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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4515/2017
AZAD KUMAR CHOPRA Petitioner
Through: Mr. Ashish Upadhyay, Adv.

versus

RACHNA CHOPRA & ANR Respondents
Through: Mr. N.K. Aggarwal, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK
ORDER
% **10.09.2018**

By this petition under Section 482 of the Code of Criminal Procedure, 1973, petitioner has assailed the order dated 09/10/2017 passed by the learned Additional Sessions Judge, Delhi whereby revision petition of petitioner has been dismissed.

Brief facts are that petitioner is father-in-law of respondent no.1 and father of respondent no.2. Petitioner is aged about 73 years and is a senior citizen. Respondent no.1 filed a petition under Section 12(1) read with Sections 18/19/20/22/23 of the Protection of Women from Domestic Violence Act, 2005 (for short, the Act) wherein petitioner was impleaded as respondent no.2. In the year 2017, respondent no.1 filed an application to visit her matrimonial home with the assistance of Protection Officer to

inspect her articles lying in the matrimonial home. Vide order dated 02/05/2017, learned Metropolitan Magistrate permitted the respondent no.1 to visit the petitioner's house (matrimonial home) along with Protection Officer to inspect her articles lying there. Petitioner challenged the said order before the Additional Sessions Judge which has been dismissed by the order impugned in this petition.

That is how the petitioner is before this Court by way of present petition.

Facts of this case are peculiar. Respondent no.1 was not living in the petitioner's house since 2009. This fact has been admitted by her in her complaint filed under the Domestic Violence Act. She alleged in the complaint that she was forced to go to her parental home on 20/06/2009. Her jewellery was snatched by the mother of respondent no.2 (husband). In para 27 of the complaint, she has stated that her husband, that is, respondent no.2 telephoned her that he had shifted her articles at a rented house bearing no. 265, Maidan Gari, Delhi and henceforth she has to stay in the said house. Accordingly, she was forced to live in the said rented accommodation with her husband as she always intended to save her married life; meaning thereby that respondent no.1 had not been living in the house of the

petitioner after June, 2009 as she herself has admitted that she had been living in the rented accommodation with her husband (respondent no.2.). In this scenario, prima facie, there are bleak chances of *stridhan* of respondent no.1 lying in the matrimonial home.

It is noted that petitioner had approached the Maintenance Tribunal West District, Delhi seeking restraint order against her daughter-in-law (respondent no.1) and son (respondent no.2) from entering his premises. Vide order dated 05/04/2013, respondents were restrained from entering the petitioner's premises. This order was challenged by the respondent no.1 by filing a Writ Petition in this Court, which was disposed of vide order dated 19/11/2014; whereby order of Maintenance Tribunal was upheld, however, it was clarified that the order will not come in the way of respondent no.1 asserting her rights against her husband or her in-laws. Respondent no.1 filed Letters Patent Appeal in this Court and thereafter Special Leave Petition in the Supreme Court which was dismissed; meaning thereby order of Maintenance Tribunal whereby respondents were restrained from entering the petitioner's premises was upheld.

In the above facts, I am of the view that Trial Court and Revisional Court have committed perversity by allowing the respondent no.1 to visit the

petitioner's premises thereby resulting miscarriage of justice to petitioner.

For the foregoing reasons, impugned orders are set aside. Needless to add here that observations, touching upon the merits of the case, have been made only for the purpose of disposal of present petition and shall not affect the trial.

Petition is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

SEPTEMBER 10, 2018

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