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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 14.05.2026+ **LPA 340/2026, CM APPL. 30318/2026 & CM APPL. 30321/2026**

DIMPLE JAIN

.....Appellant

Through: Mr. Kshitiz Ahuja & Mr. Aditya Jain,
Advocates.

versus

MAYA JAIN & ANR.

.....Respondents

Through: Mr. Deepak Bashta, Advocate for
R1/Maya Jain.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (ORAL)****CAV 209/2026**

1. The learned Counsel for Respondent No. 1 / Caveator has entered appearance.
2. Caveat stands discharged.

CM APPL. 30319/2026 & CM APPL. 30320/2026

3. These Applications are filed on behalf of the Appellant seeking condonation of delay of 16 days in filing and 01 day in re-filing the present Letters Patent Appeal, respectively.
4. Having heard the learned Counsel for the Parties and perused the averments made in the Application, we are satisfied that the delay is sufficiently been explained.



5. Accordingly, the present Applications are allowed and the delay of 16 days in filing as well as 01 day in re-filing the present Appeal is condoned.

6. The Applications stand disposed of.

LPA 340/2026

7. The present Letters Patent Appeal has been filed challenging the order dated 10.03.2026 (“**Impugned Order**”) in W.P.(C) 15532/2023 (“**Writ Petition**”) modifying the order dated 31.08.2023 passed by the learned Divisional Commissioner passed under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (“**Act**”), whereby the Appellant has been directed to vacate the property in question within a period of two months and further directing Respondent No. 1 to pay monthly rental amount of ₹15,000/- to the Appellant from the date when the Appellant vacates the property in question.

8. The Appellant is daughter-in-law and wife of Respondent Nos. 1 and 2, respectively. The Appellant married Respondent No. 2 on 25.02.2011 and has two daughters aged 13 years and 8 years, who are studying in Classes 7th and 3rd, respectively.

9. The Appellant and Respondent No. 2 along with their two daughters have been living at property bearing No. 225, 1st Floor, Gali No. 4, Ram Nagar, Krishna Nagar, Delhi – 110051 (“**Property**”), which is owned by Respondent No. 1, who is a senior citizen. Due to matrimonial dispute between the Appellant and Respondent No. 2, the Appellant instituted proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 (“**DV Act**”) in September, 2021, pursuant to which, *vide* order dated 15.12.2021, learned Metropolitan Magistrate (Mahila Court), East District, Karkardooma Courts, Delhi (“**Mahila Court**”)



restrained Respondents from dispossessing the Appellant from the Property, selling out, transferring or in any way creating third-party rights in the Property except in accordance with the order of a competent Court.

10. On 07.03.2022, Respondent No. 1 filed an application under the Act before the learned District Magistrate (East), Delhi (“**District Magistrate**”) for eviction of the Appellant from the Property. *Vide* order dated 24.01.2023, the District Magistrate dismissed the application under the Act on the ground that there was a protection granted in favour of the Appellant by the learned Mahila Court. Being aggrieved by the said order passed by the learned District Magistrate, Respondent No. 1 preferred an appeal before the learned Divisional Commissioner. *Vide* order dated 31.08.2023, the learned Divisional Commissioner directed that the Appellant and her children would be entitled to either allotment of alternate accommodation from one of the other properties, owned by Respondent No. 1 or to a reasonable rental accommodation in the same area / locality relying upon the decision in the case of *S. Vanitha v. Deputy Commissioner*, 2020 SCC OnLine SC 1023 and *Vinay Varma v. Kanika Pasricha*, AIR OnLine 2019 Del 1878.

11. Aggrieved by the order dated 31.08.2023 passed by the learned Divisional Commissioner, Respondent No. 1 preferred the Writ Petition before the learned Single Judge seeking quashing and setting aside of the order dated 31.08.2023.

12. During the pendency of the Writ Petition, *vide* order dated 07.01.2026 passed in the Writ Petition, the learned Single Judge observed that it would be appropriate to grant monthly rental of ₹15,000/- to the Appellant for an alternate accommodation and granted liberty to the Appellant to find out an



appropriate alternative accommodation within a period of one month. It was also directed therein that Respondent No. 1 shall not create any third-party right or alienate the Property without the leave of the Court.

13. The said order dated 07.01.2026 passed in the Writ Petition was challenged by way of LPA 100/2026 by the Appellant. The said LPA was dismissed *vide* order dated 27.02.2026 by this Bench by observing that the order dated 07.01.2026 was an interlocutory order, which only granted liberty to the Appellant to find an appropriate alternate accommodation and, therefore, it was only an interim arrangement, which was subject to final outcome of the Writ Petition. *Vide* the Impugned Order, the learned Single Judge has disposed of the Writ Petition whereby the order dated 31.08.2023 passed by the learned Divisional Commissioner has been affirmed with a modification that the Appellant shall vacate the Property within a period of two months and Respondent No. 1 shall pay a monthly rental amount of ₹15,000/- to the Appellant from the date the Appellant vacates the Property to enable the Appellant to secure an alternate accommodation.

