

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

WRIT PETITION NO. 3740 OF 2024

Bhalchandra Vyankatesh
Shrurangarpure & Anr. ... Petitioners
Versus
State of Maharashtra & Ors. ... Respondents

Mr. Amol B. Jagtap for the Petitioners.
Ms. Aloka A. Nadkarni, AGP for Respondent No.1.
Ms. Lalita Panchakshari for Respondent Nos.2 and 3.

**CORAM : MANISH PITALE, J.
DATE : 13th OCTOBER 2025**

P.C. :

. The petitioners in this petition are senior citizens. They have challenged concurrent orders passed by the Tribunal constituted under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as 'Senior Citizens Act' for short) and the Appellate Authority constituted under the Senior Citizens Act.

2. The tribunal as well the appellate authority have concurrently denied the relief sought by the petitioners for a direction to evict their elder son i.e. respondent No.2 and daughter-in-law i.e. respondent No.3 from the house in which the petitioners and respondent Nos.2 and 3 are residing. But, a direction is issued to the respondents to ensure that they take care

of the petitioners/senior citizens and that they do not disturb the petitioners/senior citizens in peacefully living their life. It is also indicated that if the said respondents violated directions, they would be liable to face criminal prosecution.

3. The petitioners are aggrieved by denial of relief of a direction to evict respondent Nos.2 and 3 from the said house.

4. The documents on record show that the respondent No.2 filed a suit for partition, separation possession, declaration and perpetual injunction against his parents i.e. the petitioners, as also his siblings i.e. a younger brother and a sister. The subject matter of challenge in the said suit, in addition to claiming partition, was a registered gift deed dated 6th September 2014, whereby the petitioner No.1 had gifted rights in the said house exclusively in favour of the younger brother of respondent No.2. The said suit was filed on 19th March 2015. The present proceedings under the Senior Citizens Act were initiated by the petitioners on 30th September 2022. It was claimed that the respondent Nos.2 and 3 were harassing the petitioner, while living in the same house and that complaints had been lodged with the Police from 10th May 2015 onward. Reference was made to some such complaints made to the Police authorities and after levelling allegations against respondent Nos.2 and 3 regarding continuous harassment, a specific prayer was made before the tribunal under the provisions of the Senior Citizens Act for a direction to evict them from the house. It is relevant to note that the petitioners did not pray for

any direction towards maintenance against respondent Nos.2 and 3.

5. In the interregnum, on 10th January 2017, the competent civil Court, before whom the said suit was filed by the respondent No.2, granted an order of temporary injunction in his favour by allowing the application at exhibit 5. The parties appeared before the tribunal and raised contentions in support of their respective stands. After considering the material on record, by an order dated 28th June 2023, the tribunal partly allowed the application filed by the petitioners, directing the respondent Nos.2 and 3 to take care of the petitioners/senior citizens and not to create any disturbance in their peaceful life, with an indication that if the directions were violated, the respondent Nos.2 and 3 would face appropriate criminal proceedings.

6. Since the direction seeking eviction was not granted to the petitioners, they filed appeal before the Collector under the provisions of the Senior Citizens Act. By the impugned order dated 11th January 2024, the Collector/Appellate Authority dismissed the appeal and confirmed the order of the tribunal-Sub Divisional Officer (SDO).

7. Aggrieved by the same, the petitioners filed the present petition in which the respondent Nos.2 and 3 filed their reply affidavits. The respondent No.1-State has filed its reply affidavit and upon rejoinder affidavit filed on behalf of the petitioner, the petition was taken up for hearing.

8. Mr. Amol Jagtap, learned counsel appearing for the petitioners vehemently submitted that the tribunal as well as the appellate authority lost sight of the very object of the Senior Citizens Act, while passing the impugned orders. It was submitted that the tribunal as well as the appellate authority were unduly influenced by the pendency of the proceedings before the competent civil Court initiated by the respondent No.2. It was submitted that the claim of the respondent No.2 that the subject house property was part of ancestral property was fallacious and that even if the said argument of the respondent No.2 was to be accepted, definition of property under Section 2(f) of the Senior Citizens Act covers ancestral property also. In such a situation, the pendency of the proceedings before the competent civil Court, the order passed on the application for temporary injunction and the suit being eventually decreed by judgment and order dated 18th March 2024, ought not to have influenced the tribunal as well as the appellate authority in holding against the petitioners.

