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

% *Date of Decision: 4th November, 2020*

+ LPA 182/2020 & CMs.No.16072/2020(stay), 22672/2020(directions)

SUNAINA DLAMIA

..... Appellant

Through: Mr.Vaibhav Gaggar, Adv. with
Ms.Sumedha Dang, Adv.

Versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Ms.Saumya Tandon, Adv. for R-1.
Mr.Mohit Jolly, Adv. with Mr.Vikas Malhotra,
Adv. for R-2&3.
Mr.Samar Bansal, Adv. with Mr.Devahuti Pathak,
Adv. for R-4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D.N.PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

1. This appeal has been preferred by the original petitioner in W.P.(C) No.12954/2019 against orders dated 15th July, 2020 and 16th July, 2020 passed by the learned Single Judge in C.M.No.15115/2020 and C.M. No. 15166/2020 in W.P.(C)No.12954/2019 (Annexure A-1 to the memo of this appeal).

2. Learned Counsel appearing for the appellant submitted that the appellant is ready and willing to move out from the accommodation she is

presently residing in but the husband/respondent No.4 has failed to provide the alternate accommodation to the appellant - wife of respondent No.4.

3. The appellant has narrated several grievances about her husband/respondent No.4 but no proceedings have been initiated by her against respondent No.4 for maintenance etc. except proceedings under the Protection of Women from Domestic Violence Act, 2005. There are also allegations by the parents of respondent no. 4 about collusion between the husband and wife (appellant and respondent No.4).

4. Looking to the facts and circumstances of the present case, it appears that a consent order has been passed by the learned Single Judge on 17th February, 2020, which reads as under:-

“The respondent no. 4, who is present in person, submits that the respondent no. 4 shall buy a separate residence for the petitioner and his children by 30.06.2020, in his name or in the name of his Company. The respondent no. 4 has handed over to the petitioner photocopy of certain documents in relation to the property bearing No. W-5, Greater Kailash-II, New Delhi.

The petitioner, who is present in person, submits that she alongwith her children will vacate the property that is First Floor of S-15, Panchsheel Park, New Delhi-110017 on or before 31.05.2020 and hand over the possession of the same to the respondent no. 2 and 3. She will also ensure that the peaceful possession and enjoyment of the ground floor of the said property, occupied by respondent no. 2 and 3, is not disturbed in any manner and no further case/cases shall be filed against the respondent nos. 2 and 3 with respect to the title and possession of the property in question. This shall, however, not prejudice the cases which have already been initiated. The petitioner shall also not create any third party interest or part with possession of the first floor of the property to any third person in the integum. **The petitioner shall also not seek any**

further extension of time for vacation of the said property. The petitioner further submits that her son is not residing with the petitioner and is infact in the United States of America.

The petitioner and the respondent no. 4 shall file their respective affidavits in terms of the statements recorded hereinabove, within a period of one week from today. Copy of the affidavit(s) be supplied to the learned counsel for the respondent nos. 2 and 3.

The respondent nos. 2 and 3, who are present in person, agree to the above terms of the settlement.

The petition is disposed of in terms of the statement made by the parties hereinabove.”

(emphasis supplied)

5. A perusal of the aforesaid order makes it clear that the appellant had to vacate the premises in question initially by 31st May, 2020 which was thereafter extended by the learned Single Judge till July, 2020. Both the appellant herein and her husband (respondent no. 4) again prayed for an extension of time by filing the two applications which have been decided by the impugned orders dated 15th July, 2020 and 16th July, 2020 passed by the learned Single Judge. Prayer for further extension was denied by the learned Single Judge vide order dated 15th July, 2020 passed in C.M.No.15115/2020.

6. Having heard learned counsel for the parties, we are of the view that sufficient time has been granted to the appellant for vacation of the premises in question. Particularly in the light of the consent order dated 17th February, 2020, the issue of an alternative accommodation for her has to be resolved between her and her husband (respondent no. 4 herein).

7. In view of these peculiar facts and circumstances of the case, it has been rightly observed by the learned Single Judge that even after the consent order is passed, the appellant is not vacating the premises which is thereafter to be used exclusively by the parents of the respondent No.4 and that enough extension of time has been granted for the same. Since the impugned order was passed, a further period of over three months has also lapsed. It therefore appears that the appellant is avoiding vacation of the premises in question on one pretext or the other despite consent order.

8. Learned Counsel appearing for respondent No.4 submitted that the respondent No.4 is ready and willing to make the payment of the rent of any similarly situated premises to the appellant. Learned Counsel for the appellant submitted that in view of these facts, some time be granted to vacate the premises in question and they will find out the premises on rent.

9. We, therefore, direct the appellant to vacate the premises in question on or before 18th November, 2020 as enough extension has already been granted to the appellant for this purpose.

10. With these observations, the appeal is dismissed along with the pending applications.

11. Interim orders, if any, stands vacated.

CHIEF JUSTICE

NOVEMBER 04, 2020/ 'anb'

PRATEEK JALAN, J