



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.993/2022

Vijay S/o Shamrao Suradkar and another

...Versus...

Smt. Saraswatibai Shamrao Suradkar and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. PS. Gawai, Advocate for petitioners
Mrs. Prachi Joshi, AGP for respondent Nos.2 and 3/State

CORAM : SACHIN S. DESHMUKH, J.

DATE : 04/08/2025

1. The petitioners raise a challenge to the order rendered by the Sub Divisional Officer under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as Senior Citizens Act, 2007”), thereby allowing the application of the mother and eventual order of dismissal of the appeal vis-a-vis request to restore the appeal. Unfortunate feeble old aged mother is ignored by son was compelled to take recourse to the provisions of the Senior Citizens Act, 2007 by presenting application under Section 23 of the Senior Citizens Act, 2007 for transfer of property.

2. While presenting the application it was the contention that the mother is harassed and victimized by the petitioners herein and even driven out of the residential premises owing to which complaint was presented to the police station. Even monetary demand is made from the

mother of these petitioners. Considering the object of the provisions of the Senior Citizens Act, 2007 the competent authority considering entitlement of mother as well as obligation of son exercised its discretion allowing application presented by the mother taking recourse to Section 23 (1) of the Senior Citizens Act, 2007. Resultantly, half portion of the land and construction thereon were directed to be given in possession of the applicant/mother. In the event of any obstruction further recourse was directed to be taken to Section 24 of the Senior Citizens Act, 2007 so as to implement the said order. Aggrieved by the order of the competent authority further appeal was presented by the petitioners herein under Section 16 of the Senior Citizens Act, 2007 with an assertion that the petitioners are residing with their son in a house which is an ancestral property which comprises four constructed rooms and the petitioners do not have any alternate accommodation.

3. Although repeated opportunities were extended to the petitioners so as to prosecute the appeal, however, the petitioners herein chose not to persuade the same. Resultantly, the Appellate Authority i.e. District Magistrate dismissed the appeal for want of prosecution. In order to seek restoration of the appeal, an application was presented by the petitioners herein which came to be dismissed by the Appellate Authority.

4. It is the contention of the petitioners that the competent authority vis-a-vis Appellate Authority has

ignored the entitlement of the petitioners and grossly erred while passing the order under challenge. It is further submitted that the applicant/mother is not the sole owner of the premises as such the application for eviction was not maintainable. Resultantly, the same ought to have been rejected by the authority. It was further contended that owner of the property could only be son and the respondent No.1/mother would not have any right in the disputed property.

5. Learned Counsel for the respondents have supported the order by submitting that the conduct of the petitioners disentitles to claim any relief. The petitioners have not only neglected the age old mother who was 70 years of age on the date of presentation of the application in the year 2020 and now has crossed 75 years of age, as such, she is in dire need of the premises and the competent authority has considered entitlement for basic amenities because the petitioners herein have failed and deliberately neglected to provide such basic amenities and physical need to age old mother.

6. Having heard learned Counsel for the litigating sides, perused the record. The tendency is gradually gaining ground to neglect the old aged parents. The case in hand also displays the insensitive and irresponsible approach of the petitioners herein towards their old aged mother who has crossed age of 75 years a feeble lady, as such, entitlement for basic amenities is rather warranted at an advanced age. Nevertheless, the attempt of the petitioners

herein to avoid their obligation towards parents is really unpalatable. The authorities below have taken into account these aspects in accordance with the aim and object with which the Senior Citizens Act, 2007 is brought into force. In any case, the order under challenge is implemented. The mother of the petitioner No.1 who is now 75 years of age has been put in possession pursuant to execution of the order. As such, this Court is of the considered opinion that no interference is warranted in the order rendered by the authorities below upholding the entitlement of the lady, who is helpless and hapless lady, is ignored by the petitioners even at the advanced age. Resultantly, no error could be noted in the concurrent finding of fact rendered by the authorities below. The writ petition is dismissed. No order as to costs.

(SACHIN S. DESHMUKH, J.)

Manisha