



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Civil Special Appeal (Writ) No. 1243/2025

In

S.B. Civil Writ Petition No.10182/2025

1. Ravinder Singh Chauhan S/o Shri Harpal Singh Chauhan, Aged About 54 Years, Resident Of Plot No. 27, Kailash Nagar, Gali No. 18, Jhotwara, Jaipur (Raj.)- 302012.
2. Smt. Seema Chauhan W/o Ravinder Singh Chauhan, Aged About 50 Years, Resident Of Plot No. 27, Kailash Nagar, Gali No. 18, Jhotwara, Jaipur (Raj.)- 302012.

----Appellants/Petitioners

Versus

Shri Harpal Singh Chauhan S/o Shri Nathu Singh, Aged About 80 Years, Resident Of Plot No. 27, Kailash Nagar, Gali No. 18, Jhotwara, Jaipur (Raj.)- 302012

----Respondent/Defendant

For Appellant(s)	:	Mr. Rajendra Singh Bhadauria
For Respondent(s)	:	Ms. Sangeeta Kumari Sharma

**HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR**

Order

18/05/2026

1. The present D.B. Special Appeal Writ has been filed by Appellant-Petitioners assailing the order of learned Single Judge dated 18.09.2025 whereby the impugned order dated 11.03.2024 passed by Learned IAS, Presiding Officer, Appellate Tribunal, Collector and Zila Magistrate, Jaipur was upheld with the following observations:-

"9. For the rationale noted herein above, the present petition is dismissed, as being bereft of any merits and for the reason that the order dated 11.03.2024 is passed after an assiduous



consideration of material facts and relevant legal provisions. Pending applications, if any, shall stand disposed of.

10. The petitioners are directed to be evicted from the respondent's property, house no. 27, Kailash Nagar, Jhotwara, Jaipur, while maintaining public order, within an upper limit of thirty days, from the date of passing of this order.

11. A copy of the present order be sent to the Sub-Divisional Magistrate, Jaipur City South, for compliance."

2. The present intra-family dispute arises between the appellants-petitioners son and daughter in law and the respondent-father.

3. It is the case of the appellants that the respondent-father, with a view to oust appellants from the residential premises in question, has been persistently levelling false and fabricated allegations against him before various authorities although the appellant is an ex army person and has been living a civil life and is serving at Udaipur. It has been averred that the respondent instituted a false complaint dated 25.07.2023 before the Court of learned Sub-Divisional Officer-cum-Sub-Divisional Magistrate (South), Jaipur alleging therein that appellant-petitioner No.1 had been threatening to kill the respondent and to forcibly dispossess the respondent and his younger son from the house.

4. It has further been pleaded that the appellant-petitioner No.1 is a retired Army personnel, who retired from the post of Subedar after rendering nearly 30 years of unblemished and exemplary service to the nation, and is currently residing alone in Udaipur and rest of his family including his wife, son and one daughter are residing in the upper portion of the disputed house at Jhotwara, Jaipur. The false allegations have been levelled only with an ulterior motive to secure his eviction from the premises. Apart from the aforesaid allegations, the respondent is also stated to have alleged that appellant-petitioner No.1 uses electricity



recklessly without paying the electricity charges and has on occasions manhandled the respondent. According to the appellant-petitioners, all such allegations are false, malicious and devoid of any factual foundation.

5. The aforesaid complaint preferred by the respondent before the learned Sub-Divisional Officer-cum-Sub-Divisional Magistrate (South), Jaipur, upon consideration of the material available on record, came to be dismissed vide order dated 26.09.2023. Being dissatisfied with the said order, the respondent preferred an appeal before the Appellate Tribunal presided over by the learned IAS Officer-cum-Presiding Officer, Appellate Tribunal, Collector and District Magistrate, Jaipur. The learned Appellate Tribunal, vide its impugned order dated 11.03.2024, proceeded to set aside the order passed by the learned SDO and consequently directed the eviction of the appellant-petitioners from the premises in question.

6. It has further been contended on behalf of the appellant-petitioners that appellant-petitioner No.1 cannot be directed to be evicted from the disputed premises inasmuch as he had also contributed and invested his hard-earned earnings towards the construction and development of the property in question.

