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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CONT.CAS(C) 555/2010****JAMNA DATWANI**..... Petitioner
Through: Mr. Kanwal Chaudhary and
Ms.Gunjan Chowksey, Advocates

versus

JANAK DATWANI..... Respondent
Through: Ms. Ferida Satarawala and
Ms.Rachna Saxena, Advocates**CORAM:****HON'BLE MR. JUSTICE VIPIN SANGHI****ORDER****18.11.2011**

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1. The present petition has been preferred by the petitioner raising a grievance with regard to the non compliance of the order dated 26.07.2010 passed in F.A.O.(O.S.) No. 152/2008, inasmuch, as the respondent herein, who was respondent No.3 in F.A.O. (O.S.) No.152/2008 had made a statement through his counsel that the petitioner had never been denied access to the room in her occupation in property bearing No.6, Friends Colony (West), and that the petitioner is free to occupy the room whenever she chooses, provided she should resume residing there herself. The said room was demarcated in the site map produced on the record of the aforesaid appeal. This liberty was granted to the petitioner exclusively.

2. The petitioner complained about the difficulty in getting entry

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into the aforesaid house, and lodged a complaint with the SHO, P.S. New Friends Colony on 31.07.2010, as she was not allowed entry in the house. On the same date, the DD entry was also recorded to the aforesaid effect. She made yet another complaint to the SHO, P.S. New Friends Colony on 06.08.2010. This complaint was made after she was allegedly prevented from entering the premises in the presence of the Court Receiver.

3. The petitioner also relies upon the report of the receiver appointed by the Court in the aforesaid first appeal in respect of proceedings held at the site on 26.07.2010. The receiver records that she (the Receiver) was not allowed access into the premises initially, and subsequently the guards pushed her out. The submission of the petitioner is that despite the receiver being armed with the court order, when she was so treated, the plight of the petitioner, who is an old widow, can be well imagined.

4. The petitioner also filed a complaint under the Domestic Violence Act, and in those proceedings on 18.11.2010, the learned MM directed the protection officer to accompany the petitioner for granting access to the property in question. Assistance of concerned SHO was also made available to the petitioner. She was permitted to take her maid for her help as she is a senior citizen and cannot be expected to do all her daily chores by herself.

5. Counsel for the petitioner has drawn my attention to the

compliance report of the protection officer dated 16.12.2010, which records that the guards posted by the respondent at the premises permitted only the petitioner and her maid to enter the house. However, the protection officer and the police officer were prevented from entering into the house initially, despite being informed that she was acting under the orders of the Court.

6. My attention has also been drawn to the order dated 04.02.2011 passed by the Division Bench, whereby the petitioner has been permitted to employ a driver of her choice, who has been given the right of ingress and egress to her room. However, the driver cannot be stationed in or about the room, but can sit near the guard area next to the main gate.

7. By this order, the other son of the petitioner Mr. Anand Datwani, and his employees, have also been prevented from visiting the petitioner inside the premises. However, the relatives and close friends of the petitioner are free to visit her when she is using or residing in the said premises.

8. The submission of the petitioner is that on various occasions, when she has tried to enter the property, the guards are not available at the main gate and the servant is away, with the result that she is not able to enter the house. She further submits that she has absolutely no facilities, inasmuch, as, there is no television or fridge available for her in her room. She further submits that she is

apprehensive about consuming anything from the kitchen, in view of the acrimony between the petitioner and the respondent and her other son. Consequently, she is not able to reside in the room meant for her in the property in question despite the orders of the Court.

9. Learned counsel for the respondent submits that the respondent has not breached the orders of the Court. She submits that the petitioner has not been prevented from entering the property either by the guards or the servants. She submits that even the report of the receiver and the protection officer records that the petitioner was granted entry into the premises. She submits that if the petitioner is desirous of obtaining any further orders, she should approach the concerned court, and the rights available to the petitioner cannot be enlarged in these proceedings.

10. Learned counsel for the respondent submits that after the passing of the order dated 04.02.2011, there has been no complaint by the petitioner of her ever being obstructed from entering the premises to occupy her room.