9. It was submitted that the petitioners had approached the appellate authority from the year 2015 onwards, with regard to the repeated harassment meted out by respondent Nos.2 and 3. But, there was no action taken by the Police in that regard, which was completely against the protection afforded to senior citizens under the provisions of the Senior Citizens Act and the Rules i.e. the Maharashtra Maintenance and Welfare Parents and Senior Citizens Rules, 2010 framed under the said Act. By referring to the

relevant portion of the said Rules, it was submitted that the Police was not performing its duty as expected, due to which the petitioners were continuously facing harassment at the hands of respondent Nos.2 and 3.

10. It was submitted that, in such a situation, the impugned orders deserve to be set aside and the prayer of the petitioners, seeking eviction of respondent Nos.2 and 3 from the house, deserves to be granted. While making submissions in support of the prayers made in the present petition, the learned counsel for the petitioners specifically relied upon judgment of learned Single Judge of this Court in the case of *Ashish Vinod Dalal & Ors. v/s. Vinod Ramanlal Dalal & Ors., 2022(1) Mh.L.J. 511* and judgment of Division Bench of this Court in the case of *Shweta Shetty v/s. State of Maharashtra & Ors., 2022(1) Mh.L.J. 279*. It was specifically emphasized that the Division Bench of this Court in the said judgment not only confirmed the view adopted by the learned Single Judge in the case of *Ashish Vinod Dalal & Ors. v/s. Vinod Ramanlal Dalal & Ors.* (supra), but other judgments of various learned Single Judges of this Court were taken into account and confirmed in the light of the object of the Senior Citizens Act. On this basis, it was submitted that the writ petition deserved to be allowed.

11. On the other hand, Ms. Lalita Panchakshari, learned counsel appearing for respondent Nos.2 and 3 submitted that in the present case, the proceedings under the Senior Citizens Act have

been triggered in backdrop of the respondent No.2 asserting his rights in the ancestral properties, including the subject house property. It was submitted that the moment the respondent No.2 initiated proceedings before the competent civil Court, the petitioners were provoked by the other siblings into making imaginary complaints of harassment against the respondent Nos.2 and 3. It was emphasized that respondent No.2 himself is a cancer patient, which is noted by the tribunal as well as the appellate authority and that in support of the said assertion, medical documents have been placed on record before this Court. It is further submitted that respondent No.2, due to his ailment, is unable to work and earn, as a consequence of which, his wife i.e. respondent No.3 is required to be the breadwinner and it is further brought to the notice of this Court that there are two daughters of respondent Nos.2 and 3 i.e. the grand-daughters of the petitioners, who are also residing in the said house property. It is submitted that the entire controversy has arisen due to the fact that respondent No.2 has chosen to assert his rights in the family properties.

12. It is submitted that the respondent Nos.2 and 3 have no intention to harass the petitioners, that they have not harassed the petitioners in any manner and that on the other hand, it is the petitioners, at the behest of the siblings of respondent No.2, who have been harassing the respondent Nos.2 and 3 and their daughters. It is submitted that when the judgment and decree of

the competent civil Court is operating in favour of the respondent No.2, there in no manner in which the tribunal or the appellate authority could have passed the order of eviction against the respondent Nos.2 and 3. It is submitted that there can be no quarrel with the law laid down in the judgments upon which the learned counsel for the petitioners has placed reliance, but the said judgments are distinguishable on the facts.

