

\$~6

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

%

Decision delivered on: 14.11.2022

+ **LPA 499/2019**

ANJU JANI

..... Appellant

Through: Mr D.V. Khatri, Adv.

versus

VEENA BHOJWANI & ORS

..... Respondents

Through: Mr Divyam Nandrajog, Mr Mohd Shahid Khan and Mr Bhriugu Pamidighantam, Advs. for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. This appeal is directed against the order dated 05.07.2019 passed by the learned Single Judge in WP(C) 7136/2019.
2. Before the learned Single Judge, the writ petition was filed to challenge the interim order dated 01.07.2019 passed by the Divisional Commissioner in an appeal preferred by the appellant.
 - 2.1. The appellant had preferred the said appeal before the Divisional Commissioner against the order dated 04.06.2019 passed by the District Magistrate.
 - 2.2. The District Magistrate, *via* the aforementioned order, had directed the appellant to vacate the subject premises described as K-5/B, Ground Floor Back Portion, Lajpat Nagar-II, New Delhi-110024. These proceedings

commenced based on the complaint lodged by the mother of the appellant under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [in short “2007 Act”] and the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 [in short “Rules”].

2.3. The eviction order was passed by the District Magistrate by taking recourse to Rule 22(3) of the Rules.

3. Mr D.V. Khatri, who appears on behalf of the appellant, informs us that the appellant has filed a declaratory suit which is pending adjudication.

3.1 In fact, Mr Khatri has also placed before us a hard copy of the order dated 24.01.2022, passed in FAO No.210/2021 and CM No.30419/2021, titled *Mrs Veena Bhojwani & Anr. v. Mrs. Anju Jani*.

3.2. A perusal of the said order shows that the appellant, who was the respondent in the aforementioned appeal, which arises out of the suit proceedings initiated by her, had been protected, inasmuch the appellants therein [which includes respondent no.1 herein], have undertaken to the court that they shall not create any third-party rights in the subject property till the disposal of the suit.

4. Given this position, Mr Khatri submits that the appellant, at this juncture, does not wish to trouble respondent no.1, given her age and therefore, for the moment, would rest with the fact that she is not in possession of the subject property.

4.1. That being said, Mr Khatri says that the final decision in the pending suit should not get impacted by the orders passed in the present proceedings.

4.2. To be noted, this submission has been made by Mr Khatri on the instructions of the appellant, who is physically present in Court.

5. As indicated above, these proceedings have emanated from the 2007 Act and the Rules framed thereunder. These proceedings cannot possibly impact the rights of the appellant in the pending suit.
6. The appeal, as prayed, is closed with the observations made hereinabove.
7. The Registry will dispatch a copy of the order passed today to respondent no.1 *via* all modes including e-mail.
8. Furthermore, the Registry will scan and upload the copy of the order dated 24.01.2022 placed before us by Mr Khatri, so that the same remains embedded in the case file.
9. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

NOVEMBER 14, 2022

aj

Click here to check corrigendum, if any