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

+ **W.P.(C) 8707/2017**

HARPREET KAUR

..... Petitioner

Through: Mr Aditya Gaur with Mr Parveen
Dutt, Advocates.

versus

MANOHAR SINGH

..... Respondent

Through: Mr R. S. Juneja and Mr Yogesh
Kumar Rana, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.10.2017

CM No.35706/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 8707/2017 & CM No. 35705/2017

2. The petitioner has filed the present petition, *inter alia*, impugning an order dated 31.08.2017 (hereinafter 'the impugned order') passed by the Maintenance Tribunal, (Central District), Delhi constituted under the Maintenance of Welfare of Parents & Senior Citizens Act, 2007. The operative part of the impugned order reads as under:-

"In view of the aforesaid, the Tribunal orders as under:-

1. The respondent Harpreet Kaur shall vacate the whole portion under her possession including three rooms, bathroom, W.C., kitchen in the property bearing No.M-15, Pratap nagar, Gulabi Bagh, Delhi and hand over actual, peaceful, physical and vacant possession of the same to the petitioner within 4 weeks of the

receipt of this order.

2. The respondent shall not create any hassles in peaceful life of the petitioner and restrain herself from causing any mental tension, threats and harassment of the petitioner.
3. That the S.H.O. P.S. Gulabi Bagh shall ensure compliance of the above said order, and also ensure that life and property of the Senior Citizens petitioner is secured and no harassment is caused to him by the respondent. Beat staff be deputed for regular visit of the petitioner's house in order to safeguard life and property of the Senior Citizen."

3. The learned counsel for the petitioner contends that the Maintenance Tribunal has no jurisdiction to pass the eviction order after the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016 has come into force. In addition, he further submits that the impugned order is also palpably erroneous and cannot be sustained.

4. Without going into the merits of the dispute, it is seen that by virtue of Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment Rules), 2016, specific provisions have been made for eviction of close relatives from self acquired property/residential premises of senior citizens. In terms of Rule 22(3)(1)(i) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 as amended in the year 2016, an application by senior citizen for eviction of his son, daughter, or legal heir from his self acquired property is maintainable before Deputy Commissioner/District Magistrate (DM). In terms of Rule 22(3)(4) a person aggrieved by any order passed by the Deputy Commissioner/DM is also entitled to appeal against the said decision before the Divisional Commissioner, Delhi.

5. In view of the above, this Court finds that there is much merit in the petitioner's contention that the application for eviction ought to have been made before the concerned Deputy Commissioner/District Magistrate (DM). In view of the above, the impugned order is set aside by permitting the petitioner to make an appropriate application before the concerned Deputy Commissioner/District Magistrate (DM). It is further directed that if such an application is made within a period of two weeks from today, the same would be disposed of within a period of six weeks, thereafter.
6. It is clarified that all contentions of the parties are reserved and nothing stated in this order should be construed as an expression of opinion on the merits of the disputes between the parties.
7. The petition and pending application are disposed of with the aforesaid directions.
8. Order dasti.

VIBHU BAKHRU, J

OCTOBER 31, 2017
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