

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1631 OF 2026

1. Priya Tanaji Kumbhar,
Age: 54 Yrs. An Indian Inhabitant,
2. Amit Tanaji Kumbhar
Age – 34 yrs., An Indian Inhabitant
3. Prajakta Amit Kumbhar
Age – 23 yrs., An Indian Inhabitant
4. Akshay Tanaji Kumbhar
Age – 32 yrs., An Indian Inhabitant
5. Ajinkya Tanaji Kumbhar
Age – 29 yrs., An Indian Inhabitant
All residing at -
428/8, Kohinoor Mills Chawl,
M. J. Road, Naigaon, Dadar,
Mumbai – 400 014.

...Petitioners

Versus

1. The State of Maharashtra,
Through its Principal/Addl. Secretary,
Social Justice & Special Assistance
Department, Having its office at - Social
Justice & Special Assistance
Department, First Floor, Annex Building,
Mantralaya, Madam Kama Road,
Hutatma Rajguru Chauk, Mumbai – 32.
2. The Appellate Authority
Senior Citizen Tribunal
/Additional Collector, Mumbai City
having office at -
First Floor, Old Custom House,
Shahid Bhagat Singh Marg, Fort - 01.
3. The Senior Citizen Tribunal,

Mumbai City/
Deputy Collector, Mumbai City,
having office at – Old Custom House,
Shahid Bhagat Singh Marg,
Fort – 400 001.

4. Assistant Commissioner,
Social Justice, Mumbai,
having office at – Administrative
Building, Part-1, Fourth Floor, R.C.Road,
Chembur, Mumbai – 400 071.

5. Sharda Shivaji Kumbhar
428/8, Kohinoor Mills Chawl, ...Respondents
M. J. Road, Naigaon, Dadar, -----
Mumbai – 400 014.

Mr. Himanshu Patil a/w Ms. Deepti Panadi, for Petitioners.
Smt. V S Nimbalkar, AGP for Respondent Nos. 1 to 4 - State.
Smt. Ranjana Todankar, for the Respondent No. 5.

CORAM : **N. J. JAMADAR, J.**
RESERVED ON : **12th FEBRUARY 2026**
PRONOUNCED ON : **05th MARCH 2026**

JUDGMENT:

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

2. By this petition under Article 227 of the Constitution of India, the petitioners assail the legality, propriety and correctness of a judgment and order dated 16th December, 2025, passed by the Appellate Authority in Appeal No. 21/2025 whereby the appeal preferred by the petitioners

against an order dated 10th June, 2025 passed by the Maintenance Tribunal thereby directing the petitioners to vacate and deliver the possession of the Room No. 428, Chawl No. 8, Kohinoor Mills Compound (“the subject premises”) to the Respondent No. 5/senior citizen, came to be dismissed by affirming the order passed by the Maintenance Tribunal.

3. Briefly stated the background facts are as under:-

3.1 Smt. Sharda Shivaji Kumbhar (R5)/senior citizen, is the co-sister of Petitioner No. 1. The Petitioner Nos. 2, 4 and 5 are the sons of Petitioner No. 1. The Petitioner No. 3 is wife of Petitioner No. 2.

3.2 Sitaram Dongre/Kumbhar was a worker in the Kohinoor Mills. He was having two sons Shivaji Kumbhar – the husband of Respondent no. 5, and the deceased co-applicant, and Tanaji Kumbhar – the husband of Petitioner No. 1 and father of Petitioner Nos. 2, 4 and 5. A tenement i.e. Room No. 428/8, Kohinoor Mills Chawl, M J Road, Naigaon, Dadar, Mumbai (the suit premises) was allotted to

him by the Kohinoor Mills. Sitaram Kumbhar passed away on 21st February, 1998.

3.3 After the demise of Sitaram, it is the contention of the petitioners that, in accordance with the understanding arrived at between the parties, Shivaji Kumbhar – the husband of Respondent No. 5 joined Kohinoor Mills on compassionate appointment basis. The brothers eventually decided that, the subject premises would be divided into two parts. Accordingly, the left side portion of the subject premises was allotted to Shivaji and the right side premises was allotted to Tanaji.

