

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12881 OF 2025

Shri. Rushikesh alias Vaibhav Sunil Gholap
Age: 45 Years, Occ.: Servicing Center
R/o: At: 4th Floor, Avani Grand Society,
Jagtapwadi, Shahunagar, Godoli, Satara,
Tal. & Dist. Satara

...PETITIONER

VERSUS

1. Shri. Sunil Shankarrao Gholap
Age: 72 Years, Occu: Petrol pump
R/o At: Gholap Banglow, Shahunagar,
Godoli, Satara, Tal. & Dist. Satara
2. The Collector, Satara
Collector Office, Powai Naka,
Satara
3. Sub Divisional Officer, Satara
Sub Divisional Office, Powai Naka,
Satara
4. Circle Officer, Khed, Satara,
Circle Office, Khed, Satara.

...RESPONDENTS

Mr. Dipak Shelar, Advocate for the petitioner
Mr. Rajesh More, Advocate for respondent No. 1
Mr. S.D. Rayarikar, AGP for respondent No. 2 to 4/State

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CORAM : NITIN B. SURYAWANSHI, J.

**RESERVED ON : 29th JANUARY, 2026
PRONOUNCED ON : 27th FEBRUARY, 2026**

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. This petition filed under Article 227 of the Constitution of India takes exception to the order dated 21.08.2024 passed by Respondent No. 2-Collector, Satara dismissing the appeal filed by the petitioner and order dated 02.01.2024 passed by Respondent No. 3- Sub Divisional Officer under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'said Act').

3. Respondent No. 1 is the father of petitioner. He filed proceedings against the petitioner under Section 5(3) of the said Act in short alleging that he has one son (petitioner) and two daughters. Elder daughter is married. Younger daughter, wife and respondent No. 1 stays at the address mentioned in the cause title of the proceeding. Petitioner is addicted to liquor and he resorts to *Goondaism* and illegally grabs the properties of poor people, which is not liked by the first respondent and his wife. Though, repeatedly understanding was given to the petitioner to mend his ways, since, there was no improvement, respondent No. 1 along with his family was residing separately since year 2014. He was infected with Covid and faces difficulty in breathing. In October-2022, he suffered heart trouble and

has undergone angioplasty. In spite of his infirm physical condition, petitioner and his family are not looking after him and deliberately ignoring him. C.T.S. No. 110/12/1 (17 R), 110/11B (12 R) at mauje Khed, Dist. Satara are his self acquired properties and he owns Sushma Petrol Pump and Maruti Servicing Center situated at Jai Malhar Society, NH-4, *Vadhe Phata*, which are being operated since the year 1981. Petitioner did not complete his education. He was given business responsibility. He was permitted to operate Maruti Servicing Center along with all the machinery, bore-well, furniture, light connection and workers. Petitioner does not deposit keys of service center and keys of light connection at the petrol pump. He along with workers sit in the service center drinking liquor in the night till 12.00 to 1.00 am. Therefore, gate of the petrol pump cannot be locked. As per the rules, customers of the pump are required to provide free water and air. For that purpose they have to go to the service center. However, petitioner and the workers obstruct them, which is causing inconvenience to the customers. Petitioner has arrogantly driven respondent No. 1 out of service center and does not permit him to come there. He forcibly takes away petrol, diesel and cash on credit from the pump. If he is asked about the same, he abuses and give threats. At times, he also beats respondent No. 1. Because of his terror, workers are afraid of coming to the work. Petitioner is short tempered and he resorts to

bullying, threatening and fighting, which has created danger to the life of respondent No. 1 and his family members. He therefore prayed for grant of injunction restraining the petitioner and workers from entering the area of petrol pump and service center.

4. Petitioner appeared in the matter and filed reply denying all the allegations made by respondent No. 1. In short he submitted that petrol pump and service center was looked after by respondent No. 1 and his grandfather Shankarrao Gholap. Grandfather expired in the year 1992 and thereafter respondent No. 1 and sister Krushna are operating the petrol pump. The entire earning from the petrol pump is kept by respondent No 1. To establish the petrol pump and the service center his grandfather had disposed of house in Shivaji Housing Society, Karad and gold of his grandmother. Only as a family arrangement, said pump was registered in the name of respondent No. 1. Respondent No. 1 had lodged complaint with Superintendent of Police making the same allegations. Said complaint was enquired by the Superintendent of Police. The intention behind filing the complaint with Superintendent of Police and the present proceeding is to give him mental trouble and to defame him in the society. There is separate water and air connection for the petrol pump, therefore, allegation of respondent No. 1 is not correct. Since the day he was driven out of the

house, his father and sisters have not kept any relation with him. Their allegations about he quarreling, threatening and rushing on them and there is danger to their lives from him are totally false. He is the only son of his parents and service center is his only earning source. Since decades he is operating the service center. If he is driven out of the service center, his family would be starved.

