



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(1) LPA No.764 of 2024 (O&M)
Reserved on: 05.09.2024
Date of Decision:14.11.2024

Sourabh Maini and another
.....Appellants.
Versus

District Magistrate, Gurugram and others
.....Respondents.

(2) CR No.1431 of 2024 (O&M)

Ashima Maini
.....Petitioner.
Versus

Shashi Maini and others
.....Respondents.

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Aashish Chopra, Senior Advocate with
Ms. Nitika Sharma & Mr. Yash Pal Sharma, Advocates
for the appellants (in LPA No.764 of 2024) and
for the petitioner (in CR No.1431 of 2024).

Mr. Saurabh Mago, DAG, Haryana
for respondents No.1 & 2 (in LPA No.764 of 2024).

Mr. Akshay Bhan, Senior Advocate with
Mr. Animesh Sharma, Advocate
for respondent No.3 (in LPA No.764 of 2024) and
for the respondents (in CR No.1431 of 2024).

MEENAKSHI I. MEHTA, J.

The afore-captioned Letters Patent Appeal and Civil Revision
are being taken up together for discussion and adjudication as these have



arisen out of the *lis* pertaining to the same subject matter between the members of the same family, headed by one C.K. Maini (since deceased).

2. Before adverting to the discussion on the merits of the above-referred cases separately, we deem it expedient to have a bird's eye-view of the undisputed facts, culminating in the filing thereof. The wife of said C.K. Maini named Shashi Maini, arrayed as respondent No.3 in the LPA and respondent No.1 in the Civil Revision (here-in-after to be referred as 'the senior citizen'), is the mother of Sourabh Maini and mother-in-law of Ashima Maini (appellants No.1 and 2 in the LPA and here-in-after to be referred as 'the son and daughter-in-law' respectively). The house bearing No.1132, Sector 17-B, IFFCO Nagar, IFFCO Chowk, Gurugram (for short 'the subject property'), which is the bone of contention between the parties herein, belongs to the senior citizen, by way of its purchase by her husband in her name vide registered Conveyance-Deed dated 15.12.1997. However, the son had preferred a petition under Section 276 of the Indian Succession Act, 1925 for seeking the probate on the basis of an unregistered Will dated 01.10.2012, by claiming that his father had executed the same and had, thereby, created only a life-time interest in favour of the senior citizen in respect of his (father's) movable and immovable properties, including the subject property but it is pertinent to mention here that vide the order (copy annexed as R-3/4 in LPA) as passed by learned Additional District Judge, Gurugram on 27.10.2022, the afore-said petition had been rejected while allowing the application, as moved by the senior citizen and her daughter (arrayed as respondents No.2 & 3 therein) under Order 7 Rule 11 CPC.



3. ***Letters Patent Appeal No.764 of 2024*** has been preferred by the son and daughter-in-law to lay challenge to the judgment handed down by learned Single Judge on 19.10.2023, qua the dismissal of the ***Civil Writ Petition No.25202 of 2022***, filed by them to impugn the order Annexure P-1, as passed by the District Magistrate on 07.09.2022 in the application/complaint/petition Annexure P-8 (for short ‘the application’) moved by the senior citizen under Sections 23(2)(i) and 5 of the Haryana Maintenance of Parents and Senior Citizens Act, 2007 (for short ‘the Senior Citizens Act’), whereby they have been directed to vacate the subject property within one month from the date of the order and also to pay maintenance allowance to the senior citizen @ Rs.10,000/- per month. The senior citizen had filed the above-mentioned application against the appellants-son and daughter-in-law and had averred therein that after the demise of her husband, they (son and daughter-in-law) took control over all her (senior citizen’s) bank and DEMAT accounts, assets and securities as well as her debit and credit cards as she was not technically proficient enough, so as to operate or use the same and later-on, they did not let her operate or to have access to the afore-said accounts etc. and rather, the son sold her shares worth Rs.92 lacs (having the current value of Rs.3.25 crore approximately), redeemed the fixed-deposits worth Rs.30 lacs and withdrew/transferred and utilized more than Rs.1.06 crore from her bank accounts and refused to return the amount so received/withdrawn by him and thus, he and the daughter-in-law had siphoned-off her assets on the pretext/false assurance that they would take care of her basic needs. The daughter-in-law used to pick-up arguments and



quarrels with her over trivial matters and to, thereby, cause humiliation leading to grave mental trauma for her and they (the son and daughter-in-law) had ousted her from the possession of the properties, purchased by her late husband in her name, including the subject property.

