

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

**WRIT PETITION NO.9196 OF 2022**

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Yogesh Ramesh Gholap & Anr. ..Petitioners  
Versus  
District Magistrate, Thane & Ors. ..Respondents

Mr. Swaraj Jadhav i/by Vikas G. Kumbhar, for the  
Petitioners.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.1 & 3.

Mr. Siddharth Ingale, for the Respondent No.2.

**CORAM : NITIN W. SAMBRE, J.**

**DATE : 3<sup>rd</sup> AUGUST, 2022**

**P.C.**

1. Heard.

2. The order impugned is passed in exercise of powers under Section 5 r/w Section 9 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

3. Vide order impugned, the competent authority has directed the petitioners to hand over possession of flat No.103 to respondent No.2 who happens to be the mother of petitioner No.1. Further directions are given that the petitioners shall not create interference or impediment in the enjoyment of property being Flat Nos.103, 104 and Shop No.5. Further directions as regards apportionment of rent amount was also directed.

4. After having heard counsel for the petitioners in the backdrop of very object with which the aforesaid statute is enacted i.e. for providing more effective provision for the maintenance and welfare of the parents and senior citizens, what can be noticed from admitted position is respondent No.2 is already receiving remuneration from the operation of restaurant. Apart from above, respondent No.2 is independently in possession of Flat No.104.

5. It is the contention of the petitioners that the entire property is acquired out of income generated from the operation of the ancestral properties viz. restaurant business.

6. In view of aforesaid admitted position, let there be notice to the respondents.

7. AGP waives service for respondent Nos.1 and 3.

8. Mr. Siddharth Ingale waives service for respondent No.2.

9. Respondent No.2 has made a grievance that she required to take recourse to contempt proceedings, as maintenance amount is not paid as was ordered.

10. In response to above, counsel for the petitioners has handed over a cheque for an amount of Rs.1,80,000/- to the counsel for respondent No.2, who acknowledges receipt of the same. Counsel for the petitioners on instructions from the petitioners assures that the cheque issued will be honoured, as there is sufficient balance in the account.

11. In the aforesaid background, the matter is posted on 29<sup>th</sup> September, 2022.

12. The respondents are at liberty to file affidavit-in-reply.

13. In the meantime, the order impugned shall remain stayed.

14. However, it is clarified that the petitioners shall continue to pay maintenance as has been ordered.

15. Apart from above, the petitioners shall ensure that the 60% of the amount of licence fees received in the matter of operation of hotel Annapurna be deposited in the account of respondent No.2 on or before 10<sup>th</sup> day of each English calendar month.

**[NITIN W. SAMBRE, J.]**