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

+ W.P.(C) 9230/2017

SHYAM SINGH

..... Petitioner

Through: Mr Sameer Dewan, Advocate.

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Mr Ikrant Sharma and Ms Divya
Upadhyay, Advocates for R-1 & 3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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23.10.2017

CM No.37749/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 9230/2017 & CM No.37748/2017

2. The petitioner has filed the present petition, *inter alia*, impugning an order dated 22.09.2017 passed by the District Magistrate cum Appellate Tribunal for Maintenance of Welfare of Parents & Senior Citizen, District South West. The said order was passed pursuant to a complaint made by Shri Harpal Singh (respondent no.2) alleging that one of his sons (the petitioner herein) had been threatening him with assault. He had further complained that the petitioner's wife had also threatened him that she would implicate him in a false case of sexual assault. He has accordingly, prayed that the petitioner be evicted from the premises in question - property bearing no. WZ-5A, Phase 2A, near Angel Public School, Om Vihar, Uttam

Nagar, New Delhi 110059 - which he claimed belongs to him. The petitioner is residing in the Ground Floor of the said property and respondent no. 2 resides on the second floor along with his wife and one son.

3. The District Magistrate had called for a report from the Sub-Divisional Magistrate and on the basis of the same had passed an impugned order. The learned counsel for the petitioner has assailed the impugned order on two grounds. First, he submits that the order is without jurisdiction as the complaint made by respondent no.2 was filed under Section 4 and 23 of the Maintenance of Welfare of Parents and Senior Citizen Act, 2007 (hereafter 'the Act') and did not seek eviction of the petitioner from the premises in question. Second, he submits that there is no finding that the petitioner had been ill treating respondent no.2 and therefore, there was no ground to direct eviction of the petitioner from the premises.

4. Respondent no. 2 is a senior citizen and had retired from service with Northern Railways. It is seen from the impugned order that respondent no.2 had specifically complained as under:-

“(v) That there being a lenient attitude of the applicant, the respondents started enhancing their above said illegal and nefarious activities commands as a result of which their attitude reached at such a stage that the respondents started threatening to implicate the applicant and his younger son in sexual harassment cases and POCSO Act after tearing the clothes by respondent No. 2 and her daughter.

(vi) That the respondent No. 2 used to openly threaten that she and her daughter will turn their clothes and will name the applicant of the sexual harassment and advances with bad intentions.

(vii) That the respondents had even tried to threaten the applicant and his wife and number of times tried to assault them.”

5. Thus, respondent no.2 had made a specific allegation that he was threatened by the petitioner and his wife. The said contention has not been repelled. In view of the above, there is no merit in the petitioner's contention that there is no finding regarding ill treatment of respondent no.2. The Act being enacted for the welfare and maintenance of senior citizen and Section 22 of the Act expressly mandates that State Government to prescribe a comprehensive action plan for providing protection of life and property of senior citizen. Indisputably, respondent no.2 had felt threatened and had sought protection. He had initially made a complaint dated 21.04.2016 with the Police Commissioner, Delhi Police.

6. The relevant extract from his complaint is set out below:

“Since the marriage of my elder son, his attitude towards us and his unmarried daughter remained hostile. He continuously black mail me and exploit on one pretext or the other to extract money from me which I had been doing being a responsible father and in order to save my respect and honour amongst the neighbour so that the family matters may not go out from the house. In view of this lenient view on my part, my elder son continued increasing his hostile attitude and number of times he attempted to man handle me and his wife and daughter threatened that they are competent enough to torn their clothes and to implicate me in sexual harassment cases including the newly enacted POSCO Act. Being a law abiding citizen I always kept mum to avoid this unwarranted situation and to save my respect and honour amongst

relatives and society.

Since I am going to retire in Dec., 2016, my elder son alongwith his wife and daughter came with a Demand to transfer the above said house in the name of Neelam, the wife them every month. On shirking this demand by me, on 17th April, 2016 at about 9 P.M. in the night, my elder son alongwith his wife Smt. Neelam and daughter Sapna (25 years) created a scene by taking quarrel with us and even attempted to mandhandle us. Smt. Neelam and Sapna openly said that they will just now torn their clothes and implicate me alongwith my younger son for taking advances with bad intention towards them and also claimed that theyhave good contacts and good relations with the local plice authorities to implicate us in false frivolous and fabricated case. The matter was pacified with the intervention of the neighbours present at the spot at the particular time and thereafter number of my local relatives came to my house and they also advised my son to behave properly. But he refused to obey their requests rather threatened that today they have been saved but he and his family will not spare us unless I transfer the house in the name of his wife Smt. Neelam and make payment of the retrial benefits as he is to marry his daughter Sapna, for which he has go no funds. It is important to mention here that he is running his house by extracting money from me by way of black mailing me and the rent so recovered by him from the tenants in the property as he is not doing any work and nor making any effort to work to earning his livelihood.

Sir, there is a danger to my life including the life of my wife and son at the instance of my elder son Shri Shyam Singh, his wife Smt. Neelam and his unmarried daughter Sapna. I specifically mentioning that all the three may collude to lodge false, frivolous and fabricated complaints against us to implicate in any case including the sexual harassment to pressurize me

to yield to their unwarranted and illegal demands of transferring house, making payment of retrial benefits and half of the pension after my retirement. In case such complaint is made against us, the same be treated as false and baseless and

In view of whatever has been stated here, I am to request you to kindly consider the request of an elderly person sympathetically and on compassionate grounds and to issue necessary directions to the concerned local Authorities to look into the matter and to do the needful to save me and my family from harassment from my son and his wife and daughter.”

7. This complaint also clearly indicates that respondent no. 2 had alleged that petitioner had attempted to manhandle him and his wife.

8. The contention that the impugned order is without jurisdiction as no request for eviction had been made by respondent no.2 is also without merit. A bare perusal of the impugned order indicates that this was a specific issue which was raised and stoutly contested between the parties. The petitioner has sought to resist the request for eviction on the ground that he was owner of the property and that issue had been examined at length. The prayer made by respondent no. 2 in his application also clearly indicates that respondent no. 2 had sought the eviction of the petitioner from the premises in question. The relief sought by respondent is set out below:-

“In view of the above, it is respectfully prayed that the respondents be summoned and directed to vacate the ground floor of the property bearing no. WZ-5A, Phase-2A, near Angel Public School, Om Vihar, Uttam Nagar, New Delhi-110059 immediately and necessary directions be also issued to the SHO, PS Uttam nagar to get the above said premises.”

9. Thus, it is not open for the petitioner to now contend that no such request for his eviction from the premises was made by respondent no. 2.

10. In view of the above, this Court does not find any merit in the present petition. The same is, accordingly, dismissed.

OCTOBER 23, 2017
MK

VIBHU BAKHRU, J