Respondent Nos.4 and 5. Petitioners preferred Appeal before the Appellate Authority which was rejected by order dated 15 April 2024. Petitioners filed Review Application before the Appellate Court complaining that the proceedings were decided by the Maintenance Tribunal without issuing notice to him. Review Application was apparently allowed by order dated 7 June 2024 and the proceedings were remanded before the Maintenance Tribunal for being decided afresh. Though the order dated 7 June 2024 records that reasons are separately recorded in the judgment, Mr. Anand Patil would clarify that no separate judgment is available on record nor supplied to the Petitioners. He would further complain that while remanding the proceedings, the Appellate Authority ought to have set aside the order dated 26 October 2023 passed by the Maintenance Tribunal.

4. In the remanded proceedings the Maintenance Tribunal has merely reproduced the earlier order dated 26 October 2023 by confirming the same. The Maintenance Tribunal has not recorded reasons for doing so. Thus the Maintenance Tribunal

has merely completed the formality of hearing the Petitions and has failed to record any reasons for passing order dated 21 June 2024. In my view, the order dated 21 June 2024 passed by the Maintenance Tribunal suffers from gross error. It neither records submissions made by the Petitioners nor deals with them. Not a single reason is recorded while passing order dated 21 June 2024. The Appellate Authority has failed to notice this gross irregularity committed by the Maintenance Tribunal and has erroneously rejected the Appeal by order dated 31 July 2024.

5. The order dated 21 June 2024 passed by the Maintenance Tribunal as well as order dated 31 July 2024 passed by the Appellate Authority are thus unsustainable and are liable to be set aside. It appears that during pendency of the present Petition, the Petitioners have deposited an amount of Rs.25,000/- in this Court. Mr. Sohani would complain that Respondent Nos.4 and 5 are required to take shelter in the house of their daughter as Petitioners do not provide for their maintenance. In my view therefore, since the matter is being remanded to be decided afresh by the Maintenance Tribunal, Respondent Nos.4 and 5 can be permitted to withdraw the deposited amount alongwith accrued interest.

6. Accordingly I proceed to pass the following order:

- i) Order dated 21 June 2024 passed by the Maintenance Tribunal and order dated 31 July 2024 passed by the Appellate Authority are set aside.
 - ii) Proceedings are remanded to the Maintenance Tribunal for being decided afresh.
 - iii) The Respondent Nos.4 and 5, through their constituted attorney are permitted to withdraw the entire amount deposited in this Court alongwith accrued interest.
7. With the above directions, the Petition is partly allowed and **disposed of**. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

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by SUDARSHAN
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