

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2206 OF 2025

Carson Percy Valladares
Aged 52 Years, Occ.: Service
R/a Percy Villa, 103, Kalina Village,
Santacruz (E), Mumbai – 400029

...Petitioner

Versus

1. State of Maharashtra
Representing
(a) Chief Presiding Officer, Tribunal for
Maintenance of Parents and Senior
Citizens and Sub-Divisional Officer,
Mumbai, Western Suburbs,

(b) Appellate Tribunal and Additional Collector,
Mumbai Suburban District Both having
office at Administrative Building, 9th Floor,
Bandra (E),
Mumbai – 400 051
through the Govt Pleader,
High Court (A.S.), Bombay.

2. Percy Mario Valladares
Aged 83 years, Occ.: Retired
R/s Percy Villa, 103, Kalina Village,
Santacruz (E), Mumbai – 400 029

...Respondents

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RAMCHANDRA
SANKPAL

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Ms. Sonal Parab, with Esha Rane and Sudhanshu Sawant, i/b R.B.
Mungekar, for the Petitioner.
Mr. Y.D. Patil, AGP, for Respondent No.1-State.
Mr. Niranjan Mundargi, with Keral Mehta, for Respondent No.2.

CORAM : N. J. JAMADAR, J.
RESERVED ON : 11th AUGUST 2026
PRONOUNCED ON : 27th AUGUST 2026

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. By this Petition under Article 227 of the Constitution of India, the Petitioner takes exception to a judgment and order dated 12th December 2024 passed by the Appellate Tribunal in Appeal No. 54 of 2024, whereby the Appeal preferred by the Petitioner against an order dated 11th September 2024 passed by the Maintenance Tribunal under the Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 (“the Act, 2007”), came to be dismissed affirming the order passed by the Maintenance Tribunal thereby, *inter alia*, directing the Petitioner to vacate the house premises, Percy Villa, 103, Kalina Village, Santacruz (E), Mumbai (“the subject premises”) and deliver its vacant possession to Respondent No.2.

3. Shorn of superfluities, background facts can be stated as under:

3.1 Respondent No.2 (hereinafter referred to as “the senior citizen”) is the father of the Petitioner. The senior citizen has been residing alongwith his wife Ms. Loreta; who is also a senior citizen, and other family members in the subject premises. The senior citizen has two sons

namely, Carson, the Petitioner herein and Gleeson, and a daughter Ms. Sarita.

3.2 The senior citizen filed an Application before the Maintenance Tribunal under Section 5 of the Act, 2007 seeking orders to evict the Petitioner from the subject premises and restrain the Petitioner and his friends/agents etc, from entering into the subject premises, with the assertion that the Petitioner has an abusive and aggressive temperament and that has led to marital discord between the Petitioner and his wife. Though the Petitioner is working at a very senior position in a reputed company and earns sumptuous remuneration and owns multiple immovable properties, yet, the Petitioner has been residing in the subject premises. The Petitioner has been coercing the senior citizen to sell off his properties and pay money to him. As the senior citizen did not cave in demands of the Petitioner, the latter has allegedly threatened, intimidated and assaulted the senior citizen. On 20th July 2022, the senior citizen was constrained to report the matter to Wakola Police, who recorded a NC Report No. 1679 against the Petitioner.

3.3 The senior citizen further affirmed that, the Petitioner is an alcoholic and has repeatedly abused the senior citizen in filthy language and assaulted the senior citizen and his daughter-in-law. Reference is made to an incident of alleged assault and insult on the night intervening 21st and 22nd February 2023. Again the matter was reported

to the Wakola Police Station, who recorded NC Report No. 399 of 2023. The daughter-in-law of the senior citizen has also lodged a Report against the Petitioner for the offences punishable under Sections 354, 504 and 506 (2) of the Indian Penal Code, 1860 (“the Penal Code”),

3.4 Referring to various acts of verbal, emotional and physical abuse, the senior citizen has asserted that the continued residence of the Petitioner in the subject premises is posing danger to the life and limb of the senior citizen and other family members. Hence, prayers were made before the Maintenance Tribunal to evict the Petitioner.

3.5 The Petitioner resisted the Application. It was *inter alia* contended that the brother and daughter-in-law of the Petitioner with a view to wreak vengeance have manipulated, fabricated and concocted false stories and compelled the senior citizen to lodge a false complaint against the Petitioner before the Maintenance Tribunal.