4. The son and daughter-in-law contested the above-referred application by filing their joint Reply and also the Counter-Reply to the Re-joinder filed by the senior citizen. After hearing both the parties and perusing the record, the District Magistrate passed the afore-referred order dated 07.09.2022 (Annexure P-1) and categorically observed therein that the mother-in-law was a senior citizen and she was the absolute owner in possession of the subject property by virtue of the above-said Conveyance-Deed dated 15.12.1997 and the son and daughter-in-law owned a ready to move-in luxury apartment in Noida, as given by the husband of the senior citizen and that the senior citizens, i.e the father and mother, could eject their son and daughter-in-law from their house to live peacefully in the evening days of their life and during the hearing, it became clear that the son and daughter-in-law did not take proper care of the senior citizen and indulged in quarrelling with her. The afore-mentioned order was assailed by the son and daughter-in-law by filing the above-referred Civil Writ Petition which was dismissed vide the impugned judgment on 19.10.2023.

5. By way of ***Civil Revision No.1431 of 2024***, the daughter-in-law has laid challenge to the judgment (Annexure P-15) as handed down by learned Additional Sessions Judge, Gurugram (for short 'the appellate Court') on 31.01.2024, dismissing the ***CRA No.224 of 2022***, filed by her to



assail the order Annexure P-9 handed down by learned Judicial Magistrate 1st Class, Gurugram (for short 'the trial Court') on 14.09.2022 in complaint Annexure P-7, instituted by her against the senior citizen, her sister-in-law, the husband of sister-in-law and one Parmod P. Chopra (arrayed as the respondents therein) under Sections 12, 17, 18(a), (b), (d), (e), (f) and 19(a), (c), (d) and 19(8), 22 & 23 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the D.V. Act') and allowing ***CRA No.230 of 2022***, filed by the senior citizen against the order Annexure P-9 and also the order Annexure P-8 as passed by the trial Court on 12.09.2022 and thereby, setting-aside the order Annexure P-9 with the observation that order Annexure P-8 had merged in the said order (Annexure P-9). Vide the order dated 12.09.2022 (Annexure P-8), the trial Court had directed that the residence rights of the applicant, i.e the daughter-in-law, in the matrimonial house would remain intact and then, on 14.09.2022, the afore-said Court had passed order Annexure P-9 to the effect that the daughter-in-law would reside on the first floor portion of the subject property, leaving the ground floor portion to be exclusively used by the senior citizen and she (daughter-in-law) would also be at liberty to occupy the second floor portion thereof, subject to the payment of Rs.20,000/- to the senior citizen as the monthly maintenance allowance.

6. We have heard learned Senior counsel for the appellants in LPA No.764 of 2024 and the petitioner in CR No.1431 of 2024, learned Senior counsel for respondent No.3 in LPA No.764 of 2024 and the respondents in CR No.1431 of 2024 as well as learned State counsel for



respondents No.1 and 2 in LPA No.764 of 2024 and have also perused the files/record carefully.

7. Now, we would be taking up each of both the cases separately for the discussion on the merits thereof and would be taking up the Civil Revision first for this purpose.

CR No.1431 of 2024

8. Learned Senior counsel for the petitioner-daughter-in-law has contended that the daughter-in-law has been residing/staying in the subject property since her marriage to the son of the senior citizen and thus, the same constitutes her shared household and hence, she has got the right to reside therein and though initially, the trial Court had correctly passed the order Annexure P-8 on 12.09.2022 in the complaint (Annexure P-7) filed by her under the D.V. Act, for protecting her above-referred right but vide the order Annexure P-9 as handed down on 14.09.2022, the trial Court had wrongly directed her (daughter-in-law) to vacate the ground floor portion of the subject property and shift to its first floor portion and to occupy the second floor portion on the payment of Rs.20,000/- per month to the senior citizen for her maintenance and vide the judgment dated 31.10.2024, the appellate Court has erroneously dismissed the appeal, filed by the daughter-in-law and has allowed the appeal, as preferred by the senior citizen and therefore, the afore-said judgment deserves to be set-aside.

