

2025 LiveLaw (SC) 947

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

VIKRAM NATH; J., SANDEEP MEHTA; J.

SEPTEMBER 12, 2025

CIVIL APPEAL NO.....2025

(@SLP(CIVIL) NO.....D. NO.42786 OF 2025)

KAMALAKANT MISHRA *versus* ADDITIONAL COLLECTOR & ORS.

Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (2007 Act) - Section 22-24 – Held, the Tribunal under the 2007 Act, has the power to order the eviction of a child from the property of the senior citizen, if there is a breach of obligation to maintain senior citizen - The High Court erred in allowing the appeal on the ground that the respondent was also a senior citizen as per Section 2(h) of the 2007 Act because at the time of filing the application before the Tribunal, the respondent was not yet a senior citizen (Respondent's age was 59 years at that time) - The relevant date is the date of filing of the application - 2007 Act being a welfare legislation should be construed liberally to advance its beneficent purpose of protecting senior citizens - It is well settled that the Tribunal can order eviction of a child or relative from the property of the senior citizen where there is a breach of obligation to maintain the senior citizen - The respondent, despite being financially sound, did not allow the appellant to reside in his properties, thereby frustrating the object of the Act - High Court's decision was untenable and erroneous - Appeal allowed. [Relied *S. Vanitha v. Deputy Commissioner Bengaluru Urban District & Ors.*, (2021) 15 SCC 730; Paras 6, 7]

[Arising out of impugned final judgment and order dated 25-04-2025 in WP No. 14585/2024 passed by the High Court of Judicature at Bombay]

For Petitioner(s): Ms. Deeksha Saggi, Adv. Mr. Abhishek Usha Singh, Adv. Mr. Rishabh Singh, Adv. Mr. Gaurav Mishra, Adv. Mr. Rituparn Uniyal, AOR

For Respondent(s): Mr. Navneet Dugar, AOR Mr. Jainam Vimal Gadiya, Adv. Mr. Pawankumar Shrinath Pal, Adv.

ORDER

1. Delay condoned.

2. Leave granted.

3. The appellant is aggrieved by the judgment and final order of the High Court of Judicature at Bombay in W.P. No. 14585 of 2024 dated 25.04.2025 wherein the appeal of the respondent was allowed and the order passed by the Maintenance Tribunal dated 05.06.2024 and the Appellate Authority dated 11.09.2024 under the Maintenance and Welfare of Senior Citizens Act, 2007¹ directing to respondent to vacate the property was set aside.

4. The facts giving rise to the present appeal are as follows:

4.1. The appellant is a senior citizen, aged about 80 years. He has a 78-year-old wife and three children who are working. Respondent No. 3 is the eldest son, he runs a business and is financially sound.

¹ Hereinafter referred to as 'the Act'.

4.2. The appellant had purchased two properties of the following description:

- i. Room No.6, Nagina Yadav Chawl, Yadav Nagar, Mumbai
- ii. One room in Raju State, Bengali Chawl, Saki Naka, Mumbai

4.3. Appellant and his wife had moved to U.P. leaving their children behind in these properties. Respondent No. 3 had taken the properties in his possession, and he did not allow the appellant to reside in them.

4.4. On 12.07.2023, appellant and his wife filed an application under Section 22, 23, and 24 of the Act praying maintenance and eviction of the occupants from the said properties.

4.5. The Tribunal vide order dated 05.06.2024 allowed the application and directed the respondents to hand over the possession of both the premises and further directed maintenance of Rs.3,000/- per month to be given to the elderly parents.

4.6. Respondent No. 3 assailed the order before the Appellate Tribunal which dismissed the appeal vide order dated 11.09.2024.

4.7. Still feeling aggrieved, Respondent No. 3 preferred Writ Petition No. 14585 of 2024 before the Bombay High Court praying for setting aside of eviction orders.

4.8. The High Court vide order dated 25.04.2025 allowed the petition observing that the Tribunal does not have the jurisdiction to pass an order for vacation of the property against a senior citizen.

5. We have heard the learned counsel for the parties and have gone through the material placed on record.

6. The High Court in allowing the appeal has proceeded on the presumption that the respondent is also a senior citizen as per section 2(h) of the Act, as his date of birth is 04.07.1964. It observed that the Tribunal could not have allowed appellant's complaint since it was made against another senior citizen. This in our view is erroneous. The record shows that the appellant had moved an application before the Tribunal on 12.07.2023 and at that point in time, the respondent's age was 59 years. Relevant date for consideration would be the date of filing the application before the Tribunal.

7. The framework of the Act clearly notes that the law was enacted to address the plight of older persons, for their care and protection. Being a welfare legislation, its provisions must be construed liberally so as to advance its beneficent purpose. This Court on several occasions has observed that the Tribunal is well within its powers to order eviction of a child or a relative from the property of a senior citizen, when there is a breach of the obligation to maintain the senior citizen.² In the present case, despite being financially stable, the respondent has acted in breach of his statutory obligations in not allowing the appellant to reside in the properties owned by him, thereby frustrating the very object of the Act. High Court fell in error in allowing the writ petition on a completely untenable ground.

8. Accordingly, the appeal is allowed. The impugned judgment of the High Court is set aside and the writ petition is dismissed.

9. Pending application(s), if any, are disposed of.

² S. Vanitha v. Deputy Commissioner Bengaluru Urban District & Ors., (2021) 15 SCC 730.

10. At this stage counsel for respondent has prayed for time to vacate. Considering the request, we grant two weeks' time to the respondent to furnish an undertaking that he will vacate the premises on or before 30th November 2025 and in the meantime, the order of the Tribunal will not be given effect to. In the event the undertaking is not filed within the time allowed, it will be open for the appellant to get the order executed forthwith and the interim protection shall stand automatically withdrawn forthwith.

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