13. It is further submitted that the respondent No.3, as a daughter-in-law of the petitioners, has a right to reside in the shared household, which is a right recognized under a special statute i.e. Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'DV Act' for short). Reference is made to the judgment of Division Bench of this court in the case of *Ritika Prashant Jasani v/s. Anjana Niranjana Jasani & Ors.*, **2022(1) Mh.L.J. 406**, to contend that in the case of conflict between the special statutes, the right of respondent No.3 cannot be frustrated and in the peculiar facts and circumstances of the present case, the petitioners cannot claim eviction of respondent Nos.2 and 3. On this basis, it is submitted that the writ petition deserves to be dismissed.

14. The present case is another unfortunate illustration of bitterness within the family members, reaching the doors of the Court, wherein relief is sought on the basis of a special statute enacted for the welfare of the senior citizens of this Country. There is no dispute about the fact that petitioners are indeed

senior citizens and they are entitled to invoke the provisions of the Senior Citizens Act. There can also be no quarrel with the propositions of law recognized and laid down by the learned Single Judge of this Court in the case of *Ashish Vinod Dalal & Ors. v/s. Vinod Ramanlal Dalal & Ors.* (supra) and the Division Bench of this Court in the case of *Shweta Shetty v/s. State of Maharashtra & Ors.* (supra). The aforesaid judgments have emphasized upon the object of the Senior Citizens Act, particularly, for providing a proper mechanism for maintenance and protection of senior citizens. There are indeed instances where the children of senior citizens, who have become grownup adults themselves, have ignored the needs of the senior citizens and apart from ignoring such needs, on occasions, it is found that they act in a manner that amounts to harassing the senior citizens. It is to protect such senior citizens that the Senior Citizens Act has been enacted and the authorities as well as the Courts are required to ensure that the said solemn object of the Senior Citizens Act is achieved.

15. But, each individual case has to be considered on its own facts. In the present case, the documents on record show that the petitioner No.1 executed a registered gift dated 6th September 2014, whereby he gifted rights in the subject household property to his younger son i.e. the brother of respondent No.2. It is not disputed that the respondent Nos.2 and 3 are residing with the petitioners in the subject house.

16. In this backdrop, on 19th March 2015, the respondent No.2 filed Special Civil Suit No. 459 of 2015 against his own parents i.e. the petitioners herein and his siblings i.e. the younger brother and a sister. It was a suit for partition, separate possession, declaration and perpetual injunction and it proceeded on the basis, that the subject house property formed part of the ancestral property. A specific declaration was sought with regard to the aforesaid gift deed dated 6th September 2014. In the said suit, on 10th January 2017, the competent civil Court at Pune, granted an order of temporary injunction in favour of the respondent No.2.

17. Thereupon, the said Court framed issues in the light of a specific stand taken by the petitioners that they had only leasehold rights in the subject house property. As many as 9 issues were framed and after the parties led oral and documentary evidence, the said Court decreed the said suit in favour of the respondent No.2. The said Court passed its judgment and order on 18th March 2024, declaring that the said registered gift deed dated 6th September 2014 was void and not binding on respondent No.2. A further declaration was given that respondent No.2 was having 1/4th share in the said house property with the petitioner No.1 and the siblings of respondent No.2 having the remaining 1/4th share each, with each of one of them entitled to separate possession thereof. The defendants in the suit, including the petitioners herein, were restrained by a perpetual injunction from obstructing the respondent No.2 in use and possession of the said house

property. It was also recorded that the parties were at liberty to file an appropriate application for appointment of Commissioner to make partition and separation of the suit property, according to the rights declared in the said judgment and order.

18. Thus, in the facts and circumstances of the present case, the competent civil Court has pronounced upon the rights of respondent No.2 and the petitioners in respect of the very same house property. It is a matter of record that an appeal filed by the petitioners is pending before the appellate Court at Pune, wherein arguments are being addressed. Nonetheless, it cannot be denied that the competent civil Court has held in favour of respondent No.2 in respect of the said house property.