9. However, learned Senior counsel for the respondents has argued that the daughter-in-law has instituted the above-referred complaint under the D.V. Act on 18.08.2022, after the filing of the afore-mentioned



application by the senior citizen (mother-in-law) under the Senior Citizens Act on 09.03.2022 and also a complaint under the D.V. Act on 19.04.2022, against her son and daughter-in-law and moreover, though the eviction order has been passed against both of them (son and daughter-in-law) but the daughter-in-law has not impleaded the son, i.e her husband, as a party in complaint Annexure P-7 moved by her under the D.V. Act and it shows that the daughter-in-law is not having any marital discord with her husband (son) and rather, they have been residing together and all these facts lead to an irresistible conclusion to the effect that the above-said complaint has been filed by the daughter-in-law as a counter-blast to the afore-mentioned application and the complaint, as preferred by the senior citizen, much earlier and to add to it, orders Annexures P-8 and P-9 had been passed by the trial Court even without waiting for the submission of the Reply by the senior citizen and other respondents arrayed in complaint Annexure P-7 and hence, the impugned judgment is legally sustainable.

10. There is no denial to the fact that it was the senior citizen (mother-in-law), who had moved the application under the Senior Citizens Act and also the complaint under the D.V. Act, prior to the filing of the complaint (Annexure P-7) by the daughter-in-law under the D.V. Act. It also goes undisputed between the parties that the son is having a luxury apartment in Noida. Explicitly, the eviction order has been passed against the daughter-in-law and the son as well. However, a bare perusal of the complaint Annexure P-7 reveals that the daughter-in-law has not arrayed her husband, i.e the son of the senior citizen, as a party therein and this



fact, in itself, shows that the son and daughter-in-law are not having any matrimonial discord and there is nothing on the record/file to suggest that they intend to reside separately from each other. Further, it has specifically been mentioned by the appellate Court in paras No.3 & 13 of the impugned judgment that though respondents No.1 to 3 had put in appearance but they had yet to file their Reply to the petition, i.e the complaint under the D.V. Act and the trial Court did not even wait to seek their Reply and respondent No.4 had also remained unserved till the orders Annexures P-8 and P-9 had been passed. It is also essential to mention here that the appellate Court has categorically observed in para No.10 in its judgment that the fact that the mother-in-law had filed the petition before the District Magistrate on 09.03.2022 whereas the daughter-in-law moved the petition under the D.V. Act on 18.08.2022, i.e many months after the filing of the petition by the mother-in-law, raised the presumption that till the filing of the petition on 18.08.2022, the daughter-in-law did not have any dispute with the senior citizen or any other respondent for that matter and she had moved the complaint to counter the petition filed by the mother-in-law. From these observations, it becomes explicit that the impugned judgment (Annexure P-15) has been passed by the appellate Court after properly considering and evaluating the rival contentions of both the parties and it being so, no fault can be found with the same.

LPA No.764 of 2024

11. Learned Senior counsel for the appellants-son and daughter-in-law, has contended that the provisions of the Senior Citizens Act cannot



be outstretched to the extent of construing that the same confer the power upon the Competent Authority to pass an order of eviction while granting the relief to the parents/senior citizens nor the grant of such relief had ever been contemplated by the Legislature at the time of enacting the Statute (*ibid*) and rather, Clauses 1 to 3 of the Action-Plans, as prescribed/enforced by the States of Punjab and Haryana in pursuance of the mandate of this Act, have already been held to be unconstitutional and have, therefore, been struck down by this Court in ***CWP No.4744 of 2018*** titled as '***Simrat Randhawa Vs. State of Punjab and others***' (***decided on 23.01.2020***) and hence, the eviction order dated 07.09.2022 (Annexure P-1), is liable to be quashed on this count alone. In support of these contentions, he has also placed reliance upon the verdicts rendered by this Court in ***LPA No.1588 of 2014*** titled as '***Major Harmohinder Singh (Retd.) Vs. State of Punjab and others***' (***decided on 14.10.2014***) and ***CWP No.13505 of 2021*** titled as '***Sudershan Kumar Vs. State of Haryana and others***' (***decided on 26.07.2021***).

