

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 2830/2024

Rajeev Dangayach S/o Shri Radheshyam Dangayach

-----Petitioner

Versus

Shri Radheshyam Dangayach Son Of Late Shri Gyarsi Lal Dangayach

-----Respondent

For Petitioner(s) : Mr. Anil Kumar Sharma

For Respondent(s) : Mr. Rupin Kala

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

16/07/2024

1. Petitioners have preferred this writ petition, challenging the order dated 05.02.2024 passed by the District Collector being the Appellate Authority, directing to dispossess the petitioners from the residence.
2. Counsel for petitioners states that respondents No.1 and 2 filed application under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 whereupon the Authority (Sub-Divisional Officer) restrained the petitioners not to hinder in peaceful residence and use of the residential plot No.1, Khandela House, Behind Amber Tower, Sansar Chandra Road, Jaipur by respondents and their prayer for dispossession of petitioners from this property was not accepted. Respondents No.1 and 2 have preferred appeal thereagainst and in the appeal, the Collector has passed the order of dispossession of petitioners vide judgment dated 05.02.2024, which has been impugned by petitioners in this writ petition.

3. Counsel for petitioners contended that the impugned judgment to the extent of issuing order to dispossess petitioners is contrary to the aim and object of the Act of 2007, since the order of dispossession can be passed only where it is necessary and expedient to ensure protection of the parents. No such findings were made by the Appellate Authority and therefore, the impugned order is liable to be quashed being suffer from jurisdictional error and grave perversity.

4. On behalf of respondents No.1 and 2, counsel has put in appearance and states that petitioners have put lock on the premise in question and residing in their property as much as, the impugned judgment does not warrant interference by this Court.

5. Since respondents No.1 and 2 has appeared through counsel, and on the prayer of counsel for petitioners, service of respondent No.3, who has been made party as proforma respondent is dispensed with, hence, service is treated as complete.

6. Let this writ petition be listed on 20.08.2024.

7. In the meanwhile, the operation of impugned judgment dated 05.02.2024 to the extent of dispossession of petitioners from the house in question, shall remain stayed.

(SUDESH BANSAL),J