

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

WRIT PETITION (L) NO.3509 OF 2019

Ranjana Rajkumar Makharia ..Petitioner

Versus

Mayadevi Subhkaran Makharia & Ors.Respondent

Mr.Pravin D. Patel for the petitioner.
Mr.M.A.Sayed AGP for Respondent No.7-State.

**CORAM: V.G.BISHT, J.
(VACATION COURT)**

DATE: 27TH DECEMBER, 2019

PC:-

1. By way of present writ petition, the petitioner is challenging the judgment and order dated 15/11/2019 passed by the Sub-Divisional Officer and Senior Citizen Maintenance Tribunal at Suburban District of Mumbai thereby directing the present petitioner and her husband i.e. original respondent no.2 to handover the vacant possession of the suit flat bearing No.301, 3rd Floor, Joy

Sapphire, N.S. Road No.6, J.V.P.D. Scheme, Vile Parle (West) Mumbai 400056 to respondent no.1 herein.

2. Mr.Patel, learned counsel for the petitioner submitted that the learned Tribunal/Deputy Collector failed to take into consideration that the suit flat is in the name of the petitioner and husband, respondent no.2 and even otherwise the petitioner is not covered under the provisions of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007. The fact that the petitioner is wife of respondent no.2-husband could not have been directed to vacate the suit flat and in such situation if the order of the learned Tribunal/Deputy Collector is executed then the petitioner-wife would come on the street. Learned counsel also alleged that the respondent-husband in collusion with respondent no.1 herein meticulously obtained the impugned order.

3. Perused the documents. There is document, namely, Article of Agreement (Exhibit-A) which clearly shows that the suit flat has been allotted to respondent no.2, husband of the present petitioner. I have also perused the impugned judgment and order. In my

considered opinion this aspect and the fact that the petitioner is wife of respondent no.2 is prima facie not considered in proper perspective by the learned Tribunal. In such situation prima facie case is made out to grant interim relief as prayed by the petitioner. There shall be interim relief in terms of prayer clause (b).

4. List the matter on 9th January, 2019.
5. Parties and all concerned to act on authenticated copy of this order duly issued by Private Secretary/Associate of this Court.

(V.G.BISHT, J.)