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

+ W.P.(C) 2622/2018

JAVITRI DEVI & ANR

..... Petitioners

Through: Ms Indrani Ghosh, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through: Mr Anuj Aggarwal, Additional
Standing Counsel for R-1 and R-2.
Mr Ravinder Kumar Yadav, Ms Arti
Anupriya and Mr Vineet Yadav,
Advocates for R-4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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22.02.2019

CM No. 10733/18

1. Allowed, subject to all just exceptions.

W.P.(C) 2622/2018 & CM No.10732/2018

2. The petitioners have filed the present petition, *inter alia*, praying as under:-

- “a) Issue a writ of Mandamus to the respondent no.1 and 2 to adjudicate both the petitions for maintenance and eviction in a time bound manner.
- b) Pass an order for eviction of the respondent no.4 with his family during the pendency of the case before the Id. Tribunal, before the Respondent no.2 from premises bearing No.207, Yadav Mohalla, Rajokri Village, South West Delhi,

Delhi-110038 forthwith to secure the life of senior citizens.”

3. It is seen that the petitioners are senior citizens and they have filed two petitions: one seeking cancellation of the sale deed under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereafter ‘the Act’) before the Maintenance Tribunal and the second under Rule 22(3) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (hereafter ‘the Rules’), before the District Magistrate.
4. The petitioners are, essentially, aggrieved as their petition under Section 23 of the said Act has not been taken up by the Maintenance Tribunal. This court is informed that the said petition could not be heard as the Maintenance Tribunal was not constituted at the material time. The petitioners’ application under Rule 22(3) of the Rules was also pending consideration before the District Magistrate.
5. This Court is now informed that the Maintenance Tribunal is functional. Further, the District Magistrate has also passed an order dated 29.06.2018 in the application filed under Section 22(3) of the Rules.
6. Concededly, the petitioners have a remedy by way of an appeal before the Divisional Commissioner against the order passed by the District Magistrate.
7. In this view, the present petition is disposed of by directing the Maintenance Tribunal to decide the petition under Section 23 of the Act as expeditiously as possible and preferably within a period of six weeks from today.
8. The petitioners are also at liberty to file an appeal against the order

dated 29.06.2018 passed by the District Magistrate before the Divisional Commissioner. It is clarified that if such an appeal is preferred within a period of two weeks from today, the same would be considered by the Divisional Commissioner uninfluenced by the question of delay.

9. The petition is disposed of in the aforesaid terms.

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

VIBHU BAKHRU, J

FEBRUARY 22, 2019

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