5. Respondent No. 3 after hearing both the sides and after considering the written submissions came to a conclusion that though the petitioner has no concern with the petrol pump and service center, still forcibly he is giving mental trouble to his father. As per Section 4(2) of the said Act it is the duty of children to fulfill the basic needs of the parents so that they can lead normal life and Section 23 of the said Act provides for protection of property of senior citizens. Therefore, he directed that without legal right or competent Court's order, petitioner shall not enter in the petrol pump and service center. Petitioner shall not give physical or mental trouble to respondent No. 1.

6. Petitioner unsuccessfully challenged the order passed by respondent No. 3 before respondent No. 2 by filing appeal. Hence, the present petition.

7. Heard learned advocate for the petitioner, learned AGP for the

State and learned advocate for respondent No. 1.

8. Learned advocate for the petitioner has assailed the impugned orders contending that both the authorities have misinterpreted Section 4(2) and Section 23 of the said Act. Respondent No. 3 is not competent to issue permanent injunction order under the said Act, hence, the impugned order passed by him is without jurisdiction. The impugned order is passed without applying judicial mind. Respondent No. 2 has failed to appreciate these aspects and therefore, appellate order is also liable to be quashed and set aside. The only remedy for respondent No. 1 was to file civil suit in the civil Court for injunction and this aspect is ignored by both the authorities.

9. Per contra, learned advocate for respondent No. 1 has supported the impugned orders by relying on the affidavit in reply filed by respondent No. 1. He submits that petition is liable to be dismissed for suppressing material facts and the petitioner has not come before this Court with clean hands. Petitioner has suppressed the fact of he filing Special Civil Suit No. 140 of 2024 for partition and separate possession and seeking injunction that his father should not expel the petitioner from the service center and he should be restrained from interfering in the possession of the petitioner. He submits that by a reasoned order, Exhibit-5 application filed by the petitioner is rejected by the Trial

Court on 30.07.2024.

He further submits that petitioner has other properties described in the reply filed by respondent No. 1 to earn his livelihood. He therefore submits that there is no merit in the petition and petition is liable to be dismissed. In support of his submissions he relied on **S.P. Chengalvaraya Naidu Vs. Jagannath**¹, **Urmila Dixit Vs. Sunil Sharan Dixit and Others**², **S. Mala Vs. District Arbitrator & District Collector & Others**³, **Dattatrey Shivaji Mane Vs. Lilabai Shivaji Mane**⁴, **Raviprakash R. Sodhani & Anr. Vs. Ram Swaroop Sodhani & Others**⁵ and **Gurpreet Singh Vs. State of Punjab & Others**⁶.

10. Heard learned advocate for the petitioner, learned advocate for respondent No. 1 and learned AGP for the State at length. Perused the writ petition memo, annexures, impugned orders and the affidavit in reply of respondent No. 1 and the record.

11. The main ground of challenge raised by the petitioner is that the order of injunction passed by respondent No. 3 is without jurisdiction as the said Act does not empower respondent No. 3 to pass order of

1 1994 AIR (SC) 853

2 AIR 2025 SC 458

3 W.A. No. 3582 of 2024 (Madras HC)

4 Writ Petition No. 10611 of 2018

5 Writ Petition No. 11375 of 2025

6 CWP No. 24508 of 2015 (Punjab and Haryana HC)

injunction.

12. Before considering the said argument it is apposite to consider preamble of the said Act which states that, "*An Act to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto.*"

The statement of Objects and Reasons is as follows:

"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 supports. 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 a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.*

2. *The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting-up oldage homes for providing maintenance to the indigent older persons.*

The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.

3. *The Bill, therefore, proposes to provide for:-*
- (a) *appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens;*
 - (b) *providing better medical facilities to senior citizens;*
 - (c) *for institutionalisation of a suitable mechanism for protection of life and property of older persons;*
 - (d) *setting up of oldage homes in every district.*
4. *The Bill seeks to achieve the above objectives.”*

13. On plain reading of preamble and statement of objects and reasons it is abundantly clear that the said Act is a beneficial legislation aimed at securing the rights of senior citizens.

14. The provisions of this Act are interpreted by the Apex Court from time to time. In *Urmila Dixit (supra)* it is observed thus:

“13. The preamble of the Act states that it is intended towards more effective provisions for maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution.

14. Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be interpreted and a construction that advances the remedies of the Act must be adopted.”

15. In ***Badshah v. Urmila Badshah Godse and Anr***⁷, it is observed that;

"when a case pertaining to maintenance of parents or wife is being considered, the Court is bound to advance the cause of social justice of such marginalised groups, in furtherance of the constitutional vision enshrined in the preamble."

