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

Date of Decision: 4th May, 2023

+ **W.P.(C) 3735/2023 & CM APPL. 14544/2023**

PUSHP LATA GUPTA

..... Petitioner

Through: Ms. Beenashaw N. Soni, DHCLAC
with Mr Bhupesh Pandotra,
Advocates with Petitioner present in
person (M: 9810046611)

versus

SENIOR CITIZEN TRIBUNAL CENTRAL DISTRICT
& ORS.

..... Respondents

Through: Mr. Shiven Varma, panel counsel
GNCTD for R-1 & 2 (M:
9810768282)
Mr. Tushar Mathur, Adv. for R-4

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition was filed seeking expeditious hearing and disposal of **case no. 439/ PUSHPLATA/ CENTRAL /2021**.
3. The background facts of the matter are that the Petitioner is stated to be residing in H. No.-4921/70, Top Floor, Behind Police Station, Daryaganj, Delhi 110002 (*hereinafter "subject property"*) since the last 30 years. The subject property consists of 5 rooms. A complaint dated 14th April, 2021 has been filed by the Petitioner under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 seeking directions to Respondent Nos.3 and 4 to give a portion of the subject property for her use and occupation. Orders

are stated to have been reserved in the matter by Respondent No.1 on 6th January, 2022. However, no order has been passed till date. Hence, the present petition has been filed.

4. On 24th March, 2023 when the matter was first listed before this Court, the GNCTD was directed to produce the original record and the Petitioner was directed to place the site plan of the property on record. After perusing the site plan and after hearing submissions, an interim order was passed by this Court in the following terms:

“12. Heard ld. Counsel for the parties and perused the record. From the submissions made on behalf of Respondent no.4 it is clear that some impediments are being sought to be created in order to prevent the mother from moving back into the property. The manner in which the premises is divided shows that each of the parties i.e., the Mother and the two sons were occupying different areas. However, the stand of Respondent no.4 that his wife is separately occupying two rooms i.e., Room 1 and 2 is clearly to take shelter under the guise of shared household for his wife. No submission has been that there is any marital discord between Respondent no.4 and his wife. Thus, the stand that Respondent no.4 and his wife are staying separately in different rooms appears to be a mere excuse to keep the Petitioner ousted from the property.

13. This Court is of the prima facie opinion that the Petitioner/ Mother is being kept out of the subject property in a deliberate manner by Respondent No.4. Respondent No.3 has already given a no objection in the mother occupying the premises. Accordingly, as an interim arrangement, it is directed that the Petitioner would be free to move back in the premises and enjoy exclusive peaceful occupation of rooms 2 and 3 along with bathrooms 1 and 2, kitchen 3, and use of all the common areas including the Hall, staircase, Balconies

etc.,

14. It is clarified that this shall be a purely interim arrangement subject to the orders that may be passed by the Tribunal. The next date of hearing in the matter before the Tribunal is 17th April, 2023. On the said date, the Tribunal shall hear the parties and pass orders within a month.

15. It is made clear that the Petitioner shall not be obstructed or hindered in her peaceful living in any manner. The Respondents shall not prevent the Petitioner from entertaining other family members and relatives including her own daughter, her grandchildren, etc. in the subject property.

16. Ld. counsel for the GNCTD shall sent this order to the SHO concerned to ensure compliance.”

5. In addition, a concern was expressed by the Court that the Tribunal which had reserved orders on 6th January, 2022 has failed to pass any orders and the petition continues to remain pending before the Maintenance Tribunal. In view thereof, the following directions were issued in respect of the case to the Tribunal:

“Hearing of the case before the Tribunal

17. The perusal of the original record in the matter shows that the matter has been heard from time to time before the Tribunal from 15th July, 2021 onwards. On 6th January, 2022 the following order was passed:

“Physical hearing dispensed with due to rising Covid-19 cases. Matter is at final arguments stage. Arguments put up by both the parties. Petitioner if desire to rebut arguments addressed by R-1 on last date, is at liberty to do so by 10-1-2022.

Orders reserved. Matter shall be disposed by a separate speaking order”

18. A perusal of the above order shows clearly that the orders were reserved by the concerned Presiding Officer on 6th January, 2022. However, surprisingly, on 27th February, 2023 the matter was called again.

19. It is clear from the above order dated 6th January, 2022 that the Tribunal consisting of Mr. Masood Hasan Siddiqui, which had reserved orders on 6th January, 2022, failed to pass any orders. As per the submission made by Id. Counsel for the parties today before the Court, the said officer is no longer hearing the case and the new Presiding Officer is Dr. Atul Pandey.

