

\$~36

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

+ W.P.(C) 1726/2019

SHRUTI MADAN

..... Petitioner

Through: Ms Mallika Parmar, Advocate.

versus

STATE OF NCT OF DELHI AND ORS. Respondents

Through: Mr Samaksh Goyal, Advocate for
R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

19.02.2019

CM No.7933/2019

1. Allowed, subject to all just exemptions.

W.P.(C) 1726/2019 & CM No.7932/2019

2. The petitioner has filed the present petition impugning an order dated 18.01.2019 passed by the District Magistrate under Rule 22(3) of the Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (hereafter 'the Rules'), whereby the petitioner and her husband (respondent no. 4) have been directed to vacate the property bearing House No. 4, Road No. 60, Punjabi Bagh (West), Delhi (hereafter 'the Premises') and to handover the peaceful possession of the same to respondent nos.2 and 3.

3. The petitioner states that she has filed an appeal before the Maintenance Tribunal (West) against the said order under Section 16 of

the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereafter 'the Act'), however, the said appeal has not been listed. She further claims that and she has been informed that it is unlikely that the said appeal would be listed within the next few months.

4. The petitioner has filed the present petition, since she apprehends that coercive steps would be taken to evict her from the Premises in this regard.

5. It is seen that the nomenclature used by the petitioner is incorrect, inasmuch as, the order dated 18.01.2019 impugned in the present petition is not passed by the Maintenance Tribunal constituted under Section 7 of the Act but by the District Magistrate in terms of Rule 22(3) of the Rules. In terms of Rule 22(3)(4) of the Rules, an appeal lies against the said order before the Divisional Commissioner. However, it appears that the petitioner has filed an appeal before the Appellate Tribunal of Maintenance and Welfare of Parents and Senior Citizens under Section 16 of the Act.

6. In view of the above, the petitioner is at liberty to file a fresh appeal before the Divisional Commissioner with the correct nomenclature. It is further clarified that if such fresh appeal is filed within a period of one week from today, the same would be considered by the Divisional Commissioner as expeditiously as possible and, in any event, within a period of eight weeks, thereafter. On the appeal being filed before the Divisional Commissioner, the appeal filed by the petitioner before the Appellate Tribunal under Section 16 of the Act shall stand terminated.

7. The impugned order is stayed for a further period of two weeks

from today. In the meanwhile, it will be open for the petitioner to seek an interim order from the Appellate Authority (Divisional Commissioner).

8. It is clarified that this Court has not expressed any opinion on the merits of the disputes and all contentions of the concerned parties are reserved.

9. The petition is disposed of with the aforesaid observations.

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

VIBHU BAKHRU, J

FEBRUARY 19, 2019

MK