19. It is to be noted that when the tribunal in the present case passed its order on 28th June 2023, the aforesaid suit was still pending, although, the order on the application for temporary injunction at exhibit 5 was already passed in favour of the respondent No.2 on 10th January 2017. In fact, the tribunal took into account the pendency of the suit and the order passed on the temporary injunction application in favour of the respondent No.2. But, it cannot be said that the tribunal passed its order by only taking into account the said aspect of the matter. The reasons recorded by the tribunal do show that the tribunal was aware about the rival contentions and the requirements of the Senior Citizens Act for appropriate order of protection to the senior citizens. The tribunal also specifically noted that the petitioners/

senior citizens had not even prayed for a direction for maintenance from respondent Nos.2 and 3. After taking into account the material on record, the tribunal found it fit to partly allow the application, by directing that the respondent Nos.2 and 3 shall not obstruct the peaceful life and possession of the petitioners/senior citizens in the house property and that the said respondents would take care of the petitioners/senior citizens.

20. The appellate authority took into consideration the material on record and dismissed the appeal by reiterating the directions given by the tribunal. A perusal of the order of the appellate authority dated 11th January 2024, shows that the order of the tribunal as well as the material on record was taken into consideration and it was found that no case was made for interference with the order of the tribunal. The appellate authority recorded its own reasons for reaching the aforesaid conclusion, which included a reference to the said suit filed by the respondent No.2 and the orders passed therein.

21. This Court is of the opinion that in the facts and circumstances of the present case, it cannot be said that the tribunal as well as the appellate authority held in favour of respondent Nos.2 and 3 simply on the basis of the aforesaid suit filed by respondent No.2 and the orders passed therein. In fact, the final judgment and order in the suit was passed after the appellate authority passed the impugned order on 11th January 2024.

22. This Court has considered the material on record to examine the allegations made by the petitioners/senior citizens that the tribunal as well as the appellate authority failed to consider the material on record in the proper perspective and that the harassment being caused to the petitioners was ignored, thereby going against the object of the Senior Citizens Act.

23. The chronology of events is noted herein above, but it would be appropriate to reiterate the same to understand the background in which the controversy has arisen between the parties. The registered gift deed was executed by the petitioner No.1 in favour of younger brother of the respondent No.2 on 6th September 2014. On 19th March 2015, the respondent No.2 filed the aforesaid suit before the competent civil Court at Pune. The application under the provisions of Senior Citizens Act was filed by the petitioners on 30th September 2022. A perusal of the said application shows that according to the petitioners, they were being harassed since the year 2015. In fact, a specific reference was made to the occasions when the petitioners were constrained to approach the Police. The application shows that it was on 10th May 2015 that the petitioners claimed to have approached the concerned Police Station for the first time. It was further stated that on 24th November 2019 also they had gone to the said Police Station. The application then contains the alleged incidents of the year 2020 to claim that respondent Nos.2 and 3 were physically and mentally harassing the petitioners. Even if the date on which

the petitioners claim to have approached Police Station for the first time i.e. 10th May 2015, is to be taken into consideration, it is about two months after respondent No.2 filed the aforesaid suit on 19th March 2015 before the competent civil Court at Pune. It appears that the root of the controversy is the assertion of rights by respondent No.2 in the subject house property, which has led to triggering of bitterness between the family members. During the pendency of the aforesaid suit before the competent civil Court at Pune and the order of temporary injunction being passed in favour of respondent No.2 on 10th January 2017, the petitioners claim that they were being continuously harassed by respondent Nos.2 and 3. The order of temporary injunction continued to operate till the suit was eventually decreed in favour of respondent No.2 on 18th March 2024. Yet, the application under the provisions of the Senior Citizens Act was filed only on 30th September 2022, levelling allegations dating back to May 2015. The chronology of events cannot be ignored and it is in this context that the pendency of the proceedings before the competent civil Court and its eventual result has to be taken into consideration.

24. It is not as if institution of proceedings before the civil Court itself could be a ground to ignore the seriousness of the complaints made by the petitioners/senior citizens against their own elder son in the present case, but the aforesaid proceedings before the civil Court is a relevant factor taken into consideration by the tribunal as well as the appellate authority.

