

Shabnoor

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

WRIT PETITION NO.2464 OF 2025

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Anna John Koli	... Petitioner
V/s.	
The Appellate Tribunal & Collector Mumbai City & Ors.	... Respondents

Mr. Rahul D. Salve for petitioner.

Mrs. S. A. Prabhune, AGP for State – respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 20, 2025

PC.:

1. The petitioner, an elderly citizen, invoked the benevolent provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as "the Act of 2007") by preferring an application seeking maintenance as well as the delivery of possession of the subject property. The competent authority under the Act of 2007, upon due consideration of the factual matrix and the legal contours involved, granted the relief of maintenance to the petitioner. However, in so far as the claim for possession of the immovable property is concerned, the Appellate Authority under the Act of 2007 declined to entertain the same and instead relegated the parties to avail appropriate legal remedies before the competent Civil Court.

2. It is not in dispute that the subject property, with respect to which the petitioner seeks delivery of possession, is ancestral in nature. Consequently, the respondent, being a co-sharer, possesses an inherent right in the said property. The Act of 2007, though enacted with a salutary objective to protect the rights and dignity of senior citizens, does not override the well-established principles of property law governing rights of co-ownership.

3. While the Act of 2007 aims to protect senior citizens from destitution and neglect, its provisions cannot be interpreted to defeat substantive civil rights arising under general property laws. The rights of other legal heirs, particularly in ancestral property, cannot be summarily ousted without due process.

4. The Appellate Authority, in declining to grant relief of possession under the Act of 2007 and directing the petitioner to approach the competent Civil Court, acted within its jurisdiction and in consonance with the legal principles governing partition and co-ownership. The jurisdiction of the Tribunal under the Act of 2007 is summary in nature and is primarily concerned with matters of maintenance and protection of senior citizens from neglect or harassment. The adjudication of complex property disputes, particularly where conflicting claims of ownership or title are involved, falls within the exclusive domain of the Civil Court.

5. Special enactments meant for social welfare cannot be extended beyond their legislative scope to settle intricate civil disputes. The Appellate Authority, in the present case, has rightly exercised its discretion in relegating the parties to the competent

Civil Court for proper adjudication of property rights.

6. Given the above considerations, no manifest illegality or jurisdictional error can be found in the impugned decision of the Appellate Authority. The writ jurisdiction under Article 226 of the Constitution of India is not to be exercised in matters requiring appreciation of evidence and determination of substantive rights in immovable property.

7. Accordingly, this Court finds no merit in the petition. The writ petition stands dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)