



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

WRIT PETITION NO. 1727 OF 2025

SAU. SHUBHANGI W/o PRANAB MAITI maiden name SHUBHANGI D/o MADAN RAHATE

VERSUS

STATE OF MAH., THRU. COLLECTOR/DIST. MAGISTRATE, NAGPUR AND OTHERS

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

Court's or Judge's Order

Ms. Radha Mishra, Advocate for the petitioner
Ms. P. C. Bawankule, A.G.P. for respondent no.1

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 28, 2025.

1. Heard.
2. The petitioner-daughter has filed the present petition challenging the order dated 05.02.2025 passed by respondent no.1 in Appeal No. 5/2024, filed under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'the Act of 2007')
3. It appears that the petitioner's father (respondent no.2 herein) approached respondent no.1 by filing an appeal under Section 16 of the Act of 2007, seeking injunction against the petitioner restraining her from entering into his house.
4. Having heard both the sides and having gone through the records, it appears that the children of respondent no.2 viz the petitioner (daughter) and respondent no.3 (son) are trying to establish their rights in the property belonging to their father (respondent no.2). The petitioner, who is married having her husband's residence in Delhi, is insisting to reside with her father on the ground that her father is acting at the behest of her brother (respondent no.3). The petitioner intends to put forth many other angles to this dispute, which the respondent

no.1 found to be not the scope of inquiry under the provisions of the Act of 2007. In other words, respondent no.1 was of the view that such disputed questions can only be agitated before the civil court because the proceedings under the Act of 2007 are summary in nature, as envisaged under Section 8 of the Act of 2007.

5. According to the petitioner, her brother has executed a Will bequeathing the property in her favour and her brother is trying to grab the same. Respondent no.2 appears to have submitted before respondent no.1 that he indeed has prepared a Will, but intends to cancel the same and to prepare another Will.

6. The petitioner intends to exercise her rights in the property in terms of the Will, however it is well settled that the rights under the Will can take effect only upon death of the testator. Since, respondent no.2 is alive and intends to change the Will, there is no question of petitioner exercising any right under the alleged Will.

7. Respondent no.1 has considered all the relevant facts and the attending circumstances. The impugned order appears to be in consonance with the material placed before respondent no.1. No interference is, therefore, called for in writ jurisdiction.

8. The Writ Petition is, accordingly dismissed in limine. No order as to costs.

(Anil L. Pansare, J.)