11. The petitioner is present in person. I have interacted with her in open court. She states that despite her being granted access to the said room, she is in no position to actually use the same as she has no facility. She further submits that there are various CCTV cameras installed inside the house itself which also deter her from going to the premises. She submits that the friends and relatives are also

apprehensive on account of the aforesaid fact.

12. On the other hand, the submission of counsel for the respondent is that the CCTV cameras have been installed only on the periphery/outside the house and not inside the house. She further submits that all the cameras installed inside the building have already been removed. She also submits that to make it more convenient for the petitioner, and to ensure that she does not suffer any unintended obstruction in entering the premises, the respondent would provide the petitioner with the contact numbers of the respondents Manager as well as the respondents counsel, so that she could call either of them up some time before she is proceeding to the premises, so that appropriate arrangements are made for receiving her.

13. The position of the petitioner is rather unenviable. She is an old widow, about 73 years of age. It appears that in the life time of her husband, she enjoyed wealth, power and authority as also the respect and love of her sons. After the demise of her husband, it appears that disputes arose between her two sons – the respondent, Janak Datwani and the second son, Anand Datwani. It also appears that she fell out with her son Janak Datwani on account of her having sided with the other son, Anand Datwani with whom she is now residing more or less permanently. From my interaction with her, it has come out that she has been spending time at Beas in an Ashram when her guruji is there. She went to the room earmarked for her in property bearing No.6,

Friends Colony (West) last time about four months ago. She has stated before me that she does not go there as there is nothing for her to do there. There is no one else in the house as the respondent, Janak Datwani resides abroad. All alone she finds it difficult to spend any time in the room/house aforesaid. She neither has a television nor a refrigerator in her room. There is loss of faith between the petitioner and the respondent and so she does not trust the servants of the respondent. She does not like to consume anything prepared in the kitchen by the respondent's servants.

14. It also appears from my interaction with the petitioner that the difficulty which she faces in entering the room allocated to her was probably not intentional, but on account of either the guard or the servant not being available, with the result that she could not enter the main entry gate (the main iron gate), or the main door of the house and she had to wait for some time. This situation arose, as there is no one else residing in the house. However, it appears from a reading of the report of the Receiver as well as from the report of the Protection Officer that she was granted entry into the house and there is no clear evidence of the respondent or his servants having stopped the petitioner from entering the room allocated for her in house No.6, Friends Colony(West).

15. If the petitioner needs any further amenities such as her own television, refrigerator and kitchen/pantry wherein her maid could do

the cooking for her, she would have to approach the concerned Court for the said purpose. In these proceedings, this Court cannot enlarge the scope of the order passed by the Court, as the scope of these proceedings is only to find out whether there has been willful and deliberate breach of the order of the Court, or the undertaking furnished by the respondent to the Court and if that is so, to take appropriate steps against the respondent-contemnor. I am, therefore, not inclined to proceed against the respondent in these proceedings.

16. Before I part with this case, considering the position of the petitioner, I am driven to give my unsolicited advice to the respondent. The petitioner is his mother. She is an old widow. Her plight needs to be appreciated because she finds her two sons are at logger heads. She finds herself in a helpless situation. If she says anything in favour of one son, it is misunderstood and taken as a hostile step by the other. For a mother, all her children are equal.

17. Even if one of the sons/daughters have reason to entertain the belief that a parent, or both of them, have been partial towards his or her siblings, the son/daughter can never justify entertainment of hostility towards his/her parent(s), who have brought him/her into this world. One can never thank one's parents enough for all tht they do for their children. It is only through love and compassion that the hearts of people can be won. The needs of the petitioner are less materialistic at her age and more psychological, emotional and

spiritual. It is those needs which her sons should look to satisfy, apart from making her physical condition comfortable.

18. The aforesaid expression of my thoughts may not be misunderstood as a finding against the respondent or the other son in relation to their conduct towards the petitioner. They have been made only in the hope that, may be, the petitioner may find comfort - both, physical and emotional contentment in the evening of her life.

19. The petition stands disposed of in the aforesaid terms.



VIPIN SANGHI, J

NOVEMBER 18, 2011
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