3.6 On the merits of the matter, it was contended that, the senior citizen is not the sole owner of the subject premises. The proceeding before the Maintenance Tribunal was initiated with an oblique motive to dissuade the Petitioner from pursuing his legal remedies against his brother. It was, *inter alia*, contended that the Petitioner had in fact paid amounts towards maintenance to his parents and incurred expenses towards their medical care and insurance. The Petitioner has been ready and willing to maintain both his parents.

3.7 By an order dated 11th September 2024, the Maintenance Tribunal was persuaded to allow the Application observing, *inter alia*, that the senior citizen had a right to live a normal, peaceful and dignified life in the subject premises. The acts and conduct of the Petitioner were impairing the said right of the senior citizen. Thus, in order to maintain peace and harmony and ensure that the senior citizen lives a peaceful and dignified life, it was necessary to evict the Petitioner from the subject premises. Therefore, the Maintenance Tribunal directed the Petitioner to vacate the subject premises and also gave ancillary directions to ensure that the senior citizen is not deprived of his right to live a normal life.

3.8 Being aggrieved, the Petitioner preferred an Appeal before the Appellate Tribunal.

3.9 By the impugned order, the Appellate Tribunal declined to interfere with the order passed by the Maintenance Tribunal, finding no infirmity or error therein.

3.10 Being further aggrieved, the Petitioner has invoked the writ jurisdiction of this Court.

4. I have heard Ms Sonal Parab, the learned Counsel for the Petitioner, Mr Niranjan Mundargi, the learned Counsel for Respondent No.2, and Mr. Y.D. Patil, the learned AGP, for Respondent No.1-State.

With the assistance of the learned Counsel for the parties, I have perused the material on record.

5. Ms. Parab, the learned Counsel for the Petitioner, mounted multi-fold challenges to the impugned orders passed by the Tribunals under the Act, 2007. First and foremost, Ms Parab would urge that the Application for an order of eviction simpliciter sans a prayer for maintenance, was itself not maintainable before the Maintenance Tribunal. There was no assertion in the Application before the Maintenance Tribunal that the senior citizen was unable to maintain himself and thus the children be directed to pay maintenance. Instead, the senior citizen approached the Maintenance Tribunal with a prayer for eviction simpliciter, which according to Ms. Parab, was not tenable.

6. Amplifying the aforesaid submission, Ms. Parab would urge that eviction of the children or relatives is not the object of the Act, 2007. The provisions contained in the Act, 2007 thus could not be permitted to be abused to evict the children or relatives without resorting to the remedies available in law. To buttress this submission, Ms. Parab placed reliance on the judgments of this Court in the cases of **Vimal Dagadu Kate & Anr Vs State of Maharashtra & Ors¹** and **Nitin Rajendra Gupta Vs**

1 ASWP No. 882 of 2024 decided on 10th March 2025.

Deputy Collector, Mumbai and Ors² and a decision of the Supreme Court in the case of **Samtola Devi Vs State of Uttar Pradesh & Ors.³**

7. Secondly, Ms. Parab would submit that, on facts, it becomes abundantly clear that the provisions of the Act, 2007 were weaponized to evict the Petitioner from the subject premises. In respect of one and the same incident, the senior citizen lodged a NC Report and, after more than a month, the daughter-in-law of the senior citizen lodged the FIR. It was submitted that once a NC Report was lodged the police could not have registered FIR in respect of the very same incident. Thus, it betrayed an intention to create record to bolster up the case for the eviction of the Petitioner.

8. Thirdly, Ms Parab would urge, the Tribunals under the Act, 2007 were in error in not appreciating the material placed on record by the Petitioner to demonstrate that he had been making provisions for the maintenance of his parents, and taking care of their health related requirements. Brushing aside the said material, the Tribunals have passed the impugned orders giving undue weight to the NC Reports and the FIR, lodged with an oblique motive.

9. Ms. Parab further submitted that, though the impugned orders have been implemented yet they operate as a stigma and scar on the

2 OSWP No. 590 of 2023 decided on 10th April 2024.

3 2025 INSC 404.

reputation of the Petitioner and, therefore, the impugned orders deserve to be quashed and set aside.