3.4 In contrast, on 16th March, 2015 the senior citizen and deceased Shivaji, filed an application with the Maintenance Tribunal that the senior citizens were being subjected to extreme harassment, torture and cruelty by the petitioners. Various act of commission and omission on the part of the petitioners were alleged. Some NC complaints were also registered. The senior citizens thus sought the eviction of petitioners from the suit premises so as to facilitate the senior citizens to live their normal life in a peaceful manner.

3.5 The application was resisted by the petitioners.

3.6 After appraisal of the rival contentions and the material on record, the Maintenance Tribunal was persuaded to allow the application observing *inter alia* that, Shivaji Kumbhar the late husband of Respondent No. 5 was the holder of the subject premises. The Petitioner No. 1 was the co-sister of Respondent No. 5 and there were disputes between the parties over succession to the properties. The senior citizen as well as the petitioners had lodged complaints with Police against each other. The petitioners had another house premises at Badlapur. Hence, it was necessary to direct the petitioners to vacate the subject premises.

3.7 Being aggrieved, the petitioners preferred an appeal before the Appellate Tribunal.

3.8 The Appellate Tribunal found no reason to interfere with the order passed by the Maintenance Tribunal. Thus, the appeal came to be dismissed.

4. Being further aggrieved, the petitioners have invoked the writ jurisdiction.

5. I have heard Mr. Himanshu Patil, the learned Counsel for the petitioners, Smt. Ranjana Todankar the learned Counsel for the Respondent No. 5, and Smt. V S Nimbalkar, the learned AGP for the Respondent Nos. 1 to 4 – State. The learned Counsel for the parties took the Court through the material on record.

6. At the outset, Mr. Himanshu Patil, the learned counsel for the petitioners, would urge that, there is a dispute between the petitioners and Respondent No. 5 over the succession to the property left behind by Late Sitaram Dongare/Kumbhar – the father-in-law of Petitioner No. 1 and Respondent No. 5. Thus, the authorities under the Senior Citizens Act, 2007 have no jurisdiction to adjudicate the property dispute between the parties. Moreover, the Respondent No. 5 had never demanded any maintenance. According to Mr. Patil, an application for eviction simplicitor without seeking a relief of maintenance is not at all tenable under the Senior Citizens Act, 2007.

7. A very strong reliance was placed by Mr. Patil on a Division Bench judgment of this Court in the case of

Jitendra Gorakh Megh Vs. Additional Collector & Appellate Tribunal & Anr¹.

8. Mr. Patil would further urge that, there is overwhelming material to indicate that, the petitioners have been residing in the subject premises since long. The Petitioner No. 1 has already instituted a suit being RAD No. 148/2026 before the Court of Small Causes at Mumbai asserting her claim of tenancy in respect of subject premises. The issue can thus be properly adjudicated by the Civil Court. Therefore, while the matter awaits adjudication by the Civil Court, the impugned orders which are beyond the remit of jurisdiction of the Maintenance Tribunal and Appellate Tribunal, deserve to be quashed and set aside.

9. Reliance was also placed by Mr. Patil on the judgment of the Supreme Court in the case of *Samtola Devi Vs. State of Uttar Pradesh & Ors²*.

10. Per contra, Ms. Ranjana Todankar, the learned Counsel for the Respondent No. 5, would support the

1 WP(L)/31614/2025

2 2025 LiveLaw (SC) 445

impugned orders. It was urged that, Tanaji the predecessor in title of petitioners, was never allotted the subject premises. In fact, Tanaji was working with the Shipping Corporation of India and not with Kohinoor Mills. Attention of the court was invited to the certificates issued by the Kohinoor Mills which indicate that, Shivaji was an employee of the said mill and was staying in the Mill's Chawl No. 08. The petitioners had thus no right, title and interest to occupy the subject premises.

11. Ms. Todankar would further urge that, what accentuates the situation in the facts of the case at hand is that, the petitioners have been persistently subjecting the deceased husband of Respondent No. 5 and the Respondent No. 5 to extreme harassment and cruelty. The various reports lodged by the senior citizens demonstrate the manner in which the petitioners have been subjecting the Respondent No. 5 and her late husband to ill-treatment. In these circumstances, Ms. Todankar would urge, the Maintenance Tribunal cannot be said to be denuded of the authority to pass appropriate order to protect the senior citizen. Lest, the very purpose of Senior Citizens Act, 2007 would be defeated.