25. While the petitioners/senior citizens claim that in the evening of their life they are being harassed by their son and daughter-in-law, the respondent Nos.2 and 3 i.e. the son and daughter-in-law claimed that they are being harassed. The documents on record indeed show that the respondent No.2 is cancer patient and that there is no denial about the fact that respondent Nos.2 and 3 have two daughters, who are also residing in the subject house property. The Court cannot be oblivious of the needs and requirements of all the members of the family and while the object of the Senior Citizens Act has to be always kept in mind, the facts of the individual case need to be appreciated to consider as to whether reliefs sought by the senior citizens are to be granted in entirety or not.

26. The focus of the contentions raised on behalf of the petitioners in the present petition is to seek an eviction order against respondent Nos.2 and 3. As noted herein above, there is a decree of a competent civil Court dated 18th March 2024 operating in favour of respondent No.2 with regard to his continuing enjoyment of the house property. It is yet to be upset by any competent Court and this is a factor that cannot be ignored while considering the aforesaid prayer made on behalf of the petitioners. It is also a matter of record that the tribunal as well as the appellate authority have been alive to the object of the Senior Citizens Act and therefore, while refusing to grant the order of eviction against respondent Nos.2 and 3, the said authorities have

partly allowed the application. It is specifically directed that respondent Nos.2 and 3 shall take care of the petitioners, who are senior citizens and that the said respondents shall not obstruct the petitioners, in any manner, peacefully enjoying their stay in the subject house property.

27. Thus, the tribunal as well as the appellate authority have concurrently issued appropriate directions to protect the interests of the senior citizens i.e. the petitioners herein. It is also indicated in the orders that in the event, respondent Nos.2 and 3 violate the specific directions issued to them, appropriate action would be taken against them, including action under the criminal law.

28. This Court is of the opinion that the impugned orders are passed on a proper understanding of the controversy between the parties and the interests of the petitioners/senior citizens, have been taken into account, while issuing appropriate directions. It is a different matter that the petitioners have grievance with regard to the violation of the directions issued by the tribunal, but the entire focus in the present petition is to obtain an order of eviction against respondent Nos.2 and 3. In the facts and circumstances of the present case, the petitioners have failed to make out a case for such a direction. The remedy of appeal against the judgment and decree of the competent civil Court has been already availed by the petitioners and they are free to pursue the same, but in these proceedings, the petitioners have not able to make out their case to seek an order of eviction against respondent Nos.2 and 3.

29. In that light, reliance placed on judgments in the cases of *Ashish Vinod Dalal & Ors. v/s. Vinod Ramanlal Dalal & Ors.* (supra) and *Shweta Shetty v/s. State of Maharashtra & Ors.* (supra) cannot take the case of the petitioners any further. There is substance in the contentions raised on behalf of the respondent Nos.2 and 3 that the said cases are factually distinguishable from the present case.

30. In the event, the petitioners have any grievance with regard to the violation of the specific directions issued by the tribunal, they are free to approach the authorities, including the Police. In the event, the petitioners approach the authorities making any grievance in that regard, the respondent No.1-State, through its Officers, is directed to ensure that appropriate action is taken within the framework of the Senior Citizens Act and the aforementioned Rules framed for the State of Maharashtra.

31. This Court would not comment upon the right of shared household, additionally agitated on behalf of respondent No.3, who is the daughter-in-law of the petitioners, for the reason that there does not appear to be any specific proceeding initiated by the said respondent against the petitioners under the provisions of the DV Act. In any case, there can be no quarrel with the proposition of law laid down by the Division Bench of this Court in the case of *Ritika Prashant Jasani v/s. Anjana Niranjana Jasani & Ors.* (supra), wherein the interplay between the Senior Citizens Act and the DV Act has been considered. Since this Court is not

inclined to interfere with the impugned orders, a discussion on the said aspect of the matter is not warranted.

32. In view of the above, writ petition is dismissed with the aforesaid observations.

MANISH PITALE, J.