



AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 109 of 2021**

- Neeraj Baghel S/o Shri Sevalal Baghel Aged About 38 Years R/o Qtr No. 45/36, Kasar Gali, Kamasipara, Satti Bazar, Raipur, District Raipur, Chhattisgarh,

---- **Petitioner****Versus**

1. The Collector Raipur, Collectorate Premises, Raipur, Chhattisgarh
2. Sub Divisional Magistrate Raipur, District Raipur, Chhattisgarh
3. The Station House Officer Police Station Golbazar, Raipur, District Raipur, Chhattisgarh
4. Sevalal Baghel S/o Late Shri Bahoran Baghel Aged About 73 Years R/o Qtr No. Lig- 261, Behind Surya Apartment, Civil Lines, Raipur, Tahsil And District Raipur, Chhattisgarh

---- **Respondent**

For Petitioner : Shri Kshitij Sharma, Advocate.
For Respondents 1 to 3 : Shri Shakti Singh Thakur, Panel Lawyer.
For Respondent No.4 : Shri Sanjay Agrawal, Advocate.

Hon'ble Shri Deepak Kumar Tiwari, J**Order On Board****06/01/2023 :**

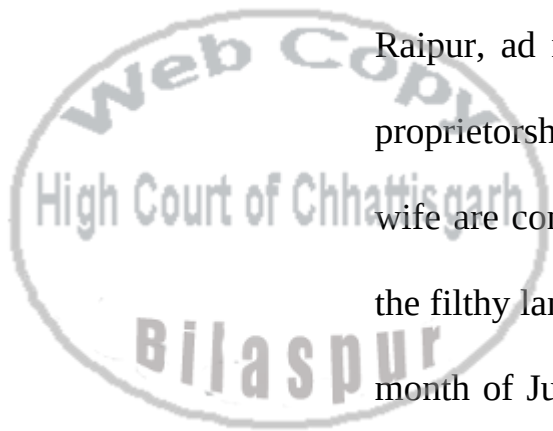
1. Being aggrieved by the order dated 6.2.2021 passed by the Collector, Raipur in Case No.2/21 (between Neeraj Baghel Vs Sevalal Baghel) whereby the petitioner has been directed to vacate the house within a week under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (henceforth 'the Act, 2007') and also the



communication dated 29.1.2021 issued by the President, Maintenance Tribunal and Sub Divisional Officer (Revenue), Raipur (for short 'the Tribunal') in the case filed by respondent No.4 under Sections 5 and 32 of the Act, 2007 being Case No.03/B-121, year 2019-20, the petitioner has preferred the instant writ petition.

2. Facts of the case are that respondent No.4 has filed an application under Sections 5 & 32 of the Act, 2007, inter alia, claiming maintenance of Rs.10,000/- from the petitioner/son and also eviction from the house No.39/74 situated at Kasaar Gali, Kamasipara, Sadar Bazar Ward, Raipur, ad measuring 603 square feet, alleging that the said house is proprietorship of respondent No.4. Since 2009 the petitioner and his wife are continuously harassing and abusing respondent No.4-father in the filthy language and threatened to oust from his own house and in the month of July, 2017, ousted him from the house. For the said reason, he is presently residing with his elder son. It has been further pleaded that the petitioner is neglecting and refusing to maintain his father in respect of food and treatment and also threatened to lodge an FIR if he enters in his own house. It has been further averred that the petitioner/son is working as In-charge Principal, Government School, Gohrapadar, District Gariyaband and is getting salary of Rs.50,000/- per month and is capable to maintain his father. Hence the application was filed for grant of maintenance of Rs.10,000/- per month and also to evict the petitioner from the house.

