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

Date of decision: 29th April, 2021

+ **W.P.(C) 5064/2021 & CM APPL. 15507-09/2021**

HARPREET SINGH & ANR. Petitioners

Through: Mr. Dhruv Dwivedi, Advocate.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ORS. Respondents

Through: Mr. Shadan Farasat, Advocate for R-1
& 2.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed by the Petitioners seeking urgent hearing before the Adjudicating Authority under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*hereinafter*, "Act").
3. Vide order dated 1st April, 2021, the District Magistrate has passed an eviction order against the Petitioners, evicting them from Plot No.89, Shyam Nagar Extension, New Delhi - 110018 (*hereinafter*, "suit property") within a period of 30 days. The operative portion of the said order reads as under:

"15. Therefore, it is quite clear that the Respondent is causing harassment to the Petitioner/Senior Citizen. Therefore, from the aforesaid, this Tribunal is of the considered view that the ends of justice would be met if the Respondents are evicted from the subject property so that the Senior Citizen i.e. the Applicant can enjoy the remaining years of his life in peace. Accordingly, the Respondents /Sh. Harpreet Singh and his family

*members are directed to vacate the subject property, **Plot No. 89, Shyam Nagar Extension, New Delhi.** Within 30 days from the date of this order. In the event that the Respondent fails to evict the subject property within the stipulated time of 30 days, the SHO concerned shall evict the Respondent forcibly and handover the possession of the property to the Applicant. A compliance of the same shall be filed by the SHO within 7 days thereafter. The file be consigned to the record room after the receipt of necessary compliance report from the SHO, if any.*

16. It is further directed that the SDM (Patel Nagar) shall ensure that the Tehsildar Patel Nagar and Patwari (Patel Nagar) shall give all necessary assistance as required for the implementation of this order. Ordered accordingly.”

4. The case of the Petitioners is that the Petitioners have filed an appeal against this order under the Act, however, no date of hearing has been fixed. There is an immediate threat of eviction of the Petitioners after tomorrow as the 30 day period would expire. Thus, Id. Counsel for the Petitioners prays for early hearing of the appeal.

5. Mr. Shadan Farasat, Id. Counsel for Respondent Nos.1 and 2 accepts notice and submits that the Divisional Commissioner may not be holding hearings due to the present pandemic situation. In any event, he submits that a direction for expeditious disposal of the appeal may be granted.

6. Id. counsel for the Petitioner refers to the record to indicate that Petitioner No.1 is the grandson of the Complainants/Respondent Nos.3 and 4. He submits that he has served the petition on the son of Respondent Nos.3 & 4 i.e. his *mama ji*. The Petitioner No.1 has been living in the suit property since his childhood and the same was purchased by his father from his

maternal grandparents i.e., his *nana* and *nani*.

7. Heard. A perusal of the impugned order shows that the case of the Petitioners has not been believed by the District Magistrate who has clearly held that the Respondents 3 and 4 have established the title to the property. The property is stated to be consisting of two floors – Ground floor and First floor. The Petitioner is living with his family in the ground floor and his brother is stated to be living in the first floor. The Respondents 3 and 4 are stated to be living in a different premises. There is also no doubt that there is a threat of eviction of the Petitioners.

8. Considering the present pandemic situation and the allegations made against the Petitioners, as well as the impugned eviction order, the following directions are issued:

- (1) The Petitioners undertake to this Court that they would not, in any manner, cause harassment or disturbance to Respondent Nos.3 and 4.
 - (2) The Petitioners further undertake to maintain *status quo* in respect of title and possession of the suit property and also undertake not to create any third party interest in the suit property.
 - (3) Subject to the above two conditions, the impugned order for eviction of the Petitioners shall not be given effect till the orders of the Divisional Commissioner. The Divisional Commissioner is free to hear the parties and decide the stay application expeditiously or the appeal itself within the next two months. Until the orders of the Divisional Commissioner, the Petitioners shall not be evicted.
9. Since this order has been passed in the absence of the Respondents, if Respondent Nos.3 and 4 wish to seek any modification of the present order, they are permitted to move an application before this Court.

10. List before the Divisional Commissioner on 20th May, 2021. The Divisional Commissioner is permitted to hold online hearings if physical hearings is not feasible.

11. The present petition, along with the pending applications, is disposed of in the above terms.

**PRATHIBA M. SINGH
JUDGE**

APRIL 29, 2021/dk/T

