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

+ W.P.(C) 9541/2018

MADHU @ MONA

..... Petitioner

Through: Mr Manish Garg and Mr Vijay Saini,
Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL
TERRITORY REGION AND ORS.

..... Respondents

Through: Mr Sumit Agarwal, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.09.2018

C.M. No.37130/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 9541/2018 & C.M. No.37129/2018

2. The petitioner has filed the present petition impugning an order dated 10.08.2018 (hereafter 'the impugned order'), whereby the petitioner and her husband (respondent no.3) have been directed to vacate the property bearing no.X-38, Gali No.12, Brahampuri, Delhi (hereafter 'the property') admeasuring 35 sq. yards. The District Magistrate has passed the impugned order pursuant to an application filed by respondent no.2 – a senior citizen – under Rule 22(3)(i) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 as amended from time to time.

3. The learned counsel appearing for the petitioner submits that although

the proceedings before the District Magistrate are summary in nature, the procedure followed by the District Magistrate was flawed. He submits that no inquiry had been conducted with regard to the title of the property in question and the petitioner and her husband are being evicted only on the ground on a mere assertion made by respondent no.2

4. This Court does not find any merit in the aforesaid contention. It is apparent from a plain reading of the impugned order that respondent no.2 had placed a copy of the General Power of Attorney, Agreement to Sell, payment receipt, Deed of Will and Possession Letter dated 22.08.2012, which was executed by one Shri Niwas Sharma in favour of respondent no.2 for part of the property in question. Similar documents were also produced in respect of the remaining part of the property in question. In addition, respondent no.2 had also produced a copy of the electricity bill to indicate the electricity connection was in his name. Thus, sufficient material had been produced by respondent no.2 to show that the property in question was a self acquired property.

5. It is relevant to state that although petitioner and respondent no. 3 had challenged the title of respondent no.2, neither the petitioner nor respondent no.3 (husband of the petitioner) had produced any document or material that would even remotely indicate that they had any proprietary right in the property in question.

6. It is also relevant to mention that the District Magistrate had examined the allegations of ill treatment and had also examined the SDM's report in this regard.

7. After considering the material on record the District Magistrate had accepted respondent no.2's contention that the petitioner and her husband

were ill treating respondent no.2 and his wife. It is also noted that a complaint had also been made by the senior citizens before the police authorities.

8. In view of the above, this Court finds no reason to interfere with the decision of the impugned order.

9. At this stage, the learned counsel appearing for the petitioner states that the petitioner and her husband (respondent no.3) would voluntarily vacate the property within a period of two months from today. The petitioner and her husband (who are present in court) request that the impugned order be deferred to enable them to make alternative arrangement. The learned counsel for the petitioner also states, on instructions, that the petitioner and her husband accept the impugned order. Considering the same, this Court finds the request to be reasonable; clearly, the petitioner and her husband would require some time to make alternative arrangements.

10. In the aforesaid view, the present petition is disposed of by directing that the impugned order would not be implemented for a further period of two months from today subject to the petitioner and her husband filing an undertaking by way of an affidavit in this Court that they shall vacate the property in question within a period of two months from today. The said undertaking be filed within a period of one week from today.

11. The petition is disposed of with the aforesaid observations. The pending application is also disposed of.

12. Order *dasti*.

VIBHU BAKHRU, J

SEPTEMBER 12, 2018/MK