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

+ LPA 547/2019 & C.M. APPL.38348/2019

RANJIT KAUR Appellant

Through: Ms.Kamlesh Mahajan, Advocate with
appellant in person

versus

GOVT OF NCT OF DELHI & ORSRespondents

Through: Mr.Rizwan and Mr. Sameydeen,
Advocates for respondents No.1 & 2
Mr. Yatendra Sharma, Advocate for
respondent No.3 with respondent
No.3 in person
Respondent No.4 in person

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **22.10.2019**

1. Pursuant to the order dated 27.08.2019, appearance is entered by the counsel for the respondent No.3 (daughter-in-law of the appellant and estranged wife of the respondent No.4) as also by the respondent No.4 (son of the appellant).
2. The appellant (mother-in-law of the respondent No.3 and mother of the respondent No.4) is aggrieved by the order dated 13.08.2019, passed by the learned Single Judge whereby a writ petition filed by the respondent No.3 [W.P.(C) 6802/2019] impugning an order dated 17.05.2019, passed by the District Magistrate (DM), District Central, Darya Ganj, Delhi directing that she be evicted from the residential premises bearing No.30/11, 3rd Floor,

Old Rajinder Nagar, New Delhi, owned by the appellant, was allowed and the respondent No.3 was directed to be put back in possession.

3. By the impugned order, the learned Single Judge has directed that the respondent No.1/GNCTD and the respondent No.2/District Magistrate (DM), District Central, Darya Ganj, Delhi to forthwith put the respondent No.3 and her children back in possession of the subject premises subject to further orders that may be passed by the Divisional Commissioner in the appeal preferred by her against the order dated 04.02.2019, passed by the District Magistrate.

4. When the appeal was taken up for admission on 27.08.2019, Ms. Mahajan, learned counsel for the appellant had stated that as on the date the respondent No.3/petitioner had filed the writ petition, i.e. on 14.06.2019, the order dated 17.05.2019, passed by the District Magistrate had already been executed through the SHO of the area and possession of the subject premises had been handed over to the appellant on 11.06.2019. In view of the said submissions, notice was issued on the present appeal, returnable for today.

5. Learned counsel for the contesting respondent No.3 submits that the appellant and the respondent No.4 are hand-in-glove and have reneged from the Settlement Agreement dated 08.02.2019, executed between the parties before the Mediation Centre, Tis Hazari Courts whereby CC No. 209/22/18, filed by the respondent No.3 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the appellant and the respondent No.4, HMA No.1402/18, filed by the respondent No.3 against the respondent No.4 for seeking divorce on grounds of cruelty and Application

No.14/18, filed by the appellant against the respondent No.3 and the respondent No.4 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, were settled. In the Settlement Agreement dated 08.02.2019, duly signed by all the concerned parties, it was agreed that the appellant shall transfer her rights in the subject premises in favour of her grand children by executing a Sale-Deed on or before 15.03.2019 and in lieu thereof, the grand children and their mother (the respondent No.3 herein) shall not claim anything further from the appellant and their father (respondent No.4). It was also agreed by the parties that they will withdraw all the cases, subject matter of the Settlement Agreement.

6. It is stated by learned counsel for the respondent No.3 that thereafter, the respondent No.4 had reneged from the settlement arrived at and he had filed a miscellaneous application before the Family Court claiming *inter alia* that there were certain clauses that needed clarification and that he and his mother had an apprehension that after the appellant executes the property documents in favour of the grand children, the respondent No.3 may not go ahead with the terms of settlement recorded in the Settlement Agreement. It is stated that in view of the aforesaid application, the Family Court had sent the parties back before the learned Mediator for resolving the lingering issues, but the respondent No.4 and the appellant had abruptly stopped appearing before the Mediation Centre. Resultantly, the Family Court could not put its seal of imprimatur on the Settlement Agreement. He submits that before the Settlement Agreement was executed on 08.02.2019, an order dated 04.02.2019, had been passed by the District Magistrate on an application filed by the appellant under Section 23 of the Maintenance and

Welfare of Parents and Senior Citizens Act, 2007 whereunder, she was held to be the absolute owner of the subject premises in question and it was observed that she had the right to evict her son and daughter-in-law (respondent No. 3 and the respondent No.4) from the said property and deal with it as she may deem fit. Resultantly, the respondent No.3 was directed to vacate the subject premises and hand over physical possession thereof to the appellant within 30 days.

7. Aggrieved by the aforesaid order, the respondent No.3 had approached the Divisional Commissioner by preferring an appeal on 08.03.2019. It is stated by learned counsel for the respondent No.3 that though an interim application was moved alongwith the appeal praying *inter alia* that *status quo* be maintained in respect of the subject premises, no interim order was passed on the said application, which is still pending consideration.

8. We have enquired from learned counsel for the parties to indicate the next date of hearing fixed in the pending appeal. It is stated that the appeal is listed before the Divisional Commissioner for arguments on 06.11.2019.

9. It is not in dispute that as on date, the respondent No.3 and her children have been evicted from the subject premises. We may note that while issuing notice on the present appeal on 27.08.2019, we had directed that the impugned judgment dated 13.08.2019 shall remain stayed on the condition that the appellant maintains *status quo* in respect of the subject property.

10. We have enquired from Ms.Mahajan, learned counsel for the appellant as to whether any party including the appellant herein and/or the

respondent No.4 or any family member of the appellant is in occupation of the subject premises. She states on instructions that the said premises is lying vacant and the appellant is living at another premises at Paschim Vihar, Delhi, also owned by her.

11. Having regard to the fact that the appeal filed by the respondent No. 3 is listed on 06.11.2019 before the Divisional Commissioner, it is deemed appropriate to dispose of the present appeal with the following orders : -

(i). The subject premises which was handed over to the appellant in terms of the order dated 04.02.2019 passed by the District Magistrate and is lying vacant, shall be kept vacant till appropriate orders are passed by the Divisional Commissioner on the appeal preferred by the respondent No. 3 against the order dated 04.02.2019.

(ii). If the appeal fails, then *status quo* in respect of the subject premises shall be continued to be maintained by the appellant and the respondent No.4 for a period of four weeks reckoned from the date of passing of the order to enable the respondent No.3 to seek legal recourse.

(iii). In the event the respondent No. 3 succeeds in the said appeal, the appellant shall be entitled to seek legal recourse within four weeks, while maintaining *status quo* in respect of the subject premises.

12. The present appeal is disposed of alongwith the pending application.

13. No orders as to costs.

HIMA KOHLI, J

ASHA MENON, J

OCTOBER 22, 2019/s

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