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

+ W.P.(C) 8705/2018

PRACHI JAIN

..... Petitioner

Through: Mr. Abhinav Bajaj, Advocate

versus

STATE (GOVT. OF NCT) AND ORS.

..... Respondents

Through: Mr. Arvind Kumar Gupta &

Mr.Rahul Mangla, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.08.2018

CM NO. 33428/2018

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 8705/2018 & CM NO. 33427/2018

3. The petitioner has filed the present petition, *inter alia*, impugning the order dated 25.07.2018 passed by the District Magistrate in Case No. 8 of 17/1407.
4. The aforesaid order was passed pursuant to the application by respondent No. 2 – who is a senior citizen – seeking eviction of the petitioner (her daughter-in-law) and respondent No. 3 (her son) from her

self-acquired property being A-62, Upper Ground Floor, Paschim Vihar, Meera Bagh, New Delhi (hereafter 'the premises').

5. The learned counsel appearing for the petitioner states that the application filed by the petitioner was based on inaccurate facts. He points out that the respondent No. 2 had alleged that the petitioner had broken open the doors of the premises in question and had forcibly entered the premises. He submits that the said allegation is palpably incorrect as the petitioner was residing in the premises in question with the consent of respondent no. 2. He has also drawn the attention of this Court to the Aadhar Card which indicates the property in question to be the petitioner's residential address. He further states that, essentially, the disputes are matrimonial disputes between the petitioner and respondent no. 3 and the petitioner has also filed a case under The Protection of Women from Domestic Violence Act, 2005. He points out that in those proceedings, Mahila Court has passed an order that the petitioner would not be evicted without due procedure of law.

6. This Court has pointedly asked the learned counsel appearing for the petitioner as to what right did the petitioner has, to continue to reside in the premises in view of the serious disputes that have now been arisen between the petitioner and her in-laws. However, fairly stated that the property did not belong to the petitioner or her husband and she was residing there as a member of the family.

7. The undisputed facts are that (i) there is a considerable attrition between the petitioner and her in-laws; (ii) the petitioner has also filed complaints alleging violent behaviour on their part; (iii) respondent no. 2

and her husband (the petitioner's in-laws) live on the second floor of the building in question with their other son (Rahul Jain); (iv) the petitioner's father-in-law suffers from an heart ailment and has undergone surgery a few months ago; and (v) that the premises in question is on the ground floor and is the self acquired property of respondent no.2.

8. In view of the above, this Court had no reason to interfere with the impugned order inasmuch as it only ensures that respondent no. 2 regains possession of her premises owned by her. There is little doubt that the father-in-law of the petitioner requires the premises as his health does not permit him to climb two floors. It is also relevant to note that there is no dispute that respondent no. 2 does not own any other premises. A perusal of the record indicates that the other son (Rahul Jain) has also deposed that his parents have been ill-treated.

9. At this stage, learned counsel appearing for the petitioner states that some time may be granted to the petitioner to vacate the premises.

10. The learned counsel appearing for the respondents states that although respondent no. 2 requires the premises as her husband has undergone a heart surgery, the petitioner may vacate the said premises within a period of two months.

11. In view of the above, it is directed that subject to the petitioner furnishing an undertaking by way of an affidavit to vacate the premises within a period of two months from today, no coercive steps shall be taken for evicting the petitioner for a period of two months from today. The said affidavit would be filed within a period of one week from today.

12. The petitioner is not precluded from initiating appropriate proceedings for maintenance against her husband (respondent No. 3), if so advised.

13. The petition is disposed of in the above terms. The pending application is also disposed of.

VIBHU BAKHRU, J

AUGUST 20, 2018
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