10. Mr. Niranjan Mundargi, the learned Counsel for Respondent No.2, joined the issue by canvassing a submission that it is not necessary that in every proceeding before the Maintenance Tribunal, the senior citizen must seek maintenance from the child. In a given case, the child or relative may make the life of the senior citizen miserable, like the case at hand, and in such a case it cannot be urged that, the Tribunals under the Act, 2007 are denuded of the powers to direct the eviction of such an ungrateful child or relative. Mr. Mundargi laid emphasis on the expansive definition of 'maintenance' under Section 2(b) of the Act, 2007. It was submitted that the laudable objects of the Act, 2007 would be frustrated if the Tribunals are not empowered to direct the eviction of a child or relative who poses danger to the life and limb of the senior citizen.

11. On the merits of the matter, Mr. Mundargi would urge that the facts are so gross that no other view is possible. The abusive and aggressive behaviour of the Petitioner is not only documented in the Reports lodged by the senior citizen and other family members but even captured in the CCTV footages. Mr. Mundargi laid particular emphasis on the CCTV footages, copies of which are placed at page Nos. 51 to 55 of the Petition. Those CCTV footages clearly reveal that the Petitioner

assaulted the senior citizen. It was in respect of that incident, the senior citizen had lodged the Report, submitted Mr. Mundargi.

12. The Senior Citizens Act, 2007, primarily and predominantly deals with the maintenance and welfare of the parents and senior citizens. 'Maintenance' is defined under clause (b), as under :

“(b) “maintenance” includes provision for food, clothing, residence and medical attendance and treatment;”

“Welfare” is defined under clause (k), as under :

“(k) “welfare” means provision for food, health care, recreation centres and other amenities necessary for the senior citizens;”

13. Chapter II of the Senior Citizens Act, 2007 subsumes provisions under the caption “Maintenance of Parents and Senior Citizens”. Under Section 4, a senior citizen, including parent, who is unable to maintain himself from his own earning or out of the property owned by him, is entitled to make an application under section 5, in case of (i) parent or grand-parent, against one or more of his children not being a minor; (ii) a childless senior citizen, against such of his relative referred to in clause (g) of section 2. Sub-sections (2) and (3) of Section 4 describes the nature of the obligation of the children or relative to maintain a senior citizen or parent by emphasizing that the obligation extends to

the needs of such senior citizen / parent, so that he can lead a normal life.

14. Section 5 of the Senior Citizens Act, 2007 contains provisions in regard to the application for maintenance. Section 6 provides for the jurisdiction and procedure to determine such application. The constitution of the Maintenance Tribunal is provided for under Section 7. Under Section 8, the Tribunal, subject to the rules that may be prescribed by the State Government, may follow such summary procedure as it may deem fit. Under Section 9, the Tribunal is empowered to award maintenance at such monthly rate, as the Tribunal may deem fit, subject to the maximum maintenance allowance as may be prescribed by the State Government, which shall not exceed Rs.10,000/- per month. Under Section 12, an option is given to the senior citizen to seek maintenance under the Act, 2007 or Chapter IX of the Code of Criminal Procedure, 1973. The senior citizen may claim such maintenance under either the Senior Citizens Act, 2007 or Code of Criminal Procedure, 1973, but not under both. Section 15 provides for constitution of Appellate Tribunal. Appeals are provided under Section 16 before the Appellate Tribunal.

15. Chapter III deals with the establishment of old age homes. Provisions for medical care of senior citizens are envisaged in Chapter IV. Chapter V is dedicated towards the protection of life and property

of senior citizens. Section 23, in particular, empowers the Tribunal to declare the transfer of property by way of gift or otherwise, made by the senior citizen, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor, void if such transferee refuses or fails to provide such amenities and physical needs. Section 27 of the Act, 2007 bars the jurisdiction of the civil court in respect of any matters to which any provisions of the said Act apply. Section 3 gives overriding effect to the provisions of Act, 2007 over the provisions of any other enactment or instrument.

16. At this juncture, the ‘Statement of Objects and Reasons’ of the Senior Citizens Act, 2007, deserves to be noted. It reads as under :

“Statement of Objects and Reasons”

Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is need to have simple, inexpensive and speedy provisions to claim maintenance for parents.”