16. In ***Ashwini Kumar v. Union of India***⁸, the Apex Court has made following observations:

"3. The rights of elderly persons is one such emerging situation that was perhaps not fully foreseen by our Constitution-framers. Therefore, while there is a reference to the health and strength of workers, men and women, and the tender age of children in Article 39 of the Constitution and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want in Article 41 of the Constitution, there is no specific reference to the health of the elderly or to their shelter in times of want and indeed to their dignity and sustenance due to their age.

4. Eventually, age catches up with everybody and on occasion, it renders some people completely helpless and dependent on others, either physically or mentally or both. Fortunately, our Constitution is organic and this Court is forward looking. This combination has resulted in

7 (2014) 1 SCC 188

8 (2019) 2 SCC 636

path-breaking developments in law, particularly in the sphere of social justice, which has been given tremendous importance and significance in a variety of decisions rendered by this Court over the years. The present petition is one such opportunity presented before this Court to recognise and enforce the rights of elderly persons- rights that are recognised by Article 21 of the Constitution as understanding and interpreted by this Court in a series of decisions over a period of several decades, and rights that have gained recognition over the years due to emerging situations.”

(emphasis supplied)

17. In ***Brahmpal v. National Insurance Company***⁹, it is observed that;

“a beneficial legislation must receive a liberal construction in consonance with the objectives that the concerned Act seeks to serve.”

18. In ***K.H. Nazar v. Mathew K. Jacob***¹⁰, it is held that:

“11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen’s Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects.[Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61: (2009) 2 SCC (L & S) 573 and Union of India v. Prabhakaran Vijaya Kumar,

9 (2021) 6 SCC 512

10 (2020) 14 SCC 126

(2008) 9 SCC 527: (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation [Bharat Singh v. New Delhi Tuberculosis Center, (1986) 2 SCC 614; 1986 SCC (L&S) 335]

13. *While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances, the remedy should be adopted. [Indian Performing Rights Society Ltd vs. Sanjay Dalia, (2015) 10 SCC 161: (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction [Shivram A. Shiroor v. Radhabai Shantaram Kowshik, (1984) 1 SCC 588]. It was observed in Shivram A. Shiroor v. Radhabai Shantaram Kowshik [Shivram A. Shiroor v. Radhabai Shantaram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48: (2008) 237 CLR 285], Kirby, J. held that the principle of*

providing purposive construction to beneficial legislation mandates that exceptions in such legislations should be construed narrowly.”

19. In **X2 v. State (NCT of Delhi)**¹¹, it is reiterated that, “*interpretation of the provisions of a beneficial legislation must be in line with a purposive construction, keeping in mind the legislative purpose. Furthermore, it was stated that beneficial legislation must be interpreted in favour of the beneficiaries when it is possible to take two views.*”

20. In **S. Vanitha v. Deputy Commissioner, Bengaluru Urban District and Ors.**¹², the Apex Court observed that, “*Tribunals under the Act may order eviction if it is necessary and expedient to ensure that protection of the senior citizen. Therefore, it cannot be said that the Tribunals constituted under the Act, while exercising jurisdiction under Section 23, cannot order possession to be transferred. This would defeat the purpose and object of the Act, which is to provide speedy, simple and inexpensive remedies for the elderly.*”

Relying on the above exposition, the Apex Court in Urmila Dixit (supra) has held that, “*In our considered view, the relief available to senior citizens under Section 23 is intrinsically linked with the*

11 (2023) 9 SCC 433

12 (2021) 15 SCC 730

statement of objects and reasons of the Act, that elderly citizens of our country, in some cases, are not being looked after. It is directly in furtherance of the objectives of the Act and empowers senior citizens to secure their rights promptly when they transfer a property subject to the condition of being maintained by the transferee."

21. The Division Bench of Punjab and Haryana High Court in Gurpreet Singh (supra) was considering the similar facts. Petitioner in that case was a licensee living in the premises on the basis of concession given by his father to live in the property owned by him. In these facts, it is held:

"As a licensee, the petitioner is only permitted to enjoy the possession of the property licensed but without creating any interest in the property. A licence stands terminated the moment the licensor conveys a notice of termination of a licence. There is no vested right of any kind in the licensee to remain in possession of the property licensed. Admittedly, respondent No. 4 is the owner of the property in question. The petitioner is living in part of the property. Such property owned by respondent No. 4 is required to be protected as mandated by Section 22 of the Act read with Rule 23 of the Rules and para 1 of the Action Plan. There cannot be any effective protection of property of the senior citizens unless the District Magistrate has the power to put the senior citizen into possession of the property and/or

restrain or eject the person who wishes to interfere in the possession of the property of the senior citizen. Protection of the property of a senior citizen includes all incidences, rights and obligations in respect of property in question. Once a senior citizen makes a complaint to District Magistrate against his son to vacate the premises of which the son is a licensee, such summary procedure will enure for the benefit of the senior citizen. The petitioner would have no right to resist his eviction only on the ground that the Act does not contemplate eviction of an occupant. Eviction is one part of the right to protect the property of a senior citizen which right could be exercised by a senior citizen in terms of provisions of the statute, Rules framed and the Action Plan notified.

