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

+ LPA 28/2015 & C.M.No.1087/2015 (*stay*)

RACHNA CHOPRA

..... Appellant

Through: Mr.N.K.Aggarwal, Adv. with
Ms.Sanjana Antil, Adv.

Versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Through: Ms.Swaty Singh Malik, Adv. with
Ms.Pragati Gahlaut, Adv. for R-1.
Mr.Ashish Upadhyay, Adv. for R-3&4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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17.10.2016

C.M.No.1089/2015 (*delay of 29 days*)

Heard.

In view of the facts and circumstances explained in the application, the delay of 29 days in filing the appeal is condoned and the application is disposed of.

LPA No.28/2015

1. This appeal has been preferred against the order of the learned Single Judge dated 19.11.2014 in W.P.(C) No.5489/2013. The writ petitioner is the appellant before us.
2. The said writ petition was filed to quash the order dated 04.04.2013 passed by the Maintenance Tribunal, District West, Delhi constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 primarily on the ground that the Tribunal had no jurisdiction to entertain the complaint of the respondents No.3 and 4 herein (the in-laws of the writ

petitioner/appellant) since the writ petitioner does not fall within the purview of the said Act. The learned Single Judge disposed of the writ petition observing as under:-

"It is apparent that the said order was passed to ensure that respondent Nos.2&3 who are senior citizens are not disturbed any further.

It is an admitted position that the petitioner has no interest in the property in question and that belongs exclusively to respondent Nos.2&3. She, however, states that she has a right to reside in the house of her in-laws since that is her matrimonial home. The learned counsel for the petitioner has further submitted that the impugned order is without jurisdiction.

In view of the fact that the Tribunal has passed the impugned order to protect the senior citizens and to insulate them from the effect of the marital discord between the petitioner and her husband, I am not inclined to exercise my discretion under Article 226 of the Constitution of India to interfere with the impugned order except to clarify that the said order will not come in the way of the petitioner to assert any right that she may have against her husband and/or her in-laws in law or their property in any appropriate proceeding.

The writ petition is, accordingly, disposed of."

3. The learned counsel for the appellant/writ petitioner has reiterated the very same contention that the order of the Tribunal dated 04.04.2013 is without jurisdiction.

4. As rightly observed by the learned Single Judge, the order dated 04.04.2013 was passed by the Tribunal to protect the senior citizens and the same does not cause prejudice to the writ petitioner/appellant in any manner whatsoever in view of the clarification in the penultimate paragraph of the

order under appeal that the order of the Tribunal dated 04.04.2013 will not come in the way of the writ petitioner/appellant to assert any right that she may have against her husband and/or her in-laws or their property in any appropriate proceeding. Therefore, it is not necessary for this Court to go into the legal issue as to whether the writ petitioner/appellant falls within the purview of the said Act.

5. Hence, we uphold the order under appeal and accordingly, the appeal is hereby dismissed.

No costs.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

OCTOBER 17, 2016
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