

\$~67

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

+ W.P.(C) 347/2016 & C.M.No.1408/2016

PRASHANT CHAUHAN

..... Petitioner

Through Mr.Mohit Gupta with Mr.Rajbir
Malik, Advocates.

versus

TRIBUNAL (UNDER MAINTENANCE & WELFARE OF THE
PARENTS & SENIOR CITIZENS ACT, 2007) (CENTRAL
DISTRICT) AND ORS

..... Respondents

Through Ms.Prabhsahay Kaur with Ms.Tanuja,
Advocates for R-1.

%

Date of Decision: 14th January, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present writ petition has been filed challenging the order dated 16th December, 2015 passed by respondent no. 1-Tribunal in Case no. 107/Venu Chauhan/Central/2015/1338-40 in the case titled as “Smt. Venu Chauhan & Ors. vs Mr. Prashant Chauhan” whereby the petitioner has been directed to provide two rooms, bathroom, kitchen at 195/A, Phase-II, Panditwadi, Lane No.8, Vasant Vihar, Dehradun to his parents namely respondent nos. 2 and 3 within four weeks. The petitioner has also been directed to return the jewellery, clothes and

other household articles of the respondent nos. 2 and 3 which are in petitioner's possession.

2. Learned counsel for the petitioner states that respondent no. 1-Tribunal has exceeded its jurisdiction while passing the impugned order inasmuch as it failed to appreciate that respondent nos. 2 and 3 had already filed a petition under Section 125 Cr. P.C. He submits that Section 12 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [for short "Act, 2007"] prohibits consideration of a maintenance claim under the Act, 2007 if a claim for maintenance has already been filed under Section 125 Cr. P.C.

3. He also submits that no power has been bestowed upon the respondent no. 1-Tribunal to hand over possession of a property to any applicant before it.

4. Having heard the learned counsel for the petitioner and having perused the impugned order, this Court is of the opinion that no relief of maintenance has been given by the respondent no.1-Tribunal in view of the bar contained in Section 12 of Act, 2007.

5. Further this Court is not an appellate court of the respondent no. 1-Tribunal.

6. It is settled law that petitioner is entitled to relief in a writ proceeding only if he approaches this Court with clean hands.

7. A perusal of the order sheet reveals that the petitioner on one of the hearings before the Tribunal had an altercation with his parents just outside the court room and threatened to kill them and had even brandished his revolver. The relevant portion of the order of the Tribunal is reproduced hereinbelow:-

“On one of the date of hearing on 28.07.2015, while the parties were sitting outside the tribunal room, the respondent had an altercation with the petitioners, threatened to kill them and brandished his revolver at them.”

8. At this stage, learned counsel for the petitioner states that the aforesaid allegations have been found to be false by the Investigating Officer. However, there is no such specific ground in the entire petition. Ground ‘M’ of the petition relied upon by the learned counsel for petitioner is reproduced hereinbelow:-

“M. Because the Learned Tribunal miserably failed to appreciate that the Respondent Nos. 2 & 3 have been in the habit of making false & frivolous allegations against the Petitioner and such allegations have also found to be untrue in the investigations by the police.”

9. In the opinion of this Court, it is a general and vague ground. Since the aforesaid fact has been specifically referred to by the Members of the Tribunal in their order, this Court gives credence to their views rather than believe a general and vague ground.

10. Consequently, the present writ petition along with the application is dismissed.

MANMOHAN, J

JANUARY 14, 2016
KA