17. A conjoint reading of the provisions contained in the Act, 2007 as a whole, in the light of the Statement of Objects and Reasons, makes the intent of the Legislature explicitly clear. The Parliament intended to address the alarming situation caused by the neglect and harassment of the parents and senior citizens in the evening of their life. Senior Citizens were found to be deserted and deprived of the basic physical necessities, medical care and amenities which are required the most in the advanced age. Many elderly persons, particularly widowed women, were found to have been forced to spend their twilight years all alone, and were exposed to emotional neglect and want of physical and financial support. This mischief was sought to be addressed by the Parliament by providing a simple, inexpensive and speedy mechanism to claim maintenance and also by making provisions for the institutionalized care of the senior citizens in old age homes, medical support and, most importantly, the protection of life and property of the senior citizens. The Statement of Objects and Reasons specifically records that, though under the provisions of the Code, 1973, parents can claim maintenance, the procedure was both time consuming as well as expensive.

18. The capacious breadth of the provisions of the Act, 2007 leaves no manner of doubt that it is a beneficial legislation, enacted to advance the object of care and protection of the senior citizens. Thus, while

interpreting the provisions of the Senior Citizens Act, 2007, it is imperative to adopt tools of interpretation which are required to be applied when interpreting a beneficial piece of legislation. The cardinal principle is that the beneficial legislation must receive liberal construction in consonance with the objectives such legislation seeks to achieve. The interpretative process must be attuned to the purposive construction informed by the legislative object. In a given case, if two views are plausible, the Court must lean in favour of an interpretation which favours the beneficiaries rather than one which stultifies object of the beneficial legislation.

19. On the aforesaid touchstone the submission of Ms Parab that an Application for eviction simpliciter sans a prayer for maintenance is not maintainable, deserves to be appreciated.

20. It may be apposite to notice the judgment of the Supreme Court in the case of **Samtola Devi (supra)** on which reliance was placed by Ms Parab. In the said case, the parents sought to evict their sons from the house premises, which the father claimed that it was his self-acquired property. The Supreme Court in the backdrop of the facts that emerged, namely, there was no complaint or any material on record to indicate that the son, after the order was passed by the Tribunal, had in any manner humiliated his parents or interfered with the mother's living, the son had been paying maintenance as directed by the Family Court

observed that, if the son had been living in a small portion of the house, owned by his father, in which he had no share and was continuing with the family business from the shop on the ground floor without interfering with the life of the others, it did not appear to be prudent to order his eviction, as after all, being a son, he also had an implied licence to live therein.

21. In that context, the Supreme Court observed that the provisions of the Senior Citizens Act, nowhere specifically provide for drawing proceeding for eviction of persons from any premises owned by or belonging to a senior person. It is only on account of the observations made by the Supreme Court in the case of **S. Vanitha v/s. Deputy Commissioner, and Ors,**⁴ that the Tribunal under the Senior Citizens Act may also order eviction if it is necessary and expedient to ensure the protection of the senior citizens. Referring to the decision in the case of **Urmila Dixit vs Sunil Sharan Dixit and ors,**⁵ the Supreme Court clarified in that case as well, the Supreme Court had only held that, in a given case, the Tribunal, “may order” eviction but it is not necessary and mandatory to pass an order of eviction in every case. In the case of **Samtola Devei (supra)**, the Supreme Court held, the Appellate Tribunal had not recorded any reason necessitating the eviction of the appellant's son, nor that in the facts and circumstances of the case, it

⁴ (2021) 15 SCC 730

⁵ (2025) 2 SCC 787.

was expedient to order eviction to ensure the protection of the senior citizen.

22. In the case of **Jitendra Gorakh Megh v/s. Additional Collector and Anr.**⁶, the Division Bench of this Court considered the following question:

“Whether an eviction order can be passed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 without any claim towards maintenance being made by the senior citizen ?

23. After adverting to the facts of the case, the Statement of Objects and Reasons, key provisions of the Senior Citizens Act, 2007 and the judicial precedents, including the judgment of the Supreme Court in the case of **Smt. S. Vanitha (supra)** and judgments of this Court in the cases of **Ranjana Rajkumar Makharia V/s. Mayadevi Subhkaran Makharia**⁷, **Ritika Prashant Jasani V/s. Anjana Niranjan Jasani**⁸ and **Shweta Shetty V/s. State of Maharashtra and Ors.**⁹, the Division Bench enunciated, inter alia, as under :

“20. Section 4 of the Act contains provisions dealing with the maintenance of parents and senior citizens. It prescribes that a senior citizen who is unable to maintain himself from his own earnings or from property owned by him, is entitled to make an application for maintenance under Section 5 of

