

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 11275/2024

1.

Krishnawtar Nagar, S/o Radhey Shyam Nagar, Aged About 63 Years, R/o Plot No. 2, Govind Badi, Sitaram Bazar, Opposite To S.b.i. Bank, Brahmpuri, Jaipur.
2.

Smt. Lata Nagar, W/o Krishnawtar Nagar, Aged About 63 Years, R/o Plot No. 2, Govind Badi, Sitaram Bazar, Opposite To S.b.i. Bank, Brahmpuri, Jaipur.
3.

Mukul Nagar, Aged About 31 Years, R/o Plot No. 2, Govind Badi, Sitaram Bazar, Opposite To S.b.i. Bank, Brahmpuri, Jaipur.

-----Petitioners

Versus

1.

Smt. Vimla Devi Nagar, W/o Radhey Shyam Nagar, Aged About 82 Years, R/o Plot No. 2, Govind Badi, Sitaram Bazar, Opposite To S.b.i. Bank, Brahmpuri, Jaipur.
2.

Radhey Shyam Nagar, S/o Tekchand Nagar, Aged About 86 Years, R/o Plot No. 2, Govind Badi, Sitaram Bazar, Opposite To S.b.i. Bank, Brahmpuri, Jaipur.

-----Respondents

For Petitioner(s)

:

Mr. V.D. Agnihotri

For Respondent(s)

:

Mr. Praveen Kumar Jain
with Mr. Bhadar Singh
Ms. Sunita Chaudhary

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

1	Arguments concluded on	18.04.2026
2	Judgment reserved on	18.04.2026
3	Full judgment or operative part pronounced	Full Judgment
4	Pronounced on	27/04/2026

1.

The present petition has been filed under Article 227 of the Constitution of India, assailing the order dated 13.06.2024 passed by the Collector and District Magistrate, Jaipur in Case (Senior

Citizen Appeal) No. 57/2023, whereby the appeal was partly allowed against the petitioners (non-appellants) and an eviction order was passed directing them to vacate the property in question, namely Plot No. 2, Govindbadi, Sitaram Bazar, opposite SBI Bank, Brahampuri, Jaipur.

2. In view of the solemnity of the matter, particularly as all parties involved are senior citizens (apart from petitioner no.3) and the dispute concerns issues between the parents and their son, this Court had directed the parties to appear in person to ascertain relevant facts and explore the possibility of an amicable resolution through mediation. However, despite compliance with the said direction, it is observed that the parties are not inclined to settle the dispute amicably or to opt for mediation.

3. At the outset, learned counsel appearing on behalf of the petitioners submitted that, on an earlier occasion, the petitioners had preferred an appeal, being CMA No. 27/2023, before the Court of the learned Additional District Judge No. 8, Jaipur Metropolitan-II, Jaipur, which came to be allowed. Pursuant thereto, orders were passed against the respondents, directing them not to dispossess the petitioners from the property in question. It was further contended that the present matter has a chequered and protracted history of litigation, as the respondents initially instituted proceedings before the learned Tribunal under Section 5 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as "the Act of 2007"), read with Rules 5, 20, and 21 of the Rules of 2010, and thereafter, from time to time, several appeals have been preferred by the

aggrieved party against the orders passed at different stages of the proceedings.

4. It was further contended that, with respect to the property in question, a civil suit had already been instituted by the petitioners. It was submitted that albeit the said property stands registered in the name of the respondent-wife, substantial investment therein has been made from the hard-earned income of petitioner No. 1. It was also urged that petitioner No. 3, being the son of petitioner Nos. 1 and 2, was born and brought up in the said property, thereby establishing a long-standing and continuous association of the petitioners with the property in question. Learned counsel further submitted that the respondent is a retired government employee and is in receipt of pension, thereby having sufficient and independent means for basic subsistence. It was additionally contended that, apart from the present petitioners, the respondents have other children who are equally under a legal and moral obligation to maintain them; and that the petitioners have limited sources of income, and petitioner No. 3, being engaged in the private sector, bears the additional responsibility of supporting petitioner Nos. 1 and 2, particularly with regard to their medical expenses and other necessities. In such circumstances, it was contended that any dispossession of the petitioners from the property in question would entail grave and adverse consequences upon their livelihood and personal life.