3. The petitioner/son has denied the allegations and stated that respondent





No.4 is a retired Government servant, who is retired from Food Corporation of India (FCI) and is receiving pension. Therefore, he is capable to maintain himself. It has further been averred that the petitioner is residing with his mother, who is also a senior citizen in the subject premises. The application has been filed only to harass the petitioner and his mother, and civil suit is also pending adjudication before the 2nd Civil Judge, Class-1, Raipur pertaining to the subject property. It has also been averred that the respondent No.4 is having a separate house at Santoshi Nagar in his name, through which he is also getting rental income of Rs.10,000/- and also having agricultural land at village Nakta, Mandir Hasaud, Raipur. In the year 2016, respondent No.4 had sold some agricultural land situated at village Sivni, Abhanpur, for a consideration of Rs.6,54,000/- and the said money was kept in his bank account.

4. The petitioner's mother has filed an application for maintenance against his father before the family Court in which compromise was arrived at on 13th July, 2019 and in the said settlement, both sons had agreed to pay maintenance to the mother of the petitioner. The petitioner's family is residing in the said house and he is posted at village Gohrapadar. During festivals and while on leave, he used to come to meet and reside with his mother and family. The father has moved such application with ill motive. So, he prayed to dismiss the case.
5. Learned Tribunal after holding enquiry and being satisfied that the petitioner is neglecting and refusing to maintain respondent No.4 and



also causing nuisance and harassing his father, passed the order dated 29.1.2021 directing to pay maintenance of Rs.5,000/- per month and also eviction order was passed. Against the said order, the petitioner/son has preferred an appeal before the Collector, in which the order was passed on 6.2.2021 directing the petitioner to vacate the house within a week. Hence the present petition has been filed.

6. Learned counsel for the petitioner would submit that in the Act, 2007 and the Chhattisgarh Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (for short 'the Rules, 2009'), there is no such enabling provision for eviction of son by the Maintenance Tribunal, though such enabling provision was framed in some other states specially in the State of Punjab and Haryana. Therefore, for want of enabling provision, the impugned order is not sustainable. He would further submit that it is an admitted fact that the father/respondent No.4 is receiving pension from the FCI and is also having agricultural land and separate house at Santoshi Nagar through which he is getting rental income, therefore, the order granting maintenance of Rs.5,000/- is also not sustainable. In the alternative, he also submitted that the appellate Court without examining the issue, has confirmed the eviction order in a summary manner, which is not warranted. Therefore, the case may be remitted back to be decided strictly on its own merits and the impugned order of the Court below may be quashed.

7. Per contra, learned counsel for respondent No.4 would fairly submit that respondent No.4 is getting pension from the FCI, so, he would





mainly press on the point of eviction of the house. He would place reliance on the judgments in the matters of **Pramod Ranjankar and Another Vs. Arunashankar Pramod Rajankar & Others** {ILR 2018 Chhattisgarh 1647}, **Dinesh Kumar Swarnakar Vs. Amarnath Swarnakar & Others** {WPC No.3320/2017, decided on 2.9.2019 by this Court}, **Dattatrey Shivaji Mane Vs. Leelabai Shivaji Mane & Others** {2018 (6) MHLJ 681}, to submit that claim for eviction is maintainable under Section 4 read with various other provisions of the Act by the senior citizens against their children. He would further submit that as per the object of the Act, 2007, the Tribunal or the appellate Court, has also power to grant interim protection in view of the judgment rendered by the Hon'ble Supreme Court in the matter of **Savitri Vs. Govind Singh Rawat** {AIR 1986 SC 984}.

8. I have heard learned counsel for the parties at length and perused the records.
9. As traditional norms and values of the Indian Society laid stress on providing care of the elderly, so the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has been enacted to provide for more effective provisions for maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matters connected therewith or incidental thereto. The said Act was enacted principally to ameliorate deprivation caused to the parents by the children. Due to declining of traditional norms, ethos and moral values of the Indian Society which emphasized and recognized the





necessity to respect and provide care for the elderly had sadly receded and robbed the society in recent times of such values for which such legislation was necessitated.

