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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 27th January, 2023

+ **W.P.(C) 2323/2020 and CM APPL. 8158/2020**

SHIV DEVI

..... Petitioner

Through: Mr. Pankaj Sinha & Mr. Vimut,
Advocates.

versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Aman Naqvi, Advocate for Mr. Shadan Farasat, ASC for GNCTD along with Ms. Nikita Bhargawa, Legal Consultant, DM, North West Delhi.
Mr. Mohan Kumar, Advocate for R-2.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner is present in person.
3. The present writ petition has been filed by the Petitioner - Ms. Shiv Devi w/o Mr. Girish Chand against the Respondents seeking directions to the Respondents to not evict/dispossess her from House No. K-424, J.J. Colony, Wazirpur, Ashok Vihar, North West, Delhi (*hereinafter, "subject property"*).
4. This petition was filed on 24th February, 2020 premised on the basis that there has been a forceful eviction of the Petitioner from the subject property in an illegal manner. On the said premise, vide order dated 28th February, 2020 an *interim* order was passed by this Court in the following terms:

“Issue notice. Notice is accepted by Mr. Shadan Farasat, ASC/GNCTD on behalf of the respondents.

It is the case of the petitioner that on 24.02.2020, she received a call from someone claiming to be the SDM of the area and informing her that she has to vacate the premises being House No. K-424, J.J. Colony, Wazirpur, Ashok Vihar, North West, Delhi.

The learned counsel for the respondents prays for time to seek instructions.

In the meantime the petitioner shall not be evicted from the said house without following the due process of law.

List on 20th March, 2020.”

5. The matter has been adjourned thereafter from time to time for completion of pleadings etc.,
6. The Respondent No. 3 - SDM, Saraswati Vihar has filed a status report as per which, a complaint under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*hereinafter, “Senior Citizen Act”*) was filed by the father-in-law of the Petitioner i.e., Shyamdhara Shukla before the District Magistrate (North-West) and enquiry under the Act was made by the Tehsildar - Saraswati Vihar. A report was submitted by the Tehsildar, Saraswati Vihar on 7th December, 2020. In the said report it has been categorically stated that there has been no forceful eviction of any person from the subject property.
7. On the last date of hearing, this Court had called for the original file from the office of the District Magistrate (North-West). Today, the said file has been produced by the Id. Counsel for the Respondents.
8. A perusal of said file from the office of the District Magistrate (North-

West) shows that the complaint under Senior Citizens Act was filed by the father-in-law of the Petitioner in November, 2019. Pursuant to the same proceedings were initiated before the District Magistrate (North-West). During the pendency of the said proceedings, the District Magistrate (North-West) had directed personal visit for verification of the title and facts of the case. Thereafter, continuously hearings have been held before the District Magistrate (North-West) and the Petitioner and her husband have participated in the same.

9. As per the note of proceedings dated 11th August, 2021 by the District Magistrate (North-West), it is recorded as under:

“11. Cause called today

12. Present Sh. Girish chand and Smt. Shiv Devi.

Complainant Sh. Shyamdhara Sukla is not present.

13. The respondent Sh. Girish Chand states that they have already vacated the property in Contention. He further states his father Sh. Shyamdhara Sukla has sold out the property in contention for Rs 25 lakh in the month of January 2021 and thereafter he has moved to his native, i.e, VPO Pakloya Suklan, District Mirzapur, U.P.

14. Considering the above facts, the SDM concerned is hereby directed to conduct a fresh field verification in the matter and to submit the report in this regard within 15 days N.D.O.H is fixed on 15.09.2021. days”

10. A perusal of the above note of proceedings would show that the Petitioner’s husband made a statement before the District Magistrate (North West) that he has already vacated the subject property and that the same has been sold by his father for Rs.25,00,000/-.

11. On 15th September, 2021 again the Petitioner and her husband were heard by the District Magistrate (North West). Repeated verifications have

also been conducted and finally on 8th December, 2021, the matter has been disposed of.

