



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2312 OF 2025

Shailesh Sheshrao Bhoyar, Aged 44 years, Occ: Advocate,
R/o Plot no.74, Govt. Press Colony, Near Radha Krishna
Mandir, Dabha, Nagpur.

PETITIONER

VERSUS

1. Sheshrao Krushnarao Bhoyar, Aged 79 years,
R/o Plot No.74, Govt. Press Colony, Near Radha
Krishna Mandir, Dabha, Nagpur.
2. Sub-Divisional Officer and President, Maintenance
Tribunal Nagpur (City), Room No.1, Tahsil Office,
Civil Lines, Nagpur.
3. The Collector/Appellate Tribunal under the
Maintenance and Welfare of Parents and Senior
Citizens Act, Office at Collector Office, Civil
Lines, Nagpur.

RESPONDENTS

Shri N.M. Kolhe, counsel for the petitioner.
Shri A.H. Joshi, counsel for the respondent no.1.
Mrs. K.H. Bhondge, Assistant Government Pleader for the respondent nos.2 and 3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : JANUARY 12, 2026

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioner has challenged the order dated 26.03.2025 passed by the Collector/Appellate Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short, 'the Act of 2007') which has issued directions to restrain the petitioner herein from obstructing the respondent no.1-Father from peacefully living in the house owned by the father and on failure, the father is permitted to evict the petitioner by taking police aid.

3. The petitioner is the son of the respondent no.1 and he is residing with his family in the house property owned by the respondent no.1. The respondent no.1-Father filed an application before the Sub-Divisional Officer/the Tribunal under the Act of 2007 praying thereby the eviction of the petitioner in view of persistent harassment and cruel treatment to him. The Tribunal passed order dated 21.06.2023 by which the application filed by the respondent no.1-Father came to be rejected by observing that the senior citizen is entitled to approach the civil Court for resolving their family disputes. Feeling aggrieved by this order, the respondent no.1-Father filed an appeal before the Collector/Appellate Tribunal which came to be allowed by the order dated 26.03.2025 which is subjected to challenge by way of instant petition.

4. The learned counsel for the petitioner submitted that the Appellate Tribunal erred in issuing directions for eviction of the petitioner since there are no powers under the Act of 2007 to issue such direction and the Act of 2007 contains the provisions only for grant of maintenance to the senior citizens. He further submitted that the respondent no.1 is a retired person and is getting monthly pension of Rs.50,000/- and hence there was no question of invoking the provisions of the Act of 2007.

5. The petition is strenuously opposed by the respondent no.1 by filing his affidavit-in-reply dated 08.05.2025 in which the respondent no.1 has categorically stated in paragraphs 4 to 8 about the acts of harassment being caused by the petitioner. Pertinent to note, in paragraph 4 the

respondent no.1-Father has specifically stated the abusive words used by the petitioner about his own mother which are apparently humiliating for the parents of the petitioner.

6. The learned counsel for the respondent no.1 and the learned Assistant Government Pleader for the respondent nos.2 and 3 have strongly opposed the petition and justified the impugned order passed by the Appellate Tribunal.

7. While considering the controversy involved in the petition, it has to be noted that the respondent no.1-Father has invoked the provisions of the Act of 2007 against his own son, i.e. the petitioner herein and has sought his eviction from the house property which is undisputedly owned by the respondent no.1-Father. The Sub-Divisional Officer has rejected the application filed by the respondent no.1-Father by passing the cryptic order thereby observing that the respondent no.1 is entitled to file separate civil proceedings for resolving the family disputes. The respondent no.1 was therefore constrained to file an appeal which is decided by the Collector/Appellate Tribunal after giving an opportunity of hearing to both the parties. Pertinent to note, the respondent no.1-Father has filed an affidavit-in-reply dated 08.05.2025 making very serious allegations against the petitioner demonstrating various acts of harassment and cruel treatment meted out by the petitioner. There is neither any reply-rejoinder affidavit filed by the petitioner nor any request is made for filing the same for disputing these allegations. A perusal of

the allegations levelled by the respondent no.1-Father against the petitioner shocks the conscience of this Court and there is no reason to disbelieve the contentions stated in the affidavit.

8. By filing an appeal invoking the provisions of the Act of 2007, the respondent no.1 has prayed for eviction of the petitioner from the house property owned by the respondent no.1. The position of law as regards the powers of the Authorities under the Act of 2007 to pass appropriate orders for eviction of the son/daughter/daughter-in-law from the house property owned by the senior citizen has been elucidated by this Court in the judgment in *Chandiram Anandram Hemnani & Another Versus Senior Citizens Appellate Tribunal/District Collector, Nandurbar & Others* [2025(4) Mh.L.J. 619]. While deciding the aforesaid case, this Court has referred to the position of law clarified by the Division Bench of this Court in *Dattatrey Shivaji Mane Versus Lilabai Shivaji Mane & Others* [2018(6) Mh.L.J. 681] and the judgment of the Hon'ble Supreme Court in *Urmila Dixit Versus Sunil Sharan Dixit & Others* [(2025) 2 SCC 787]. The position of law is now no more *res integra* that the Authorities under the Act of 2007 are empowered to pass orders of eviction of sons/daughters/daughter-in-laws from the house property owned by the senior citizen and they cannot compel the senior citizens to allow them to reside in the property against the desire of the senior citizens. In the instant case the respondent no.1-Father has invoked the provisions of Sections 5 and 23 of the Act of 2007 and demonstrated the necessity to evict his son from the house property owned by him.

9. A perusal of the impugned order shows that the order is passed keeping in mind the object and purpose behind the Act of 2007 to protect the rights of the senior citizens. The Collector/Appellate Authority has rightly given due consideration to the plight of the senior citizen and having found the necessity, has rightly issued directions to evict the petitioner from the house property owned by the respondent no.1-Father.

10. On giving anxious consideration to the documents on record, including the affidavit-in-reply filed by the respondent no.1, I am of the firm opinion that there exists an imminent necessity to issue directions to evict the petitioner from the house property owned by the respondent no.1 even by taking police aid as directed by the Appellate Authority. I find this to be a fit case in which the directions issued by the Appellate Authority need to be implemented at the earliest and the petitioner is accordingly directed to comply with the order without any delay. In view of this, no indulgence is warranted with the impugned order and hence the writ petition is dismissed.

11. Rule stands discharged. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)