14. The learned Single Judge has observed that a senior citizen is entitled to seek eviction from his or her self-acquired property under the Act; however, such right cannot be exercised in a manner that completely defeats the statutory safeguards available under the DV Act. It is further observed in the Impugned Order that in cases involving competing claims under these two enactments, the Court is required to balance the rights of the parties and mould the relief appropriately by directing reasonable alternative provisions, so as to protect the proprietary rights of the senior citizen, while safeguarding the residential right of the daughter-in-law.



15. The Impugned Order has also observed that the learned Divisional Commissioner has noted the strained relationship between the Appellant and the Respondents and in order to strike balance between their respective rights, it was directed that Respondent No. 1 shall provide an alternate accommodation to the Appellant or arrange rental accommodation if no property is available to be provided to the Appellant. However, since Respondent No. 1 took a stand in the Rejoinder to the Reply filed by the Appellant to the Writ Petition that Respondent No. 1 did not own any other property except the Property, which was not controverted by the Appellant, the Impugned Order holds that there was no question of offering any other property belonging to Respondent No. 1 to the Appellant. Therefore, the learned Single Judge has found that only feasible option was securing alternate accommodation for the Appellant by directing Respondent No. 1 to make the payment of rent. As a result, the order passed by the learned Divisional Commissioner was affirmed with a modification to provide monthly rent of ₹15,000/- to the Appellant from the date when the Appellant vacates the Property.

16. The Appellant has challenged the Impugned Order in this Appeal on the ground that the learned Single Judge failed to appreciate that at the time of filing the application under the Act for eviction of the Appellant from the Property, Respondent No. 1 was owner of two other properties, i.e., J-1/1, 1st Floor, Krishna Nagar, Delhi – 110051 and J-2/1, Upper Ground Floor, Krishna Nagar, Delhi – 110051 and, therefore, the requirement of Respondent No. 1 was not genuine as these said two properties were sold by Respondent No. 1 to a younger son and to one of the relatives to defeat the right of the Appellant for an alternate accommodation.



17. The learned Counsel for the Appellant submitted that the act of transferring the other properties owned by Respondent No. 1 during the pendency of the proceedings under the Act, was *mala fide*, which is evident from the details as under:

<u>PROPERTIES SOLD / TRANSFERRED AFTER FILING OF THE APPLICATION UNDER SENIOR CITIZEN ACT BY THE RESPONDENT NO.1</u>			
S. No.	Particulars of property	Transferred to	Date of transfer with details
1.	J-2/1, Krishna Nagar, Delhi – 110051	Rajesh Kumar Baluni	13.09.2023 <i>vide</i> Registration No. 9138, Book No. 1, Volume No. 392 at Page No. 109 to 116
2.	J-1/1, Krishna Nagar, Delhi – 110051	Mohit Jain	28.01.2023 <i>vide</i> Registration No. 947, Book No. 1, Vol. No. 3582 Page No. 190 to 195

18. The learned Counsel for the Appellant submitted that Respondent No. 1 also transferred certain properties prior to filing application under the Act, the details of which are as under:

<u>PROPERTIES AS WERE SOLD JUST PRIOR TO FILLING TO THE APPLICATION UNDER THE SENIOR CITIZEN ACT</u>			
S. No.	Particulars of property	Transferred to	Date of transfer with details
1.	236, Ground Floor, Ram Nagar, Krishna Nagar, Delhi – 110051	Ajay Kumar Mehta	03.11.2021 <i>vide</i> Registration No. 10,172, Book No. 1, Vol. No. 10,56 on Page No. 56 to 66



2.	236, First Floor, Ram Nagar, Krishna Nagar, Delhi – 110051	Ajay Kumar Mehta	01.12.2021 <i>vide</i> Registration No. 9614, Book No. 1, Vol. No. 10,036 on Page No. 81 to 91
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19. The learned Counsel for the Appellant submitted that the learned Single Judge, without going into the merits of the matter, failed to appreciate the abuse of the process of law adopted by Respondent No. 1 by selling / transferring the properties before and after filing of the application under the Act, as such transfers were only to defeat the right of the Appellant for an alternate accommodation.

20. The learned Counsel for the Appellant submitted that the Impugned Order was passed solely based on the undertaking of Respondent No. 1 that she did not own any other property than the Property, while brushing aside the conduct of Respondent No. 1 by transferring one property to one of her sons and further sold another property to her relatives after passing of the order by the learned Divisional Commissioner with sole purpose of defeating the right of the Appellant for grant of alternate accommodation, as directed by the learned Divisional Commissioner.