20. Let an affidavit be filed by the GNCTD as to the exact dates when Mr. Masood Hasan Siddiqui was holding the Tribunal and as to when the change in quorum of the Tribunal was effected. The Affidavit shall also elaborate upon if there are any directions which are given to officers in respect of reserved orders before the transfer takes effect, the same shall also be placed on record.”

6. Insofar as the merits are concerned, the interim order came to be challenged by one of the sons, Mr. Neeraj Gupta in **LPA 234/2023**, titled **Neeraj Gupta v. Senior Citizen Tribunal (Central District) & Ors.** The Id. Division Bench had directed the Tribunal to decide the matter by 15th April, 2023. By the said order, it was also made clear that on the merits of the case, the parties were free to avail of their remedies available to them. The relevant extract of the order of the Id. Division Bench is extracted as under:

“5. The order of the learned Single Judge is set aside to the extent where the learned Single Judge has decided the rights of the parties. Meaning thereby, that the observations in Order dated 28.02.2023, on the merits of the case, are set aside and the order passed

by the Senior Citizen Tribunal shall prevail. The parties are free to avail the remedies available to them under law.”

7. Today, Id. counsel for the parties have informed the Court that the Maintenance Tribunal presided by Dr. Atul Pandey, ADM Central District has now decided the matter on 15th April, 2023. The operative portion of the said order reads as under:

“In view of aforesaid the tribunal leads to a conclusion that no case has been made out by the respondent No.2 preventing grant of relief sought by the petitioner in the petition, hence the following order:

1. That the petitioner shall occupy two rooms, bathroom and kitchen. And the respondents shall not create any hurdle and harassment in the life of the petitioner and shall allow the petitioner to use and occupy the aforesaid portion without any hindrance or interference. As clearly depicted in the site plan filed by the petitioner.

2. That the petitioner and respondents shall be at liberty to use the common spaces of the property without creating any hindrance in the same for each party.

3. That the present arrangement shall not have any bearing on the title/ share of the petitioner and respondents and other legal heirs in the property and the parties can take recourse to the Court of Law for other reliefs not within the ambit of Maintenance Tribunal under the Act.

4. That the respondents being the sons of the petitioner are directed to pay Maintenance Allowance of Rs.10,000/- per month (Rs.5,000/- per month each by Respondent No.1 and 2) by depositing/ transfer in the bank account of the petitioner by the 10th Day of Each English Calendar Month from April 2023 onwards.

5. That the respondents are further directed to meet and pay the medical expenses of the petitioner and as

when need arises.

6. That SHO, PS: Darya Ganj is directed to provide adequate Police Protection to the Senior Citizen (petitioner) in getting the present order implemented.

7. That SHO, PS: Darya Ganj shall ensure that life and property of the Senior Citizen/ Petitioner is secured and no harassment/hardship is caused to her by the respondents. Beat staff be deputed for regular visit to the petitioner's house in order to safeguard the life and property of the Senior Citizen/ petitioner. Action taken report to be sent to the tribunal."

8. Insofar as the explanation of the Presiding Officer is concerned, a submission has been filed on record which is signed by Dr. Atul Pandey as per which, one Mr. Masroor Hasan Siddiqi was appointed as a non-official member in the Maintenance Tribunal for a period of three years between 21st June, 2018 to June, 2021. The order was kept reserved on 6th January, 2022, however, the note sheet was not signed by the Presiding Officer- Mr. Nagendra Shekhar Tripathi who was the Chairperson between 18th September, 2020 to 26th July, 2022. For a period of few months from July to October, 2022, the ADM Central was lying vacant however, Dr. Atul Pandey was appointed with effect from October, 2022.

9. This report which has been placed on record by Maintenance Tribunal does not give any explanation as to why when the orders were reserved in January, 2022, the orders were not pronounced by the then Presiding Officer. Accordingly, insofar as the Tribunal's conduct is concerned, let an affidavit be filed by Mr. Tripathi explaining the position. Insofar as the main matter is concerned, since the order dated 15th April, 2023 has finally decided the petition filed by the Petitioner, all parties are left to avail of their remedies in accordance with law.

10. The present petition, along with all pending applications, is disposed of.
11. List for receiving compliance affidavit on behalf of Mr. Nagendra Shekhar Tripathi on 3rd August, 2023.

PRATHIBA M. SINGH
JUDGE

MAY 4, 2023
dj/am