7. Being aggrieved by the appellate order dated 11.03.2024 passed by the learned Appellate Tribunal, the appellants-petitioners instituted a writ petition along with stay application before the learned Single Judge challenging the legality and validity of the said order. The appellate order came to be stayed from time to time before finally the writ petition got dismissed.

8. Per contra, it has been contended on behalf of the respondent who is a senior citizen aged about 80 years, that



appellant-petitioner No.1 is in the company of persons having criminal proclivities and is also habituated to alcohol. It has further been submitted that the respondent and his younger son do not feel safe residing in the same premises along with appellant-petitioner No.1 owing to his conduct and behaviour. The respondent has also categorically denied the assertion of the appellant-petitioners regarding any financial contribution towards the construction of the disputed premises and has asserted that the entire house was constructed solely from his own earnings and resources, without any contribution whatsoever from appellant-petitioner No.1.

9. The respondent has further placed reliance upon a rent agreement pertaining to the property in question and has contended that the same clearly establishes the nature of possession of the appellant-petitioners qua the disputed premises. It has been submitted that the respondent, being the lawful owner of the property, has been compelled to face prolonged litigation on account of the conduct of the appellant-petitioners, who are allegedly seeking to assert unwarranted rights over the premises without any lawful basis.

10. We find that the learned Single Judge has adverted to the scheme and object of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and considering the fact that the respondent herein is a senior citizen aged about 80 years and that the legislative intent underlying the enactment of the said statute is to ensure the welfare, protection and dignified existence of elderly parents and senior citizens, passed the impugned order.



11. Further, at this juncture, it would be apposite to refer to Rule **20(5)** of the **Rajasthan Maintenance and Welfare of Parents and Senior Citizens Rules, 2010**, which has a direct bearing on the controversy involved in the present matter:-

"20. Duties and Powers of the District Magistrate.-

(5) In case of a danger to life or property of a senior citizen, it shall be the duty of the District Magistrate or an officer subordinate to him duly authorized to protect the life and property of such senior citizen."

12. The aforesaid provision empowers the competent authority to pass appropriate orders, including orders of eviction, wherever such measures are found necessary for securing the life, property, safety and peaceful residence of a senior citizen.

13. The Hon'ble Supreme Court recently reiterated the settled legal position in **Rajeswar Prasad Roy v. State of Bihar, SLP (Civil) No.7675 of 2024** dated 30.01.2025 whereby the court by placing reliance on **S. Vanitha vs The Deputy Commissioner, (2021) 15 SCC 730** has held that:

*"10. As far as the authority of Tribunal under the Act to order eviction is concerned, this court in **S Vanitha v Deputy Commissioner Bengaluru Urban Disincr & Ors**, specifically held that the Tribunal under the Act has the authority to order eviction to ensure the maintenance and protection of the senior citizens. This case involved a similar challenge to the order of eviction by daughter-in-law. The relevant paragraph (Para 25) from the case is extracted below:*

*"25. The substance of sub-section (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter-in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a "right to receive maintenance out of an estate" and the enforcement of that right. In supporting the submission, they have referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen. **The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and***



expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after adverting to the competing claims in the dispute. It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter- in-law i.e. the appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-in-law. The son had purchased the property a few months before his marriage to the appellant. He had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the house, as her matrimonial residence, until the application was filed. Her spouse has (according to her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner."

14. The Apex court further in the case of ***Kamalakant Mishra Versus Additional Collector and Others, 2025 SCC OnLine SC 2077***, has held that:

"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. In the present case, despite being financially stable, the respondent has acted in breach of his statutory 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."

15. In light of the aforesaid discussion, we are of the considered view that the order of eviction passed by the learned Appellate Tribunal does not suffer from any illegality or perversity and we are further satisfied that the learned Single Judge has rightly



upheld the said order while dismissing the writ petition preferred by the appellant-petitioners and does not warrant interference by this Court. Consequently, finding no merit in the present appeal, the same stands dismissed.

16. All pending applications also stand disposed of.

(ASHUTOSH KUMAR),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

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