6 OSWP(L) No.31614 of 2025 dated 8 Dec. 2025

7 2020(3) Mh.L.J. 587

8 2021 SCC Online Bom 1802

9 2021 SCC Online Bom 4575

the Act. The said section further prescribes that the obligation of children to maintain the senior citizen extends to the needs of such senior citizen so that he may lead a normal life. Section 5 contains provisions relating to the application which the senior citizen can make for maintenance. Sub-section (2) enables the Tribunal to order monthly allowance to be paid to the senior citizen towards interim maintenance. In these circumstances, when the senior citizen has made no claim for maintenance, we fail to see how the said application which has been filed by the senior citizen under section 5(2) of the Act, is maintainable, in the first place. This position appears to have been completely overlooked, both in the eviction order and also in the appellate order.

.....

24. The Act is a beneficial statute intended to safeguard the vulnerable (senior citizen), but it cannot be (mis) used by the senior citizen as a tool for summary eviction without the fulfilment of statutory requirements. In the present case, we find that the said application does not satisfy the requirements of Sections 4 and 5 of the Act and is therefore not maintainable. Accordingly, the eviction order could not have been passed by the Tribunal and upheld by the Appellate Tribunal, vide the appellate order. The senior citizen has not claimed any maintenance from the Petitioner and the order of eviction is not in furtherance thereof. Eviction, as also held in S. Vanitha (supra) would be an incident of the enforcement of the right to maintenance and protection which should be granted only after adverting to the competing claims of both parties in dispute. This has admittedly not been done in the appellate order or in eviction order (which it confirms).

25. In fact, the senior citizen is financially well-to-do and owns several other immovable properties, both residential

and commercial and instead, the record reveals that the Petitioner (if evicted from the subject premises) would not have any other roof over his head. This is not disputed by the senior citizen in the said application who in-fact asserts that the Petitioner has been unemployed for several years. In such circumstances, it was incumbent on the Tribunal and the Appellate Tribunal to have considered these material factors before passing the eviction and appellate orders. This has admittedly not been done. Instead, the eviction order accepts all the averments made in the said application and proceeds to hold that since the subject premises belong to the senior citizen and he needs to reside therein since he travels frequently for medical treatment, the Petitioner is required to be evicted therefrom.

24. In the light of the aforesaid enunciation of law albeit in the facts of the respective cases, it is pertinent to note, the expansive and wide definition of "maintenance" and the obligation of children and relatives, assume critical salience. If a senior citizen is deprived of the use and occupation of his home, in the exercise of all the incidents of ownership, and made to take refuge in another premises, can it be said that the obligation of the child/relative, who is alleged to have been instrumental for bringing about the circumstances rendering it impracticable to occupy his own home to maintain the senior citizen is discharged? Would it not deprive the senior citizen of the right of the protection of the property ? or Would it still be incumbent upon the senior citizen to first seek maintenance from such child/relative who

has allegedly made it impossible for the senior citizen to occupy his own home ? are the questions that may crop up.

25. A purposive interpretation of the provisions of the Senior Citizens Act, 2007 would provide a legitimate answer. In a situation of the present nature, can it not be said that the senior citizen would be enforcing his right to live a normal life? The definition of "maintenance", which includes residence, has both positive and negative connotations. In the positive form, there is an obligation on the child/relative to provide residence to the parent/senior citizen in case the parent/senior citizen does not hold the property as defined under Section 2(f) of the Senior Citizens Act, 2007. In the negative sense, there is an obligation on the child/relative not to deprive a senior citizen of his own residence. Therefore, when the senior citizen approaches the Tribunal seeking eviction of the child/relative who has deprived the senior citizen of his property either by forcing himself or by making the life of the senior citizen miserable by acts of omission or commission, the prayer still partakes the character of enforcing the obligation of the child/relative to allow the senior citizen to live a normal life.