5. *Per contra*, learned counsel appearing on behalf of the respondents, in unison with respondent No. 1 (present in person) vehemently submitted that there have been several instances

wherein the petitioners have subjected the respondents to abusive conduct, engaged in frequent altercations, extended threats, and otherwise disturbed the peaceful living of the respondents. It was contended that such acts on the part of the petitioners have created an atmosphere of fear, hostility, and insecurity within the household. It was further submitted that taking into consideration the continuous mental and emotional distress caused to the respondents, coupled with the persistent tension prevailing between the parties, the respondent No. 1 is living under a constant sense of threat owing to the conduct of the petitioners. Learned counsel emphasized that the cumulative effect of such conduct has severely impaired the respondents' right to live with dignity and peace, particularly at an advanced stage of life.

6. It was further contended that all water and electricity supply bills, along with other relevant documents pertaining to the property in question, stand in the name of the respondent, thereby indicating due possession and control over the said property. It was submitted that the issue relating to ownership and possession of the property has already been duly considered by the learned Civil Court. It was also brought to the notice of this Court that, in a separate suit, the learned Trial Court, after affording due opportunity of hearing to both parties, dismissed the application for temporary injunction filed by the present petitioners. Furthermore, it was apprised that the parties have previously been engaged in litigation before this Court as well, by way of a Revision Petition, which reflects the continuing and protracted nature of the dispute *inter se* the parties.

7. In support of the contentions made insofar, learned counsel appearing on behalf of the respondents had placed reliance upon the ratio encapsulated in **Rakesh Leeladhar Soni and Another v. Smt. Premlata Leeladhar Soni and Ors.: AIR 2020 Raj. 27, Smt. Rshmi Saxena V. Suresh Prakash Saxena: 2017 (3) WLC Raj. 312, and Dattatrey Shivaji Mane V. Leela Bai Mane and ors.: AIR 2018 Bom. 229.** Therefore, in view of the aforesaid circumstances, it was vehemently urged that the present petition deserves to be dismissed. It was further prayed that appropriate directions be issued restraining the petitioners from causing any interference or disturbance in the peaceful living of the respondents, especially considering that respondent No. 1 is in the twilight years of his life and is entitled to a life of tranquility and security.

8. In the backdrop of the aforesaid facts and submissions made by learned counsel, the parties present in Court, and upon an assiduous consideration of the material available on record, this Court is not inclined to exercise its supervisory jurisdiction under Article 227 of the Constitution of India. It is well settled that the jurisdiction under Article 227 is supervisory in nature and is to be exercised sparingly, only to keep the subordinate courts and tribunals within the bounds of their authority and not to re-appreciate evidence or act as a court of appeal. In this regard, the Hon'ble Supreme Court in **Rajani Manohar Kuntha & Anr. v. Parshuram Chunilal Kanojiya & Ors.: Arising out of SLP (C) No. 30407 of 2024** has categorically held that the High Court, while exercising jurisdiction under Article 227, cannot undertake a

re-appreciation of evidence or interfere merely because another view is possible, and that such power is confined to cases of patent perversity or jurisdictional error.

9. Insofar as the rights of senior citizens are concerned, the Hon'ble Supreme Court in **S. Vanitha v. Deputy Commissioner, Bengaluru Urban District & Ors.: (2021) 15 SCC 730** has recognized that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a beneficial legislation enacted to ensure the protection, dignity, and peaceful living of senior citizens, and that appropriate orders, including eviction, may be passed to safeguard such rights. Moreover, this Court is of a stern view that where there is breach of obligation to maintain and protect senior citizens, the competent authorities are well within their jurisdiction to direct eviction of erring children or relatives, so as to secure the senior citizen's right to live with dignity and peace.

