

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION (Lodg.) NO. 3162 OF 2020

Subhash Ramnath Pandey

... Petitioner

V/s.

Anam Subhash Pandey

... Respondent

Mr. Aloukik Pai i/b. Thodur Law Associates for the Petitioner
Mr. Akhilesh Dubey a/w. Mr. Attam Dubey i/b. Law Consellar for
the Respondent

***CORAM : NITIN JAMDAR &
MILIND N. JADHAV, JJ.
(Through Video Conferencing)***

DATE : 08 OCTOBER 2020

P.C. :-

Heard learned Counsel for the parties.

2. The Petitioner has filed this Petition for directions to the Respondent - his son, to remove himself, his family and belongings from the Petitioner's flat.

3. On the face of it, such direction under Article 226 of the Constitution of India to a private Respondent cannot be issued.

4. The learned Counsel for the Petitioner submits that filing of this Petition is necessitated because though the Petitioner could have sought relief under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 from, the Tribunal established therein, due to Covid Pandemic, the Tribunal is not functioning since March 2020. He states that in these circumstances, since the Tribunal is not functioning, this Court should issue necessary directions. He further submits that the relief prayed for by the Petitioner of eviction of the Respondent would be maintainable before the Tribunal and there are no disputed questions of fact in this matter. Reply affidavit is filed by the Respondent disputing the factual contentions and also argument is advanced that the relief sought for would not be maintainable before the Tribunal under the Act of 2007. It is contended that the Petitioner was a Member of Legislative Assembly and also a Cabinet Minister. It is stated that it is absolutely no ground that the Petitioner is unable to maintain himself. The Petitioner has filed a rejoinder. Both the parties have roped the wife of the Petitioner – mother of the Respondent into dispute making various allegations and counter-allegations. An Intervention Application is filed on behalf of her.

5. We do not wish to adjudicate the issue whether the Petitioner can seek this relief before the Tribunal established under

the Act of 2007. Assuming he can, merely because the Tribunal is temporarily closed, the writ jurisdiction cannot be exercised to issue directions to the private parties and adjudicate the disputed questions of facts. Neither of the party is living in penury, and what is raised before us is a purely domestic dispute.

6. However, we do take a note that the Act of 2007 is a beneficial legislation, is enacted for providing succor to the senior citizens who may suffer because of the neglect by their children. There would be many such senior citizens who would be in the need of immediate redressal. Various authorities have resumed functioning physically or through video conferencing long ago, there is no reason for this Tribunal to continue to be closed.

7. We, therefore, intend to call upon the State to explain as to when the Tribunal would resume its functioning physically or through video conferencing as found fit. The Petitioner will join the State Government as party Respondent and serve a copy of the Petition to the Office of the Government Pleader. Leave to amend is granted. The Office of the Government Pleader will take necessary instructions from the concerned Secretary of the State of Maharashtra in advance so that the statement can be made on the next date. Registry to send the copy of this order to the office of the Government Pleader.

8. List the matter on board on 15 October 2020 under the caption “for directions”.

9. We again make it clear that we are not looking into the *inter se* dispute between the parties in this Petition. Only for the limited purpose of directions to the State, the Petition will be considered. In these circumstances, the application filed by the wife of the Petitioner need not be entertained and is disposed of. The Petition will continue only in respect of the above direction to be issued to the State Government.

10. This order will be digitally signed by the Personal Assistant/ Private Secretary of this Court. All concerned to act on production by fax or email of a digitally signed copy of this order.

MILIND N. JADHAV, J.

NITIN JAMDAR, J.

Jyoti
P.
Pawar

Digitally signed
by Jyoti P.
Pawar
Date:
2020.10.09
17:36:38 +0530