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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 12205/2016 & CM No. 48130/2016
MAMTESH Petitioner
Through: Dr D. K. Sharma, Advocate.

versus

THE STATE (NCT OF DELHI) & ORS Respondents
Through: Counsel for the respondent no.3
(accepts notice).

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
ORDER
% **19.07.2018**

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 07.10.2016 passed by the Maintenance Tribunal directing the petitioner to vacate the premises of the respondent. The said order was passed on an application filed by respondent no.3 (Smt. Rajbala). The principal question raised in the present petition relates to the jurisdiction of the Maintenance Tribunal to pass an order of eviction. The said issue had been considered by this Court in ***Sunny Paul & Anr. v. State NCT of Delhi & Ors.: W.P.(C) 10463/2015, decided on 05.03.2017.*** It is also seen that on 19.12.2016, the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 were amended by the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016. By virtue of the said Rules, an application for eviction of a son, daughter and legal heir can be made by a senior citizen to the District Magistrate. Rule 22(3)(1)(4) also provides for an appeal against the said order.
2. After some arguments, the learned counsel appearing for respondent

no.3 states that respondent no.3 would be satisfied if directions are issued to the District Magistrate to consider the respondent's application expeditiously in a time bound manner.

3. In view of the above and without prejudice to respondent no.3's contention that the decision of the Maintenance Tribunal was not without jurisdiction, this Court directs as under:-

- i) That respondent no.3 may file an application before the concerned District Magistrate under Section 22(3)(1) of the Delhi Maintenance and Welfare of Parents and Senior Citizen Rules, 2009 as amended. The concerned District Magistrate shall consider and decide the same within a period of four weeks after filing of the said application.
- ii) If any party is aggrieved by the decision of the District Magistrate, the said party would also have the recourse to an appeal under Rule 22(3)(1)(4) of the Delhi Maintenance & Welfare of Parents and Senior Citizen Rules, 2016 as amended.

4. All contentions of the parties are left open.

5. The interim order passed in this Court shall continue till the District Magistrate decides the application.

6. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

7. Order dasti under signatures of the Court Master.

VIBHU BAKHRU, J

JULY 19, 2018
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