12. None of these facts are contained in the present petition and neither has the Court been apprised of these facts for the last three years. The Petitioner and her husband have been aware of the eviction proceedings before the District Magistrate (North West) and have participated in the same. Moreover, allegations have been made against the concerned Government officials including the Tehsildar and the SDM - Saraswati Vihar. Respondent No.3 - SDM, Saraswati Vihar - Dr. Mohd Rehan Raza, was also compelled to file a status report due to the allegations made in this writ petition of forceful eviction.

13. The Petitioner also seeks to rely upon various judgments of the Supreme Court to argue that her right to life is being affected. The *interim* order dated 28th February, 2020 has also been passed in her favour believing the averments made in the writ petition.

14. The Petitioner has made an incorrect statement that she is being forcefully evicted by her father-in-law. Some of the averments in the present petition are extracted below:

“4. That the only facts known to the petitioner is that at about 3 PM on 24.02.2020, a person claiming himself to be SDM of the abovementioned area along with 2 policemen came to the house of the petitioner. He attempted to forcefully evict and disposes the petitioner, her husband and daughter as well as her belongings from her house.

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7. That the petitioner was also being nagged to send any of her relative, if not she herself, despite her repeated insistence about non-availability of any of her relatives either.

8. That however, soon thereafter at about 03:30 PM, the brother-in-law of the petitioner namely Rajesh Pandey reached at the site after request of the petitioner.

9. That upon his arrival, the said brother-in-law was told that the house must be vacated with immediate effect on the basis of a supposedly concocted story of unauthorised occupation by the petitioner at her own house completely devoid of any valid supporting documents.

10. That it was further instructed in threatening tone to vacate the house by the very next day or else they along with their belongings will be thrown out of the house.

11. That subsequently, it was revealed to the petitioner that a person who was having conversation with the petitioner was the driver of the SDM and the learned SDM was present at the site and they wanted the petitioner to appear at the site

12. That thereafter, at about 03:40 PM, the petitioner dial 100 number to report the same abovementioned incident by her mobile phone bearing number 9990362066 and also asked for the channel number but she was denied. 13. That it is pertinent to mention that a case of Domestic violence is pending before family Court, Rohini, between the petitioner and her father-in-law and other in-laws.

14. Hence the present act of attempting to forcefully evict and disposes the petitioner, her husband and daughter as well as her belongings from her house is completely illegal and unconstitutional and contrary to the principals laid down by this Hon'ble court.

15. That the entire activity of attempting to evict/ disposes was very sudden, without any prior information or notice. The petitioner was not provided with any notice, any order, any document. She was not informed who are the people evicting/dispossessing her from her own house, for what reason and then she would have been rendered homeless without having informed her of any reason in this regard.

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18. Respondent No. 2 is the Delhi Police which has been responsible for giving manpower and forces to the other respondents for the illegal eviction that they were about to do on the abovementioned location.

19. Respondent No. 1 is government of NCT of Delhi and the State responsible for the general welfare of the residents in the National Capital Territory and is also responsible ensure various rights of its citizens and especially women. Children and socially and economically deprived sections of the society.”

Clearly, the Petitioner has approached this Court with unclean hands. She is guilty of suppression of material facts and gross concealment.

15. Thus, the petition is not liable to be entertained. Moreover, in the present case, the Petitioner having made baseless allegations against the Government officials and having obtained an *interim* order on the basis of false facts and incorrect pleas, this Court is of the opinion that exemplary costs are liable to be imposed on the Petitioner.

16. Accordingly, bearing in mind the economic standing of the Petitioner, it is directed that the Petitioner shall deposit a sum of Rs.25,00/- with the Delhi High Court Legal Service Committee within two weeks, failing which the concerned i.e. SDM, Saraswati Vihar shall take steps for recovery of the said amount in accordance with law.

17. With these observations, this petition, along with all pending applications, is disposed of.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 27, 2023

dj/kt