12. Lastly, Ms. Todankar would urge, if the petitioners have already invoked the jurisdiction of the Civil Court, the petitioners can very well work out their remedies before the Civil Court and, thus, no interference is warranted with the impugned orders in exercise of the supervisory jurisdiction.

13. The aforesaid submissions now fall for consideration.

14. 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;”

15. 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.

16. Section 5 of the Senior Citizens Act, 2007 contains provisions in regard to the application for maintenance. Section 6 provides for jurisdiction and procedure to determine such application. Constitution of 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.

17. At this juncture, '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 fo 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."

18. 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 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, protection of life and property of the senior citizens. 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.

19. The thrust of the submission of Mr. Patil was that the provisions contained in the Senior Citizens Act, 2007 cannot be used as a tool to evict the children or relative from the premises in which a senior citizen has some

interest. What Senior Citizen Act, 2007 envisages is a provision for maintenance of the senior citizen by the children or relative. Eviction of a child or relative cannot be the sole purpose for which the senior citizen can approach the Maintenance Tribunal.

20. In the case of **Jitendra Gorakh Megh (supra)**, 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 ?

21. 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 V/s. The Deputy Commissioner, Bengaluru Urban District and Ors.**³, and judgments of this Court in the cases of **Ranjana Rajkumar Makharia V/s. Mayadevi Subhkaran Makharia**⁴, **Ritika Prashant Jasani**

3 Civil Appeal No.3822 of 2020 dated 15 Dec. 2020

4 2020(3) Mh.L.J. 587

V/s. Anjana Niranjana Jasani⁵ and Shweta Shetty V/s. State of Maharashtra and Ors.⁶, 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 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

5 2021 SCC Online Bom 1802
6 2021 SCC Online Bom 4575

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).

(emphasis supplied)

22. In the case of *Smt. S. Vanitha (supra)*, in paragraph No.17 of the said judgment, the Supreme Court postulated that the Tribunal may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words, would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after adverting to the competing claims in the dispute.

23. It is in the aforesaid context, in the case of *Samtola Devi (supra)*, on which reliance was placed by Mr. Patil, it was enunciated that the provisions of the Act, nowhere specifically provides for drawing proceedings for eviction of

persons from any premises owned or belonging to such a senior citizen. It is only on account of the observations made by the Supreme Court in **S. Vanitha (supra)**, 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.

24. Keeping in view the aforesaid position in law, the facts of the case as emerged from the record need to be appraised. The genesis of the dispute between the parties is in the fractious relationship between two brothers i.e. Shivaji, the deceased husband of respondent No.5, and Tanaji, the deceased husband of petitioner No.1. It appears that on 16th March, 2015, late Shivaji Kumbhar had addressed communication to the authorities alleging harassment at the hands of Tanaji and his wife. It was, *inter alia*, contended that the deceased Tanaji was harassing late Shivaji and his family members in myriad ways. A copy of the non-cognizable complaint (Exhibit-E) to the petition indicates that on 23rd July, 2014 Shriram Kumbhar, the son of late Shivaji and respondent No.5, had lodged a complaint against petitioner No.1. The allegations

of hurling abuses, insult and assaulting the complaint were made therein.

25. An application seems to have been filed before the Maintenance Tribunal by late Shivaji and respondent No.5 on 20th January, 2023. A perusal of the said application indicates that the senior citizens were residing alongwith their two sons Jiten and Shriram, daughters-in-law and grandchildren. It further reveals that the subject premises was allotted to late Shivaji by Kohinoor Mill, as he used to work therein, and he was paying the rent thereof regularly. His brother Shivaji and the latter's family members were in the occupation of one of the rooms. Despite repeated assurances, Tanaji had not vacated the said premises. There were frequent quarrels. Incidents were reported to police. At the instance of petitioner No.2 a police official had assaulted the son of respondent No.5 on the night intervening 21st and 22nd October, 2021. The senior citizens, thus, prayed for an order to evict Tanaji and his family members from the subject premises.

26. A letter addressed by the Manager, Kohinoor Mills, to the Public Information Officer, NTC, dated 9th November,

2013, reveal that since January, 1982 the subject premises have been allotted to Shivaji Kumbhar, the husband of respondent No.5. How the premises came to be transferred from Sitaram Dongare Kumbhar, the father of Shivaji, to Shivaji Kumbhar, was not, however, discernible from the record. In contrast, the petitioners have banked upon a purported certificate issued by the Kohinoor Chawl Residents Association which purports to certify that the subject premises was initially allotted to late Sitaram Dongare and his sons Shivaji and Tanaji, have been in the occupation of the said two room tenement since long.