26. In the case of **Shweta Shetty (supra)**, a Division Bench of this Court negated a somewhat similar challenge to the orders of the Maintenance Tribunal. In that case, the senior citizen was seeking to

evict from his flat, one of the daughters who had forced herself upon the senior citizen. A submission was canvassed on behalf of the daughter that it was impermissible under the scheme of the Senior Citizens Act, 2007 to seek eviction of a person because under Section 5 only an application for maintenance could be entertained by the Tribunal and, thus, the Tribunal acted without jurisdiction in directing eviction of the daughter. After adverting to the Division Bench judgment of this Court in the case of **Ritika Jasani (supra)**, the Division Bench repelled the contentions on behalf of the daughter in the following terms :

“9. As to the jurisdictional question we do not believe the point is well taken. The definition of maintenance in clause 2(b) reads thus :

“(b) “maintenance” includes provision for food, clothing, residence and medical attendance and treatment;”

10. Clearly it includes residence; and this means residence of the senior citizen.

12. In Jasani, therefore, the claim of the appellant was that the house was a ‘shared household’, i.e. that she had a legally definable right in the property itself. That is not the case before us at all, where Shweta accepts that she has no right in the flat in question. The mere use of the word ‘eviction’ is not by itself determinative. To constitute eviction, or to invoke any prohibition against eviction, it must be shown that some legally enforceable civil right of the appellant in the property itself has been determined and that the appellant has been denied that right. Removal of a person with no right in the

premises is not eviction so as to attract any such prohibition. After all, as Jasani notes, the statutory intent is to protect senior citizens. It is not to foist on senior citizens an imaginary claim over their own property where the claimant has no such right to begin with. The statutory intent is not to limit the rights of senior citizens, but exactly the reverse.”

(emphasis supplied)

27. In the case of **Shweta Shetty (supra)**, the Division Bench also referred to the judgment of a learned Single Judge of this Court in **Dattatrey Shivaji Mane V/s Lilabai Shivaji Mane¹⁰**, wherein it was enunciated that Section 4 of the Senior Citizens Act, 2007 cannot be read in isolation but has to be read with Section 23 and also Sections 2(b), (d) and (f) of the said Act, 2007, and the mother cannot be restrained from recovering exclusive possession from her son or other family member for the purpose of generating income from the said premises or to lead a normal life.

28. In the case of **Sunny Paul V/s. State of NCT of Delhi¹¹**, a Division Bench of the Delhi High Court has enunciated that, the Senior Citizens Act, 2007 being a social legislation and the same requires to be given liberal interpretation to achieve the mandate of the Act of 2007 i.e. for the welfare of the parents and senior citizens and for the protection of their life and property, there is no doubt that the Tribunal does have the jurisdiction to direct vacation by the children of any property in which

10 (2018) 6 Mah LJ 681.

11 2018 scc Online Del 11640

the senior citizen has a right of residence/possession.

29. In **Shweta Shetty (supra)**, the Division Bench also followed the Division Bench judgment of the Delhi High Court in the case of **Sunny Paul V/s. State of NCT of Delhi**¹², and observed with reference to the enunciation of law in **Dattatrey Shivaji Mane V/s. Lilabai shivaji Mane**¹³ and **Sunny Paul (supra)**, as under :

“We entirely endorse the views of the learned Single Judge and accept them as our own. We are also fully in agreement with the views of the Division Bench of the Delhi High Court in the case of Sunny Paul (supra), a most careful and elaborate judgment that includes what appears to us to be a comprehensive overview of the jurisprudence.”

30. In the case of **Dinesh Bhanudas Chandanshive Vs The State of Maharashtra and Ors**¹⁴, which again arose out of the struggle of a mother, who was illegally ousted from her own abode, to take back the same from her son, the Division Bench after following the decision in the case of **Shweta Shetty (supra)**, rejected the challenge to the order passed by the Maintenance Tribunal on the ground that the Tribunal had no jurisdiction to order eviction. It was, inter alia, exposted that, during the lifetime of the parents, children cannot assert any legal right whatsoever in respect of the property of their parents claiming exclusive ownership or possession of the parents property. The mother certainly

12 2018 SCC Online Del 11640

13 (2018) 6 Mah. L

14 2024 LiveLaw (Bom) 48.

deserves to be maintained from her own tenement. The Petitioner has no legal right whatsoever to oust the mother from her tenement so as to make her roofless and/or deprive maintenance from her tenement.

31. Another perspective through the prism of which the matter can be looked at is, the power conferred on the Tribunal under Section 23 of the Senior Citizens Act, 2007. A plain reading of Section 23 indicates that the Tribunal is conferred with the authority to declare a transfer, made by the senior citizen in favour of the transferee, void if the transferee refuses or fails to provide basic amenities and physical needs to the transferor, post transfer. The power to declare a registered instrument *inter vivos* void and, resultantly, put the transferee – senior citizen in possession of the property for failure of the condition subsequent is, in a sense, drastic.

