



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

WRIT PETITION NO. 5787 OF 2024

PETITIONER

: Bajrang Laxmanrao Pote,
Aged 82 years, Occu. Retired,
R/o Appaswami Colony, Akot,
Tq. Akot, Dist. Akola.

VERSUS

RESPONDENT

- : 1] The Collector, Akola/ Presiding Officer,
Senior Citizen Appellate Tribunal,
Akola.
- 2] Sub Divisional Officer, Akot /
President, Senior Citizen Grievance
Tribunal, Akot.
- 3] Vasant Bajrang Pote,
Age 48 years, Occu. Agri.
R/o Appaswami Colony, Akot,
Tq. Akot, Dist. Akola.

Mr. Anil J. Kadu, Advocate for the petitioner
Ms. D. V. Sapkal, A.G.P. for respondent nos.1 and 2.
Mr. Abhay Dhage, Advocate for respondent no.3

CORAM : M. W. CHANDWANI, J.
Judgment Reserved on : February 02, 2026
Judgment Pronounced on : March 10, 2026

JUDGMENT:

1. **Rule.** Rule made returnable forthwith. Heard finally by
consent of learned counsels appearing for the parties.

2. Heard Mr. A. J. Kadu, learned counsel appearing on behalf of the petitioner, learned A.G.P. appearing on behalf of respondent nos.1 and 2 and Mr. Abhay Dhage, learned counsel appearing on behalf of respondent no.3.

3. This petition challenges the order dated 22.05.2024 passed by respondent no.1 – Collector, Akola / Presiding Officer, Senior Citizen Appellate Tribunal, Akola in Appeal No. MRC-81/Akot/11/2024-25 thereby dismissing the appeal and confirming the order dated 16.01.2024 passed by respondent no.2 – Sub Divisional Officer, Akot/ President, Senior Citizen Grievance Tribunal, Akot in Application No. SCA/Akot/02/2023-24 rejecting the application for eviction of respondent no.3.

4. The petitioner, who is a Senior Citizen aged about 80 years and the father of respondent no.3, filed an application under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “the Act of 2007”) before respondent no.2, *inter alia* alleging that he is a retired Head Master and having two sons. He is residing in a house at Akot along with his elder son Jaywant and grandson Shaurya on first

floor whereas respondent no.3 his younger son, resides on ground floor.

5. The case of the petitioner, in brief, is that, respondent no.3 is addicted to liquor. On 13.10.2022, in the night when the petitioner was having dinner, respondent no.3 being under the influence of liquor came there, abused him and kicked the petitioner's dinner plate with his leg. Thereafter, it is also alleged that on 20.06.2023, respondent no.3 and his wife abused Jaywant and also assaulted him by fist and kick blows. Respondent no.3's wife even tried to assault Jaywant by an Axe. When the petitioner tried to rescue Jaywant, he was pushed by respondent no.3 and he sustained injuries. Therefore, the petitioner filed an application before respondent no.2 and sought eviction of respondent no.3 and his wife from his house.

6. Respondent no.2, after conducting enquiry in the matter, observed that the petitioner is residing separately on the first floor along with his elder son, whereas, respondent no.3 is residing at ground floor independently. It is also observed that, the provisions of the Act of 2007 are being invoked to reduce the right of

respondent no.3 and accordingly, rejected the application. The petitioner filed an appeal before respondent no.1, which was dismissed with an observation that the petitioner is in possession of 11 rooms of the house, whereas respondent no.3 is in possession of three rooms and respondent no.3 has no alternate residence.

7. It is pertinent to note here that, under Section 23 of the Act of 2007 for the purpose of protection of a senior citizen, the eviction order can be passed even by the Tribunal as held by the Apex Court in the decision in the case of *S. Vanitha and others .vs. Deputy Commissioner, Bangaluru Urban District and others*, reported at *AIR 2021 SC 177*. However such an order can be granted only if it is necessary and expedient to ensure the maintenance and protection of the senior citizen. In the present case, neither of the authorities i.e. respondent no.2 and respondent no.1 have considered this question that whether for the purpose of protection of the Senior Citizen, eviction of respondent no.3 is necessary or not. Respondent nos.2 and 1 should have decided the matter after answering the above question giving reasons and justifying why eviction is not necessary.

8. Be that as it may, the facts on record clearly demonstrate that the incident of beating happened on 20.06.2023 on account of quarrel between respondent no.3 and the elder son of the petitioner. Though, the petitioner was pushed while intervening in the said quarrel, that cannot be treated as an assault/ill-treatment towards the petitioner at the hands of respondent no.3. Thus, the entire incident dated 20.06.2023 was between the elder son of the petitioner and respondent no.3. Therefore, this incident cannot be considered as beating and torture towards the petitioner by respondent no.3.

9. So far as the solitary incident dated 13.10.2022 of abusing the petitioner under the influence of liquor and kicking the dinner plate with legs is concerned, it is to be noted that since then, there has been no incident of ill-treatment to the petitioner till date. Even, no other incident was reported by the petitioner after 13.10.2022 till filing of the application before respondent no.2 i.e. 30.06.2023 and even thereafter till date. Therefore, the solitary incident of abuse which generally happens under heat of passion cannot entail for eviction on account of protection to the senior citizen.

10. That apart, the petitioner is residing in a separate accommodation on the first floor, whereas respondent no.3 is residing separately on the ground floor. Therefore, in light facts and circumstances of the case, in my opinion, there is no necessity of taking extreme step of eviction of respondent no.3, only on the basis of alleged solitary instance of abuse to the petitioner under the influence of liquor, more particularly when respondent no.3 has two minor daughters and has no other place to reside. The possibility of filing the grievance by the petitioner at the instance of his elder son cannot be ruled out.

11. Therefore, the petition is devoid of merits. It is accordingly dismissed. Rule discharged.

(M.W.Chandwani,J.)

Diwale