27. The aforesaid material indicates that late Tanaji and the petitioners have been in the occupation of one room out of the subject premises since long. This fact becomes absolutely clear from the very complaint lodged by late Shivaji in the year 2015. The principal grievance in the said complaint was that despite assurances Tanaji and his family members were not vacating the said room. Undoubtedly, there have been incidents of altercations and quarrels between the members of the families of Shivaji and Tanaji. Incidents also seem to have reported to police.

28. The crucial question, however, is whether the relationship between the parties and the circumstances in which the dispute has arisen fall within the ambit of the jurisdiction of the authorities under the Senior Citizens Act, 2007. It is imperative to note, in the application before the Maintenance Tribunal itself, it is mentioned that late Shivaji and respondent No.5 have two sons. The material further shows that, there are allegations of the sons of respondent No.5, having been abused, insulted and assaulted by the petitioners. The senior citizens were indisputably residing in the subject premises alongwith their sons, daughters-in-law and grandchildren. The primary question, which thus arises for consideration is, whether the petitioners – respondents before Maintenance Tribunal could be termed “relative”, so as to cast the obligation under Section 4 of the Senior Citizens Act,2007 on the petitioners.

29. Under Section 2(g) of the Senior Citizens Act, 2007, “relative” means any legal representative of the childless senior citizen, who is not a minor and is in possession of or would inherit his property after his death. In the light of the aforesaid definition, as late Shivaji and respondent

No.5 have two sons, who have also been residing with the senior citizens in the subject premises, the wife and children of the brother of late Shivaji cannot be termed as, “relative” within the meaning of Section 2(g) of the Senior Citizens Act, 2007. A necessary corollary of this inevitable finding is that, the petitioners cannot be said to be under obligation to maintain the senior citizen, as envisaged by Section 4(2) of the Senior Citizens Act, 2007. If the petitioners cannot be said to be the ‘relative’ for the purpose of the provisions of the Senior Citizens Act, 2007, the obligation to maintain the senior citizen cannot be enforced qua the petitioners. Thus, the very tenability of the application before the Maintenance Tribunal under Section 5 of the Senior Citizens Act, 2007 becomes tenuous.

30. Secondly, the material on record unmistakably indicates that late Tanaji and his family members have been residing in the suit premises since long. In addition to the reference to the occupation of one of the rooms by Tanaji’s family members in the complaint filed in the year 2015 and the application before the Maintenance Tribunal, the petitioners have placed on record the copies of the

voters list which indicate that since 1978 onwards the names of Shivaji and Tanaji appear in the voters list at the same residential address i.e. Room No.428. The proceeding for eviction of the petitioners, thus, assume the character of adjudication of proprietary and possessory rights of the petitioners and respondent No.5. The said exercise is clearly beyond the jurisdictional competence of the Maintenance Tribunal.

31. It would be suffice to note that the order passed by the Maintenance Tribunal itself indicates that the Tribunal was alive to the fact that there were disputes between the parties over the property; there were frequent quarrels and reports were lodged with the police. Thus, the parties were required to approach the Competent Court for the resolution of the said dispute. However, since the petitioner had a house at Badlapur, the Maintenance Tribunal reasoned, it would be appropriate for them to shift at Badlapur. Clearly, the Maintenance Tribunal did not pass the order of eviction as a measure of enforcement of the right of maintenance of the senior citizen.

32. For the foregoing reasons, the impugned order as well as the order passed by the Maintenance Tribunal cannot be said to be within the four corners of provisions contained in Senior Citizens Act, 2007. Resultantly, the orders passed by the Appellate Tribunal and the Maintenance Tribunal deserve to be quashed and set aside.

33. Hence, the following order:-

:: O R D E R ::

i] The Writ Petition stands allowed.

ii] The Impugned order as well as order passed by the Maintenance Tribunal dated 10th June, 2025 stand quashed and set aside.

iii] Rule made absolute in the aforesaid terms.

No costs.

[N. J. JAMADAR, J.]