12. Per contra, learned Senior counsel for the senior citizen has argued that the parents/senior citizens deserve to live peacefully in the dusk years of their lives and the Senior Citizens Act has been legislated to ensure the same for them and thus, the order regarding the eviction of the children or other persons, who may be entitled to inherit the legacy from them (parents/senior citizens), from the property, is well within the ambit and frame-work of the Act (*ibid*) and therefore, the order Annexure P-1, passed by the District Magistrate, is perfectly legal and logical. To buttress



his contentions, he has relied upon the judgment handed down by the Apex Court in **S. Vanitha Vs. Deputy Commissioner, Bengaluru and others, (2021) 15 SCC 730.**

13. Before discussing and evaluating the merits of the present intra-Court appeal, it would be relevant to refer to the statutory provision, i.e Section 22 of the Senior Citizens Act, wherein the genesis of the requirement of drafting/prescribing and enforcing the Action-Plan by the concerned State Government, lies and the same reads as under:-

“22. Authorities who may be specified for implementing the provisions of this Act. —

(1) The State Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

(2) The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.”

This provision makes it explicit that the Legislature requires the State Government concerned to prescribe a comprehensive Action-Plan for providing protection to the life and property of the Senior Citizens and it also envisages the conferring of the powers and imposition of the duties



upon the District Magistrate to ensure that the provisions of the Act (*ibid*) are properly carried out/implemented.

14. Though, learned Single Judge has held in **Simrat Randhawa (supra)** that Clauses 1 to 3 of the Action-Plans, as prescribed by the States of Punjab and Haryana, are unconstitutional but however, this verdict is of no avail to the son and daughter-in-law in view of the observations made by Hon’ble the Supreme Court in **S. Vanitha (supra)** to the effect that “*the Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words, would be an incident of the enforcement of the right to maintenance and protection. However, the remedy can be granted only after adverting to the competing claims in the dispute*”. In the light of these observations, it becomes clear that the Competent Authority under the Senior Citizens Act, can order the eviction if it is so necessary to ensure the maintenance and protection of the senior citizens or parents, although such relief is to be granted after considering the competing claims in the dispute. The aspect of fulfilment of the above-said condition qua consideration and appreciation of the rival claims of the senior citizen on one hand and the daughter-in-law and the son on the other hand, will be looked into and discussed in the later part of this judgment. The judgments rendered by this Court in **Major Harmohinder Singh (Retd) (supra)** and **Sudershan Kumar (supra)** are of no help to the son and daughter-in-law in view of the afore-cited observations as made by the Apex Court in **S. Vanitha (supra)**.



15. Learned Senior counsel for the son and daughter-in-law has, then, contended that the District Magistrate could not have passed the order Annexure P-1 regarding the eviction of the son and daughter-in-law from the subject property and rather, only the Maintenance Tribunal could have ordered so and therefore, the order Annexure P-1 is not sustainable on this score also. To strengthen his contention, he has referred to the judgments passed by this Court in ***CWP No.14020 of 2022*** titled as '***Prithvi Singh Saini Vs. Maintenance Appellate Tribunal, Hisar and others***' (decided on ***25.01.2024***); ***LPA No.257 of 2024*** titled as '***Naresh Kumar and another Vs. The Appellate Tribunal, Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and others***' (decided on ***06.02.2024***) and ***CWP No.3383 of 2019*** titled as '***Sarika Rani Vs. District Magistrate-cum-Appellate Tribunal and another***' (decided on ***12.02.2024***).

16. However, it is worth-while to mention here that in ***Naresh Kumar and another (supra) (LPA No.257 of 2024)***, the senior citizen, who had been arrayed as respondent No.3 therein, had moved an application before the District Magistrate, Gurugram under the Senior Citizens Act for seeking the eviction of the appellants, i.e his son and daughter-in-law, from the house owned by him and the District Magistrate allowed the same vide the order dated 04.08.2021 and directed the appellants therein to vacate the house in question. The appellants filed a Civil Writ Petition to assail the above-mentioned eviction order but it was dismissed and then, they filed the said ***LPA No.257*** wherein the sole issue, as raised and pressed by their (appellants') counsel for adjudication, has been specified as under:-



