



2023:DHC: 7344



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

% Judgment delivered on: 26.09.2023

+ CRL.M.C. 7038/2023

MONIKA KAPOOR Petitioners

versus

SANGITA KAPOOR AND ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Vishal Chauhan, Mr. Rajesh Kumar,
Ms. Rashmi Jain, Mr. Mihir Garg, Mr. Nikhil
Kadha, Mr. Ramesh Pandey and Ms.
Shiraya Sharma, Advocates

versus

For the Respondent : Mr. Manu Bakshi, Advocate for R-1.
Mr. Shyam Babu, Advocate for R-2.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CRL.M.A. 26244/2023**

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 7038/2023 & CRL.M.A. 26243/2003 (Interim Relief)

3. This is a petition under Article 227 of the Constitution of India read with Section 482 Cr.P.C., 1973 seeking setting aside of the impugned orders dated 26.08.2023 and 19.09.2023 and consequently vacating the ex parte stay order dated 26.08.2023 passed by learned



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ASJ, Rohini Courts, Delhi in the matter of Sangita Kapoor vs. Monika Kapoor bearing Appeal No. CA/175/2023.

4. Learned counsel appearing for the petitioner submits that the learned Trial Court, i.e., the learned MM, District North West, Rohini had, in the Domestic Violence proceedings, passed an order granting right of residence to the petitioner in the shared household, which according to her, is C-19, First Floor, Acharya Kriplani Road, Adarsh Nagar, New Delhi-110033. She further submits that by virtue of an appeal filed by the respondent, the Appellate Court had, by the impugned order dated 26.08.2023, granted an ex parte ad interim injunction restraining the operation of the order of learned MM granting right of residence to the petitioner.

5. Learned counsel further submits that the petitioner had filed an application for vacation of the stay order, which came up before the learned ASJ on 19.09.2023 when learned ASJ had deferred the matter for hearing on 07.10.2023, after issuing notice to respondent no.2. Learned counsel submits that the grievance of the petitioner in that regard is two-folds: one being that the matter was deferred for another date of hearing and second that the impugned ex parte stay order was not vacated.

6. According to learned counsel, the petitioner is a middle class lady and has no other residence where she could reside by virtue of the order passed by learned MM. Learned counsel submits that in view of the above, the orders dated 26.08.2023 as also 19.09.2023 be quashed and set aside and the order of learned MM be resurrected to its original state.

7. Per Contra, learned counsel appearing for the respondents submits



that the petitioner has not come up with true facts. According to learned counsel for the respondents, the petitioner is already residing in a rented accommodation, the rent whereof is regularly being paid by respondent no.2.

8. Learned counsel submits that the impugned orders are in accordance with law and it is for good reasons that the learned ASJ had granted the next date of hearing as 07.10.2023 since substantive reply is to be filed by respondent no.2.

9. However, learned counsel fairly submits that the rent of the rented accommodation wherein the petitioner is residing, is being paid and shall continue to be paid by respondent no.2, directly to the landlord, regularly till the time the controversy is decided by the Court below.

10. In rebuttal, learned counsel for the petitioner submits that according to the instructions received from the petitioner in Court, even the rent for the previous month has not yet been paid. According to learned counsel appearing for respondent no.2, the rent, if not paid, shall be paid and a proper rental receipt shall be placed before the learned ASJ in proof thereof.

11. In view of the aforesaid submissions of learned counsel for respondent no.2 in regard to the regular payment of the rent in respect of the rental premises occupied by the petitioner, the present petition is disposed of, binding respondent no.2 to the statement made today in Court.

12. Learned Sessions Court is requested to take up the matter on 07.10.2023 in all earnest and dispose of the same in accordance with law.



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13. With the aforesaid, the petition alongwith pending application stands disposed of with no order as to cost.

TUSHAR RAO GEDELA, J .

SEPTEMBER 26, 2023

Aj