10. In the matter of **Pramod Ranjankar**, (Supra), the interim application filed by the parents seeking eviction has been allowed and the following was observed at para-20:-

“20. Therefore interpreting in the line of the aforesaid facts it is not expected that after the damage is done to a senior citizen who is occupying some house with his son, the law will come to the rescue of the petitioners through the route of IPC. Therefore, the anxiety to stop the right of the abuse of senior citizen is to be made effective as otherwise it would be a symbolic collapse of the legal system by not responding to the request or by adhering to the dummy mode by Courts.”

11. Further, in the matter of **Dinesh Kumar Swarnakar**, referred to above, the following was observed at para-12 :-

“12. In the given case admittedly the petitioner was not the owner of the premises, wherein he is carrying on his business, therefore, it can be presumed that the business is being carried on with the permission of the parents i.e. the respondent. The permission has been long withdrawn, as such the petitioner cannot be asked to file a traditional suit of eviction by filing a civil suit as this cannot be ignored that the respondent has already attained the age of nearly 80 years and specially the Act is meant for benefit of senior citizens. Therefore, this Court as held earlier in CRMP No.600 of 2018 that anxiety to stop the right of the abuse of senior citizen is to be made effective as otherwise it would be a symbolic collapse of the legal system by not responding to the request or by adhering to the dummy mode by Courts. This Court further held that the object is to compel a man to perform the moral obligation which he owes to his parents and give support to the shivering hands. Likewise this cannot be forgotten that the children were protected during their childhood to become a competent adult. The object of



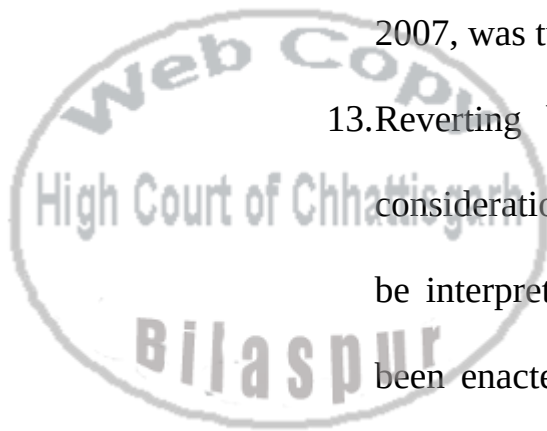


the Act, 2007 calls for a simple, speedy but limited relief and seeks to ensure that the parents are not shelved as a commodity or a good under the scrap/heap of society and allow the children to sail on their immorality for their own subsistence.”

12. In the matter of **Dattatrey Shivaji Mane** (Supra), at para-22, it was categorically observed that the provision of Section 4 of the Act permits such application for eviction of child and grand child if the conditions set out in that provision read with other provisions are satisfied, and the submission that the order of eviction cannot be passed by the Tribunal under Section 4 of the said Act read with other provisions of the Act, 2007, was turned down.

13. Reverting back to the facts of the present case and taking into consideration the laudable object of the Act, 2007, which is required to be interpreted in such a manner that mischief for which the Act has been enacted is fulfilled. Therefore, the provision has been liberally construed as primary object is to give social justice to the parents and senior citizens.

14. Hence this Court does not find any error in the order of eviction passed by the appellate Court directing the petitioner to vacate the house within a period of 7 days from the date of the order. When the parents, who are owners of the house, withdraw permission to reside in the house, in that case, the petitioner is bound to obey the order of parents, and respondent No.4-father cannot be asked to file traditional suit of eviction against his own son. However, considering the submission of learned counsel for respondent No.4 that he is getting pension, part of





the order whereby maintenance of Rs.5,000/- has been awarded, is hereby set aside.

15. With the aforesaid observation, the Writ Petition is disposed of.

16. A copy of this order be sent to the concerned Tribunal and concerned Collector for immediate compliance of the order.

Sd/-
(Deepak Kumar Tiwari)
Judge

Barve

