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

Date of decision: 12.09.2023

+ **CM(M) 485/2020 & CM APPLs. 24634/2020 & 24635/2020**

MS. PRIYANKA SAHNI & ANR. Petitioners

Through: Mr.Rajiv Dalal, Mr.Vikas
Bhardwaj, Mr.Saksham Aggarwal,
Advts.

versus

MR. MOHAN LAL SAHNI

..... Respondent

Through: Mr.P.Banerjee, Mr.Arpit K.Singh,
Mr.Sarthak Bhardwaj, Advts.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioners under Article 227 of the Constitution of India challenging the order dated 30.05.2020 (hereinafter referred to as the 'Impugned Order') passed by the learned Sr. Civil Judge, Central District, Tis Hazari Courts, Delhi (hereinafter referred to as the 'Trial Court') in MCA no.06 of 2020 titled *Priyanka Sahni v. Mohan Lala Sahni*, dismissing the appeal filed by the petitioners herein.
2. The above appeal had been filed by the petitioners challenging the order dated 25.01.2020 passed by the learned Civil Judge, Central District, Tis Hazari Courts, on an application filed by the respondent



herein under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (in short, 'CPC'), allowing the said application and restraining the petitioners herein from forcibly/illegally entering into the suit property that is, 1-C/42, New Rohtak Road, Karol Bagh, New Delhi-110005 and the business premises mentioned therein, till the final disposal of the suit.

3. Briefly stated, the facts of the present case are that the respondent is the father-in-law of the petitioner no.1 herein. The petitioner no.1 was married to the son of the respondent on 18.01.2019. The respondent, claiming that the petitioner no. 1 along with the son of the respondent had shifted out of the suit property on 04.07.2019 and further claiming that on 19.08.2019, the petitioner no.1 came back to the suit property and created a ruckus, filed the subject suit, that is CS no.2705 of 2019, titled ***Mohan Lal Sahni v. Priyanka Sahni***, before the Court of the learned Civil Judge, praying for a decree of permanent and mandatory injunction restraining the petitioners herein from *inter alia* entering into the suit property.
4. On completion of the pleadings, by the order dated 25.01.2020, the learned Civil Judge was pleased to allow the application filed by the respondent herein under Order XXXIX Rules 1 and 2 of the CPC, restraining the petitioners herein from entering into *inter alia* the suit property.
5. Aggrieved of the said order, the petitioners challenged the same by way of an appeal, being MCA no.06/2020. The same has been dismissed by the learned Sr. Civil Judge by way of the Order



impugned in the present petition.

6. The learned counsel for the petitioners submits that the petitioner no.1 has been sought to be ousted from her matrimonial home by obtaining an order of temporary injunction. He submits that it is an admitted case that the petitioner no.1 was residing in the suit property till at least 04.07.2019. It is the case of the petitioner no.1 that her husband had taken her to her parents' home stating that he along with his mother would be travelling Kailash Mansarover Yatra for Pilgrimage and in the meantime, the petitioner no.1 can spend time with her parents. He submits that it is only when nothing further was heard from the husband of the petitioner no.1, that the petitioner no.1 filed a missing person report with the police on 26.07.2019. Later, it was learnt from the Foreigners Regional Registration Officer (FRRO) that the husband of the petitioner no.1 alongwith his mother have, in fact, left for Canada on 04.09.2019 itself.
7. He further draws my attention to the complaint filed by the respondent herein on 14.09.2019 *inter alia* stating that the husband of the petitioner no.1 and his mother have been kidnapped by the petitioners herein. He submits that in the said complaint it is admitted by the respondent that the husband of the petitioner no.1 and his mother were travelling to Kailash Mansarover on 04.07.2019 at 1:30 pm. The learned counsel for the petitioners submits that, therefore, it was an admitted case that the petitioner no.1 was residing in the suit property, which was her matrimonial



home, till 04.07.2019.

8. Placing reliance on the judgment of the Supreme Court in ***Satish Chander Ahuja v. Sneha Ahuja***, (2021) 1 SCC 414, he submits that the petitioner no.1 would be entitled to protection of her residence at the matrimonial home and therefore, the order of injunction passed by the learned Civil Judge, which has been upheld by the learned Sr. Civil Judge by the Impugned Order, is liable to be set aside.
9. On the other hand, the learned counsel for the respondent submits that this Court would not interfere with the concurrent finding of the Courts below. He further submits that there were serious allegations made against the respondent by the petitioners in their written statement filed in the suit. He submits that the balance of equities would demand that the interim order be not interfered with.
10. I have considered the submissions made by the learned counsels for the parties.
11. It is now an admitted case that since 04.07.2019, the petitioner no.1 has not been residing at the suit property. The interim order dated 25.01.2020 passed by the learned Civil Judge in favour of the respondent has been affirmed by the learned Sr. Civil Judge by the Impugned Order dated 30.05.2020. Therefore, more than 4 years period has passed. Though I have some reservations against the manner in which the interim order and the Impugned Order have been passed in favour of the respondent, in exercise of my powers under Article 227 of the Constitution of India, I do not deem it proper to interfere with the same due to the long passage of time



having elapsed.

12. I have also considered the averments made by the petitioners in their written statement filed to the suit. I find that it would be appropriate therefore, not to interfere with the interim orders but to direct the learned Trial Court to expedite the suit.
13. I am informed that the respondent has already filed the evidence by way of affidavit in the Suit.
14. In view of the above, the present petition and the pending applications are disposed of, requesting the learned Trial Court to expedite the adjudication of the suit and make an endeavour to dispose of the same preferably within a period of six months from today. There shall be no order as to costs.
15. It is clarified that any and all observations made in the present order shall not, in any manner, influence the learned Trial Court in the adjudication of the suit filed by the respondent.

NAVIN CHAWLA, J

SEPTEMBER 12, 2023

RN/ss