The argument that civil suit is pending regarding the rights of the petitioner in the property in question; therefore, the order of District Magistrate is not legal does not merit any acceptance. Suffice it to state that jurisdiction of the Civil Court is barred in respect of all matters falling within the jurisdiction of the Act in terms of Section 27 thereof. Since, the protection of life and property falls within the jurisdiction of the District Magistrate, therefore, the District Magistrate is competent authority to take steps for the protection of life and property of the senior citizen.

However, we may say that such summary exercise of the jurisdiction is without prejudice to the rights of the parties which may be determined by the Civil Court in accordance with law.”

22. In the light of aforesaid exposition of law, there is no merit in the contention of the petitioner that the third respondent has no jurisdiction to pass order of injunction in respect of property of the first respondent. Respondent No. 1 has categorically asserted that the petrol pump and service center are his self acquired properties. Petitioner has failed to substantiate his contention that the properties are ancestral properties and that he has right to remain in the said properties. Respondent No. 1 has permitted the petitioner to operate the service center to earn his livelihood, therefore, the petitioner is in permissive possession of the service center. However, since the petitioner has started troubling him, respondent No. 1 was constrained to approach respondent No. 3 seeking an injunction to protect his property. In view of material placed on record, respondent No. 3 has rightly passed the impugned order of injunction against the petitioner. He is justified in directing the petitioner not to enter petrol pump and service center without any legal right or order of competent court and that he shall not give any physical or mental trouble to respondent No. 1. The said injunction order is in consonance with the preamble and object of the said Act. and the said order is necessary with a view to protect the property of respondent No. 1. Respondent No. 2 by a reasoned order has rightly rejected the appeal filed by the petitioner. It has also come on record that the properties i.e. agricultural land

admeasuring 8.50 R out of Gat No. 108/10/A and land admeasuring 0.09 R out of Gat No. 50/1/F/2 of village Khed, Tal. Satara and agricultural land admeasuring 1.42 R out of Gat No. 196 of village Bhatmarali, Tal. & Dist. Satara are in the name of petitioner. Plot No. 7 of Gat No. 139/6/140/1 is standing in the name of petitioner's wife. The petitioner is having income from these properties and agricultural lands. Therefore, there is no substance in his contention that the service center is his only earning source.

23. There is substance in the contention of respondent No. 1 that the petitioner has not come before this Court with clean hands and petition deserves to be dismissed for suppression of material facts. In the affidavit in reply, respondent No. 1 has brought on record the fact that after respondent No. 3 passed the impugned order, the petitioner has filed Special Civil Suit No. 140 of 2024 before learned Civil Judge, Senior Division, Satara for partition against respondent No. 1/father, mother and sister. Along with the suit, petitioner has also filed application Exhibit-5 seeking temporary injunction restraining respondent No. 1 from ousting him from Maruti Servicing-Washing Center, and/or disturbing/interfering in his peaceful possession and enjoyment of the said service center. The petitioner had questioned the

jurisdiction of respondent No. 3 in passing the impugned injunction order. The Trial Court has dealt with the said contention and on merit by giving cogent reasons rejected the same. The Trial Court has made adverse prima facie observations against the petitioner. The Trial Court has come to a conclusion that the petitioner has miserably failed to make out a prima facie case in his favour, balance of convenience lies in favour of respondent No. 1 and observed that respondent No. 1 will suffer irreparable loss if the order of temporary injunction is granted in favour of the petitioner. The Trial Court by a reasoned order passed on 30.07.2024 has rejected the temporary injunction application Exhibit-5 filed by the petitioner. Petitioner has challenged the order of Trial Court by filing Misc. Civil Appeal No. 90 of 2024.

The petitioner has not disclosed the fact of filing of partition suit and rejection of his temporary injunction application in respect of Maruti service center, wherein he had questioned the jurisdiction of respondent No. 3 in passing the injunction order. The petition is therefore also liable to be dismissed for suppression of material facts.

24. For the aforesaid reasons, no case is made out by the petitioner to interfere in the extra ordinary writ jurisdiction. Petition being devoid of merit is dismissed.

Rule stands discharged.

(NITIN B. SURYAWANSHI, J.)

At this stage, learned advocate for the petitioner requests for continuation of status quo order. For the reasons stated in the judgment the said prayer is rejected.

(NITIN B. SURYAWANSHI, J.)