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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1444 OF 2025

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Thangayya Ramayya Thevar

... Petitioner

V/s.

Deputy Collector, Mumbai & Ors.

... Respondents

Ms. Poushali Roychoudhary for the petitioner.

Mrs. M.S. Srivastava, AGP for respondent Nos.1 and 2-
State.

Mr. Akshay Deshmukh with Mr. Aniket Pawar for
respondent Nos.3 to 5.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 18, 2025

P.C.:

1. This writ petition under Article 226 of the Constitution of India assails the legality and propriety of the order passed by the Tribunal under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as "the Act"), whereby the petitioner's application for eviction was partly allowed, and the same was confirmed by the Appellate Authority constituted under the Act.

2. The factual matrix, which is undisputed, reveals that the petitioner is the absolute and exclusive owner of the immovable property being Room No.34, Building No.A2, Guruvarya Arjunrao

Cooperative Housing Society, Dharavi Geetanjali Nagar, Mumbai. The petitioner initiated proceedings under Section 5(1) of the Act, seeking maintenance as well as eviction of respondent Nos.3, 4, and 5 from the subject premises, alleging that he was being subjected to harassment, intimidation, and ill-treatment at the hands of the said respondents. The petitioner contended that the respondents had no independent legal right to reside in the said premises and that their conduct had created an environment of mental and physical distress for the petitioner, necessitating their eviction

3. Upon due consideration of the pleadings and evidence, the Competent Authority under the Act, while partly allowing the application, directed respondent Nos.3, 4, and 5 to pay maintenance to the petitioner and further restrained them from harassing him. However, the relief of eviction was declined, primarily on the ground that such relief fell outside the purview of the authority's jurisdiction. Aggrieved by the rejection of the eviction claim, the petitioner preferred a statutory appeal before the Appellate Authority, which, after due consideration, upheld the order of the Competent Authority.

4. The pivotal issue that arises for determination in the present case is whether the authorities below were justified in declining the relief of eviction despite the unequivocal ownership of the petitioner over the subject property. It is trite law that an owner of an immovable property has an inherent right to exclude trespassers or unauthorized occupants. In this regard, the judgment of this Court in *Shweta Shetty v. State of Maharashtra &*

Ors., 2021 SCC OnLine Bom 4575 : (2022) 1 Mah LJ 279, is of paramount relevance. In the said case, this Court authoritatively expounded that the Competent Authority under the Act is vested with the jurisdiction and power to order the eviction of persons who have no legal right, title, or interest in the subject premises and whose occupation, therefore, amounts to an act of trespass or unauthorized possession. The Court, while relying on the pronouncement of the Hon'ble Supreme Court in *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District*, (2021) 5 Mah LJ 39 (S.C.), categorically held that Section 4 of the Act cannot be read in isolation but must be interpreted in conjunction with Section 23 and other relevant definitional provisions, including Sections 2(b), 2(d), and 2(f). The legislative intent behind the enactment of the Act is to provide immediate relief to senior citizens who are subjected to neglect, harassment, or deprivation by persons in unauthorized occupation of their premises. Driving a senior citizen to initiate a protracted civil suit for eviction would be antithetical to the very object and purpose of the Act, which seeks to provide expeditious relief to the elderly.

5. Given the authoritative pronouncements on the subject, it is evident that the authorities below erred in law in refusing to grant the relief of eviction sought by the petitioner, despite his established ownership of the subject premises. The failure to appreciate the binding precedent laid down by this Court and the Hon'ble Supreme Court has resulted in grave prejudice to the petitioner, necessitating the invocation of this Court's writ jurisdiction under Article 226 of the Constitution of India.

6. Consequently, the impugned judgment and orders passed by the authorities below, namely the order dated 25th August 2023 and the order dated 8th May 2023 passed by respondent No.1, are hereby quashed and set aside.
7. Respondent No.1 is directed to take necessary steps to pass an order directing the eviction of respondent Nos.3 to 5 from the subject premises within a period of four weeks from the date of this judgment. The Competent Authority shall ensure strict compliance with this direction, failing which appropriate legal consequences shall follow.
8. The writ petition stands disposed of in the aforesaid terms. There shall be no order as to costs.
9. It is further clarified that the rest of the order passed by the Competent Authority, directing respondent Nos.3 to 5 to pay maintenance to the petitioner, shall remain undisturbed and continue to remain in force.

(AMIT BORKAR, J.)