21. The learned Counsel for the Appellant submitted that the learned Single Judge failed to consider and decide the consequence of the conduct of Respondent No. 1 by transferring the other properties owned by Respondent No. 1 just before or after filing of the application under the Act with sole intention of defeating the rights of the Appellant. It was further submitted that the learned Single Judge did not appreciate that the Appellant has two minor daughters and cannot be forced into a rented accommodation as they



will suffer from uncertainty or made shelter-less, as observed in the order passed by the learned Divisional Commissioner.

22. The learned Counsel for the Appellant submitted that the proceedings under the Act were initiated only to compel the Appellant to settle the matrimonial dispute and to overcome the order passed by the learned Mahila Court in favour of the Appellant.

23. It was further submitted on behalf of the Appellant that the Property was given to the Appellant and Respondent No. 2 to live separately in the year 2015 and, therefore, the claim made by Respondent No. 1 is baseless and is a counterblast to the proceedings initiated by the Appellant under the DV Act.

24. The learned Counsel for the Appellant submitted that in any event, the monthly rent for the alternate accommodation of a similar nature, size to the Property is available at least for ₹60,000/- and ₹15,000/- granted *vide* the Impugned Order is insufficient. Accordingly, the learned Counsel for the Appellant has sought setting aside of the Impugned Order.

25. We have heard the learned Counsel for the Appellant and have considered the material available on record.

26. The only grievance of the Appellant is that the order passed by the learned Divisional Commissioner with regard to grant of alternate accommodation has been made infructuous by alienating the other properties that were owned by Respondent No. 1 during the pendency or prior to the initiation of the proceedings under the Act. The order of the learned Divisional Commissioner granted two alternative remedies to the Appellant to strike balance between the rights under the provisions of the Act and the DV Act by directing firstly to provide alternate accommodation and in the



alternative, if the provision of the alternate accommodation was not feasible, to grant adequate rent to the Appellant for shifting to an alternative rented accommodation.

27. The learned Single Judge has recorded that Respondent No. 1 in the Rejoinder to the Reply filed by the Appellant to the Writ Petition has categorically stated that she does not own any other property than the Property. Such a stand is not controverted by the Appellant, as recorded in the Impugned Order.

28. The direction passed by the learned Mahila Court in the proceedings initiated by the Appellant for not dispossessing the Appellant were restricted to the Property and it was further directed that the Respondents shall not alienate or create any third-party rights in the Property. Therefore, there was no restriction for transferring any other property owned by Respondent No. 1 that was not occupied by the Appellant.

29. Since the order passed by the learned Divisional Commissioner had provided alternative relief of payment of rent by Respondent No. 1 to the Appellant, no prejudice was caused to the Appellant by sale of the other properties by Respondent No. 1, as alleged by the Appellant. The order passed by the learned Divisional Commissioner to the extent it granted an alternative relief of payment of rent, has not been challenged by the Appellant.

30. The learned Single Judge has also affirmed the order passed by the learned Divisional Commissioner and modified the same to the extent that the relief of grant of alternate accommodation was not available in view of the stand taken by Respondent No. 1 that she did not own any other property except the Property. Accordingly, the contention of the Appellant that



Respondent No. 1 sold the other properties owned by her to defeat the rights of the Appellant, cannot be accepted as her right is fully protected by direction to make payment of ₹15,000/- per month towards rent for an alternate accommodation.

31. Admittedly, Respondent No. 1 is the owner of the Property and has a right to seek eviction under the provisions of the Act. At the same time, the rights of the Appellant under the DV Act are also required to be protected as held in the decisions of *S. Vanitha (supra)* and *Vinay Varma (supra)*. The learned Divisional Commissioner as well as the learned Single Judge has carefully considered the interplay between the Act and the DV Act by striking balance and granting payment of rent in favour of the Appellant. The direction to grant alternate accommodation was only subject to availability of the same and as there was no restriction imposed upon Respondent No. 1 from selling other properties owned by her, which she was entitled to sell, there is no infirmity in the Impugned Order, which modifies the order passed by the learned Divisional Commissioner.

32. In any event, since the other properties are already sold by Respondent No. 1, the relief of grant of an alternate accommodation is not available. Accordingly, the learned Single Judge has rightly observed that the only recourse available was to give direction to Respondent No. 1 for payment of monthly rent to the Appellant for an alternate accommodation.

33. The submission with regard to the insufficiency of the monthly rent of ₹15,000/- for a suitable alternate accommodation is not justified as the same was determined *vide* order dated 07.01.2026 against which LPA 100/2026 was preferred by the Appellant and claimed to be dismissed by this Bench. The Impugned Order has granted the same amount of ₹15,000/- per month,



as found to be appropriate in order dated 07.01.2026 and we do not find any justifiable reason to interfere with the same in absence of any proof that the same is not sufficient.

34. In view of the above, we are of the considered opinion that there is no requirement to interfere with the Impugned Order, which is hereby upheld. Consequently, the present Appeal is dismissed along with the pending Applications. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 14, 2026/sms