32. It is true, the measure to declare a transfer void is subsumed under the Chapter of ‘Protection of life and property of senior citizen’. However, if the provisions of the Act, are read as a whole, chapter by chapter, section by section and word by word; which is the well-established rule of interpretation, as recognised by the Supreme Court in the case of **Reserve Bank of India V/s. Peerless General Finance and Investment Co. Ltd. and Ors.**¹⁵, then if the Tribunal is empowered to declare a transfer, which has already been effected by an instrument *inter vivos* void, a *fortiori* the Tribunal expressing its power to enforce

¹⁵ (1987) 1 SCC 424.

the right of maintenance of a senior citizen and the corresponding obligation of the child/relative would have the authority to order the eviction of the child/relative who has unjustifiably deprived the senior citizen of the use and occupation of her own property, or created an atmosphere which renders it impossible for the senior citizen to occupy his own property.

33. The decisions in the cases of **Jitendera Megh (supra)** and **Samtola Devi (supra)** are required to be considered in the backdrop of the aforesaid legal position which fairly emerges. From the perusal of the decision in the case of **Jitendera Megh (supra)**, it becomes abundantly clear that the said decision was rendered in the peculiar facts as noted in the observations of the Division Bench (extracted above). Likewise, the decision in the case of **Samtola Devi (supra)** also turned on its own facts. It may not be thus permissible to consider the import of the decisions in the cases of **Jitendera Megh (supra)** and **Samtola Devi (supra)**, *de hors* the peculiar facts of those cases.

34. The upshot of the aforesaid consideration that it cannot be laid down as an immutable and absolute rule of law that an application for eviction simpliciter, sans the prayer for maintenance, is not maintainable, even when the senior citizen claims that he has been deprived of her property unlawfully or that he requires the property to live a normal, dignified and peaceful life.

35. Reverting to the facts of the case at hand, it appears that, the allegations made against the Petitioner by the senior citizen find support in the contemporaneous documents. The senior citizen had filed a report leading to registration of a non cognizable case on 20th July 2022 to the effect that the Petitioner was raking up quarrels with the senior citizen, in order to coerce him to sell his properties and pay the money to the Petitioner. On 10th July 2022, the Petitioner had abused the senior citizen on the said count.

36. In regard to the incident of 21st February 2023, which led to registration of NCR No. 399 of 2023, the senior citizen reported that the Petitioner returned home at the dead of the night under the influence of liquor and barged into the house, abused the senior citizen and his daughter-in-law. It is pertinent to note that, the images captured in the CCTV clearly show that the Petitioner assaulted the senior citizen. Further corroboration is found in the medical examination of the senior citizen. The Medico Legal Papers record that the history of assault by the son was narrated by the senior citizen.

37. Ms Parab attempted to salvage the position by canvassing a submission that in 13 long years only two NC Reports were lodged. The submission loses sight of the fact that generally parents do not take recourse to the law enforcement agencies against their children. It is only after all the options are exhausted that, by way of last resort, the

matter is reported to the police. In the case at hand, evidently things came to such a pass that the senior citizen was required to approach the law enforcement agencies on more than one occasion to protect his life and limb. The images in the CCTV footages are distressing, to say the least. The Tribunals were thus justified in drawing an inference that to allow the senior citizen to live a normal, peaceful and dignified life, it was necessary to evict the Petitioner from the subject premises.

38. Indeed, there might have been disputes among the siblings, stemming out of the rival claims over properties. However, that does not justify the conduct attributed to the Petitioner. The conduct of the Petitioner, as borne out by the record, is reprehensible. The behaviour of the Petitioner was such that the right of the senior citizen to live a normal peaceful and dignified life was seriously jeopardised.

39. For the foregoing reasons, this Court in exercise of its supervisory jurisdiction does not find any justifiable reason to interfere with the impugned orders, especially after the orders have been implemented and peace and normalcy in the life of the senior citizen have been restored.

40. The Petition, therefore deserves to be dismissed.

41. Hence, the following order:

: O R D E R :

(i) Petition stands dismissed.

(ii) Rule discharged.

No costs.

[N. J. JAMADAR, J.]