“9. Learned counsel for the appellants submits that in the instant appeal he presses only one of issues raised before the learned Single Judge which is that on an application filed by a senior citizen under Section 23(2) of the Senior Citizens Act seeking therein possession of the property owned by him there is no provision under the Senior Citizens Act which gives any power to the Magistrate/Tribunal to order eviction of the occupant from the senior citizen's property. In the State of Haryana such power had been given to the Magistrate through The Haryana Action Plan-2015 which has been held to be unconstitutional by a learned Single Judge of this Court in Simrat Randhawa's case (supra). In the intra court appeal filed by the State in Simrat Randhawa's case (supra) there being no interim stay, the learned Single Judge, through the impugned judgment has erred to uphold the appellants' eviction from the property in question.”

and the Co-ordinate Bench dealt with the afore-described issue and dismissed the said LPA, by making the following observations:-

“17. In the light of the above, in the facts of the present case, in spite of there being the judgment of the learned Single Judge in Simrat Randhawa's case (supra) declaring the Haryana Action Plan-2015 to be unconstitutional, the learned Single Judge is found to have committed no error to hold that the Tribunal/Magistrate had the power to order the appellants' eviction from respondent No.1's house and that such power has been rightly exercised to ensure the maintenance and protection of respondent No.1.”



17. The above-quoted verdict as rendered in **LPA No.257 of 2024**, was further challenged by the appellants by way of filing the **Special Leave Petition (Civil) Diary No(s).15661/2024** titled as “**Naresh Kumar and another Versus Sohan Lal**” which has been disposed of, by Hon’ble the Supreme Court on 02.08.2024 while observing as under:-

“Delay in refiling is condoned.

We are not inclined to interfere in the matter.

On the request of learned senior counsel for the petitioners, sixty days’ time is granted to the petitioners to vacate from the scheduled premises subject to the petitioners filing an affidavit of undertaking before this Court to the effect:

(1) that they will vacate from the premises within a period of sixty days from today;

(2) that during the said period of their stay in the premises, they shall not create any third party rights in respect of the said premises;

(3) that they shall not damage the scheduled premises;

(4) that they shall not cause any acrimony with the respondent-father until they vacate from the premises.

The aforesaid affidavit of undertaking on behalf of the petitioners shall be filed within a period of two weeks from today.

The Special Leave Petition is disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.”

Thus, the judgment as handed down by the Co-ordinate Bench in **Naresh Kumar and another (supra) (LPA No.257)**, which itself did not



strengthen the contention of the son and daughter-in-law, has been upheld by the Apex Court and hence, they could not have banked upon the same. In such circumstances, the judgments passed by this Court in **Prithvi Singh Saini (supra)** and **Sarika Rani (supra)** would also be of no avail to them.

18. Learned Senior counsel for the son and daughter-in-law has also contended that the son and the daughter-in-law have never ill-treated the senior citizen nor have ever misbehaved with her and rather, she (senior citizen) is having sufficient funds and income to maintain herself and moreover, she has not been thrown out of the subject property by the son and daughter-in-law as alleged by her and in fact, she has left the same out of her own sweet will/ volition and even otherwise, the daughter-in-law has been residing in the subject property with the son of the senior citizen since their marriage and thus, the same being her shared household, she has the right to reside in it in view of the protection provided to her under the D.V. Act but however, her afore-referred right has not been considered while passing the eviction order Annexure P-1 and therefore, this order is bad in the eyes of law. To fortify his contentions, he has placed reliance upon the judgments passed by Hon'ble Supreme Court in **S. Vanitha (supra)** and **Prabha Tyagi Vs. Kamlesh Devi, (2022) 8 SCC 90** and the Co-ordinate Bench in **LPA No.135 of 2024** titled as '**Anil Kumar Vs. Jagdish Rai and others**' (decided on 18.01.2024).

19. On the other hand, learned Senior counsel for the senior citizen has argued that the son and daughter-in-law have been ill-treating the senior citizen and they have also mis-utilized her movable assets, i.e the



amounts lying in her bank and DEMAT accounts and her credit and debit cards, by taking undue advantage of her old age and the faith, as reposed by her (senior citizen) in them and moreover, the son of the senior citizen, i.e the husband of the daughter-in-law, owns a ready to move-in luxury apartment, in Noida and thus, on her eviction from the subject property, the daughter-in-law would still be having an accommodation to reside in and it being so, the eviction order (Annexure P-1) is a justified one.