10. In the present case, the impugned order dated 13.06.2024 passed by the Collector and District Magistrate, Jaipur does not suffer from any jurisdictional error, illegality, or perversity. Rather, the same reflects due consideration of the facts and circumstances of the case, particularly the strained relationship between the parties and the necessity to ensure a peaceful and dignified life for the respondents, who are senior citizens. The relevant extract from the order dated 13.06.2024 is reproduced hereinbelow:

"अपीलार्थी ने प्रत्यर्चीगण से परेशान होकर यह अपील प्रस्तुत कर अपीलार्थी संख्या एक के स्वामित्व की सम्पत्ति प्लॉट नम्बर 2, गोविन्दबाड़ी सीताराम बाजार एस बी आई बैंक के सामने ब्रह्मापुरी, जयपुर से प्रत्यर्ची संख्या 1 लगायत 3 को बेदखल किये जाने का अनुतोष चाहा गया है। माता-पिता एवं वरिष्ठ नागरिकों का भरण पोषण और कल्याण अधिनियम के तहत बने नियमों में माता-पिता के जीवन एवं

उसकी सम्पत्ति की रक्षा के लिए प्रावधान दिये गये हैं। माता-पिता एवं वरिष्ठ नागरिकों का भरण पोषण नियम 2010 की धारा 20 (5) इस प्रकार है— “किसी वरिष्ठ नागरिक के जीवन या संपत्ति के किसी खतरे की दशा में जिला मजिस्ट्रेट या सम्यकरूप से प्राधिकृत उसके अधीनस्थ किसी अधिकारी का ऐसे वरिष्ठ नागरिक के जीवन और सम्पत्ति की सुरक्षा करने का कर्तव्य होगा।” माता-पिता एवं वरिष्ठ नागरिकों का भरण पोषण एवं कल्याण अधिनियम 2007 के प्रावधानों के तहत माता-पिता या वरिष्ठ नागरिक की मांग पर पुत्र व पुत्रवधु को मकान से बेदखल करने का आदेश दिया जा सकता है। अन्तरण लिखित अथवा मौखिक हो सकता है। इस संबंध में समय-समय पर माननीय उच्च न्यायालय एवं माननीय सर्वोच्च न्यायालय द्वारा माता-पिता व वरिष्ठ नागरिक के पक्ष में निर्णय पारित किये गये हैं। इसलिए प्रत्यर्थीगण की ओर से प्रस्तुत न्यायिक दृष्टांत इस प्रकरण पर चस्पा नहीं होते हैं। अपीलार्थीगण द्वारा चाहा गया अनुतोष स्वीकार किये जाने योग्य है। फलस्वरूप अपील आंशिक स्वीकार की जाती है।”

8. अपीलार्थी संख्या एक के स्वामित्व की संपत्ति प्लॉट नंबर 2, गोविन्दबाड़ी, सीताराम बाजार, एस बी आई बैंक के सामने, ब्रह्मापुरी, जयपुर से प्रत्यर्थी संख्या 1 लगायत 3 को बेदखल किये जाने का आदेश दिया जाता है। अधीनस्थ अधिकारण का शेष आदेश यथावत रहेगा।

11. This Court also cannot lose sight of the object and intent of the Act of 2007, which is to provide effective protection to senior citizens from abuse, neglect, and harassment. The material on record indicates that the continuance of the petitioners in the premises has led to an atmosphere of discord, as also substantiated by the respondent-party appearing before the Court, thereby justifying the action taken by the competent authority.

12. Be that as it may, in light of the settled position of law and the facts and circumstances of the present case, particularly considering the protracted history of litigation between the parties; the fact that the respondents are octogenarians who have allegedly been subjected to threats at the hands of the petitioners, thereby impinging upon their right to live with dignity and peace as guaranteed under Article 21 of the Constitution of India read with the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007; and further taking into account that the petitioners are not without means, inasmuch as they are drawing income and petitioner No. 3 is a young and able-bodied individual,

this Court is of the considered opinion that the mandate and object of the Act of 2007, being a beneficial legislation, must receive a liberal interpretation in favour of senior citizens; consequently, no ground is made out for interference with the impugned order in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

13. Accordingly, the present petitions, being devoid of merit, stand **dismissed**. Pending applications, if any, shall stand disposed.

14. Needless to observe, the petitioners shall comply with the impugned order in its letter and spirit and shall not, in any manner, disturb the peaceful living of the respondents.

(SAMEER JAIN),J

CHANDAN /