

VRJ

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

WRIT PETITION NO.6030 OF 2025

Deepak/Vivek Govind Choudhary ... Petitioner

V/s.

Collector, Mumbai and Appellate Officer
& Ors.

... Respondents

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Mr. C. S. Lamba i/by Md. Shamsheer Ali and Ajinkya
Mosarkar for the petitioner.

Mr. J. P. Patil, AGP for the State.

Mr. Rahul D. Salve with Himanshu J. Patil for
respondent Nos.3 and 4.

CORAM : AMIT BORKAR, J.

DATED : MAY 7, 2025

P.C.:

1. Challenge in this writ petition is to the order passed by the Tribunal constituted under the *Maintenance and Welfare of Parents and Senior Citizens Act, 2007* (hereinafter referred to as “the said Act”). By the said order, the Tribunal has directed eviction of the petitioner (who is the son of respondent No.1) from the premises in question, on the ground that he is causing physical and mental harassment to his mother, who is a senior citizen and the applicant before the Tribunal.

2. Respondent No.1 – mother, in her application before the Tribunal, had specifically stated that the petitioner was causing her harassment, including threats to her safety and peace of mind. It was also her case that she had to approach the police and lodge a complaint against her own son. She further alleged that the

petitioner was often under the influence of alcohol, returned home late, and indulged in acts that caused damage to household articles, making her life difficult and insecure.

3. On perusal of the material placed on record, it is clear that in the application filed before the Tribunal, the mother categorically stated that the property in question is her self-acquired property. This factual assertion has not been specifically denied by the petitioner in his reply. In the absence of a denial, such an averment is deemed to be accepted, at least for the limited purpose of deciding the application under the said Act. It is settled principle that if a fact pleaded is not specifically denied, it can be presumed to be admitted.

4. The Tribunal constituted under the said Act exercises summary jurisdiction. The purpose of the Act is to ensure that parents and senior citizens can live a life of dignity, free from harassment or mental cruelty. Even if there is a dispute about the ownership of the property, the Tribunal is not required to conduct a full-fledged civil trial. For the limited purpose of granting relief under the Act, the Tribunal can proceed on the basis of admitted or undisputed facts. In this case, since the petitioner did not deny that the property belonged to the mother, the Tribunal was justified in presuming her ownership and passing an order of eviction to protect her welfare.

5. It is also important to note that under Section 23 of the said Act, the Tribunal is empowered to pass appropriate orders to protect the life and property of senior citizens. Mental and physical

harassment by a child is a valid ground for directing eviction of such child from the senior citizen's property. The welfare and safety of the senior citizen must receive paramount consideration.

6. Though the petitioner has now raised a contention before this Court regarding ownership of the property, the same is a matter for adjudication by a competent Civil Court in appropriate proceedings. The findings of the Tribunal in this regard are not binding for civil purposes. However, in the context of the object and scope of the said Act, the Tribunal's decision cannot be faulted.

7. In view of the above discussion, this Court finds no reason to interfere with the impugned order passed by the Tribunal, which is otherwise in consonance with the scheme and object of the said Act. The writ petition is therefore liable to be dismissed.

8. However, it is made clear that the petitioner is at liberty to institute or continue any civil suit or other legal proceeding for declaration of his rights, if any, in respect of the property in question. This order shall not be construed as an expression of opinion on the ownership or title to the property, which shall be decided on its own merits by the appropriate forum.

9. With this clarification, the writ petition stands disposed of. No costs.

10. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)