

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.....2025
(@SLP(CIVIL) NO.....D. NO.42786 OF 2025)

KAMALAKANT MISHRA

...APPELLANT

VERSUS

ADDITIONAL COLLECTOR & ORS.

...RESPONDENTS

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

¹ Hereinafter referred to as 'the Act'.

working. Respondent No. 3 is the eldest son, he runs a business and is financially sound.

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

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

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.

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.

.....J.
[VIKRAM NATH]

.....J.
[SANDEEP MEHTA]

**NEW DELHI;
SEPTEMBER 12, 2025**

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) DIARY NO.42786/2025

[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]

KAMLAKANT MISHRA

Petitioner(s)

VERSUS

ADDITIONAL COLLECTOR & ORS.

Respondent(s)

(IA No. 194838/2025 - CONDONATION OF DELAY IN FILING, IA No. 194845/2025 - EXEMPTION FROM FILING O.T.)

Date : 12-09-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SANDEEP MEHTA

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.

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. Leave granted.
3. The appeal is allowed in terms of the signed order which is placed on the file.
4. Pending application(s), if any, are disposed of.

(KAVITA PAHUJA)

ASTT. REGISTRAR-cum-PS

(RANJANA SHAILEY)

ASSISTANT REGISTRAR