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

+ W.P.(C) 11219/2018

SH. VIKASH SHARMA AND ANR. Petitioners

Through: Ms Arti Bansal, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS. Respondents

Through: Mr Prabhsahay Kaur, Advocate for R-1/GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **26.10.2018**

CM APPL. 43593/2018

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

W.P.(C) 11219/2018 and CM APPL. 43592/2018

3. The petitioners have filed the present petition impugning orders dated 19.09.2018, 20.09.2018 and 26.09.2018 passed by the ADM (hereafter 'the impugned orders'). By the impugned orders, the petitioners have been directed to vacate the premises bearing Flat No. 7460, Sector D-7 SFS Flat, Vasant Kunj, New Delhi-110070 (hereafter 'the residential property'). The said orders have been passed pursuant to a complaint made by respondent nos. 2 and 3 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

4. Petitioner no.1 is the son of respondent nos. 2 and 3 and petitioner

no.2 is the daughter-in-law of the said respondents. The controversy in the present case relates to eviction of the petitioners from the residential property. Admittedly, the residential property was purchased by Sh. Harcharan Dass Sharma (the father of respondent no.2 and the grandfather of petitioner no.1) in 1989. A General Power of Attorney (GPA) in respect of the residential property was also executed by the vendor of the flat in favour of respondent no.2. It is stated that Late Sh. H.D. Sharma had executed a Will dated 08.06.2009 bequeathing the residential property to respondent no.3. Probate proceedings with regard to the said Will are pending.

5. The petitioners claim that petitioner no.1, being the grandson of Late Sh. H.D. Sharma, is also entitled to a share in the residential property. This is founded on the assertion that the residential property is ancestral.

6. It is also pointed out that respondent nos. 2 and 3 had filed a suit (CS no. 59078/16) for mandatory injunction and mesne profits in respect of the residential property, which was dismissed by the learned SCJ by a judgement dated 17.04.2018.

7. Plainly, the contention that the petitioners have any right title or interest in the said property in question is unmerited as, admittedly, the residential property was acquired by Sh. H.D. Sharma in 1989 after the enactment of the Hindu Succession Act 1956. However, even if it is accepted that the residential property is an ancestral property (which this Court does not), the same would not preclude respondent nos. 2 and 3 from maintaining a complaint for eviction of the petitioners from the said flat. This is in view of the amendment introduced in Rule 22(3) of the Delhi

Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 as amended by Delhi Maintenance and Welfare of Parents and Senior Citizen (amendment) Rules, 2017.

8. It is also relevant to note that respondent nos. 2 and 3 had filed complaints with police authorities regarding being ill-treated and abused. The Tribunal had also witnessed the footage of CCTV Camera, wherein petitioner no.2 was seen torturing the applicants and physically beating them.

9. There is no reason for this Court to doubt the finding that respondent no. 2 and 3 were being tormented.

10. In view of the above, no interference with in the impugned orders is warranted.

11. The petition is, accordingly, dismissed. The pending applications stands disposed of.

12. Order *dasti*.

OCTOBER 26, 2018
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VIBHU BAKHRU, J