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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12356/2015 CM No. 32821/2015**

JASWANT SINGH

..... Petitioner

Through: Mr. Rajendra Soni, Advocate

versus

COMMISSIONER OF POLICE & ORS

..... Respondents

Through: Mr. Varun Nischel, Advocate for R-1/
Delhi Police.

Ms. Devna Soni and Mr. Raymon
Singh, Advocates for R-3 & 4.
SI Ashok Kumar, PS Patel Nagar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **31.10.2017**

1. The petitioner has filed the present petition, *inter alia*, praying as under:

"(a) To issue a writ of mandamus thereby directing the respondent No.1-2 to take appropriate legal action against the respondent 3-3 and their family member so that petitioner may live in his own house in his old age with dignity as guaranteed by Article 21 of Constitution of India.

(b) to give direction to the respondent 3-4 to remove the lock put by jointly respondent 3-4 in the locked room of the petitioner in the back portion of premise bearing no. K-21 West Patel Nagar, N.D.

(c) To give direction to the respondent no. 3-4 to give a sum of Rs. 25000/- per month as maintenance to the petitioner for his necessity of life.

(d) To give direction to the respondent 1-2 to take necessary steps for the protection of petitioner by regularly visiting the house of petitioner and not to harass the petitioner by respondent 3-4.

(e) To give direction to hand over the entire blank and typed paper which has been taken by the respondent no. 3-4 and their family member by putting forcibly took the signature of the petitioner."

2. The principal grievance of the petitioner in the present petition is that respondent nos. 3 and 4, who are his sons, are not permitting the petitioner to reside in his self acquired property. He further claims that respondent nos. 3 & 4 have been ill-treating him and have also held out threats to his life.

3. The learned counsel appearing for respondents nos. 3 & 4 points out that by virtue of the order dated 25.01.2016 passed by this Court, the petitioner now resides on the ground floor of the premises in question, namely, K-21 West Patel Nagar, New Delhi and the respondent nos. 3 & 4 are occupying a portion of the first floor of the said property. They claim that the petitioner would have no right to evict them as the petitioner does not own the entire premises.

4. This Court is not inclined to entertain this controversy as an alternate efficacious remedy is available to the petitioner under provisions of Rule 22(3) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 as amended by virtue of the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016.

5. The learned counsel for respondent nos. 3 & 4 submits that to put a quietus to the disputes, they are willing to pay the petitioner a sum of ₹5,000/- per month, however, the petitioner has not accepted the same and is

insisting on evicting respondent nos. 3 & 4 from the first floor of the premises.

6. The petitioner is also at liberty to move to the Maintenance Tribunal constituted under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 for seeking any maintenance. The question as to whether payment of any maintenance is warranted in the case of petitioner would be considered by the Maintenance Tribunal as and when any such application is made by the petitioner.

7. The present petition is disposed of with the aforesaid observations. However, the petitioner's possession of the ground floor of the property in question will not be disturbed.

VIBHU BAKHRU, J

OCTOBER 31, 2017
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