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

+ W.P.(C) 13291/2018

MANISH KUMAR & ANR

..... Petitioners

Through: Mr Prem Chhetri, Mr Manoj
Choudhary and Mr Pramod Kumar,
Advocates.

versus

PRAKASH CHAND & ANR

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.12.2018

CM No.51671/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 13291/2018 & CM No. 51672/2018

2. The petitioners have filed the present petition, *inter alia*, impugning an order dated 30.10.2018 passed by the Appellate Authority (Divisional Commissioner), whereby the petitioner's appeal under Rule 22(3)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 as amended from time to time has been rejected as not maintainable. This order is premised on the assumption that such an appeal is available only to a senior citizen.

3. The aforesaid view is erroneous as the remedy of appeal under Rule 22(3)(4) of the aforesaid Rules is not limited to senior citizens alone. Thus, the impugned order cannot be sustained. This issue is squarely covered by

the decision of this Court in ***W.P.(C).11703/2018*** decided on ***13.11.2018***.

4. The petition is, accordingly, allowed and the matter is remanded to the Divisional Commissioner to consider the petitioner's appeal on merits.

5. In the meanwhile, the order dated 10.09.2018 passed by the District Magistrate, which is impugned before the Appellate Authority (Divisional Commissioner) shall not be implemented for a period of one week from today. The petitioners are at liberty to approach the Divisional Commissioner for any ad interim order, if so advised.

6. It is clarified that nothing stated in this order should be construed as an expression of opinion on the merits of the disputes (*prima facie* or otherwise) and the Appellate Authority consider the same independently and uninfluenced by this order.

7. The petition is disposed of. The pending application is also disposed of.

8. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

DECEMBER 10, 2018
MK