20. As discussed earlier, the subject property belongs to the senior citizen by virtue of the Conveyance-Deed dated 15.12.1997. Annexure P-9 is the copy of the Reply, as submitted by the son and daughter-in-law, to the application (Annexure P-8) filed by the senior citizen under the Senior Citizens Act and in paras No.8 and 9 (Para-wise Reply) therein, they themselves have given the detail of the amounts transferred from the bank account of the senior citizen to the bank account of the son through RTGS and cheques. Though the son and daughter-in-law have claimed that these amounts had been gifted to the son by the senior citizen but the fact remains that the senior citizen has categorically alleged in her application as well as the Re-joinder that the son and daughter-in-law had siphoned-off a huge amount from her bank account(s) and had mis-utilized her debit and credit cards and had also sold the equity shares and had, thus, cheated her. To add to it, in para No.7 in her Re-joinder to the above-said Reply (Preliminary Submissions), the senior citizen has specifically mentioned that on 19.04.2022, she had filed a complaint against her son and daughter-in-law under the D.V. Act and in para No.2 thereof and in para No.3 (Reply



to the brief facts of the case) in the Re-joinder, she (senior citizen) has pleaded that the son and daughter-in-law had quarrelled with the tenants on the first and second floor portions of the subject property several times and due to the constant nuisance created by them, the tenants had left the aforementioned rented portions in January and April 2022 and resultantly, she had been deprived of her rental income. The son and daughter-in-law have not placed any material on the file/record to show that the tenants are still occupying the said portions.

21. In the normal course of events, no mother would like to have strained relations with her children if they (children) are dutiful to her and respect her. Rather, in the twilight years of life, every parent would make the best possible endeavours to buy peace with his/her children. The very factum of the senior citizen having resorted to moving the complaint to the police and approaching the Court under the D.V. Act, in itself, does suffice to lead to the inference that the son and daughter-in-law were not having cordial relations with her and she was being deprived of the right to reside in the subject property peacefully and with her dignity and self-esteem intact. The observations made by the Co-ordinate Bench in **Anil Kumar (supra)** do not further the cause of the son and daughter-in-law because in the above-noted case, the father had sought the cancellation of the transfer-deed executed by him in favour of his son qua a shop whereas it is not so in the present case. Rather, in the afore-said case, the application as filed by the father had, initially, been rejected but the appeal moved by him, was accepted and then, the son had filed the Civil Writ Petition against the



order of the Appellate Tribunal which came to be dismissed and the said LPA, preferred by him (son), had also been dismissed.

22. As regards the claim of the daughter-in-law to reside in the subject property on the ground that the same is her shared household, it is again pertinent to point it out here that there is nothing on the file to come to the conclusion that she and her husband, i.e the son of the senior citizen, have not been residing together or they do not intend to stay under one roof and rather, they themselves have claimed that they have been residing in the subject property since their marriage. Concededly, the son owns/has a luxury apartment in Noida, meaning thereby that he and the daughter-in-law are having an alternative accommodation to reside therein, after their eviction from the subject property as discussed above.

23. The observations, as made by the Apex Court in **Prabha Tyagi (supra)**, are of no help to the daughter-in-law to substantiate her above-claimed right as the facts and circumstances of the afore-quoted case are distinguishable from those of the instant one because in the above-cited case, the proceedings under the Senior Citizens Act had not been initiated and the daughter-in-law had lost her husband in a road accident soon after their marriage whereas in the present case, the senior citizen preferred the application under the Senior Citizens Act even prior to the filing of the complaint by the daughter-in-law under the D.V. Act, as mentioned earlier.

24. Then, the verdict handed down by Hon'ble Supreme Court in **S. Vanitha (supra)**, is also of no avail to the daughter-in-law to challenge the eviction order because in the afore-noted case, the daughter-in-law was



having marital discord with the son of the senior citizens and the son had instituted divorce proceedings against her and she (daughter-in-law) had also filed a case against her husband and mother-in-law with the allegations of dowry harassment and had claimed the maintenance allowance from her husband and subsequently, the senior citizens had instituted the application under the Senior Citizens Act and therefore, the Apex Court had set-aside the eviction order passed against the daughter-in-law and had granted her one year's period to pursue her remedies under the D.V. Act whereas in the instant case, the senior citizen had moved the application under the Senior Citizens Act on 09.03.2022 and had also filed a complaint against her son and the daughter-in-law under the D.V. Act on 19.04.2022 and the son and daughter-in-law had submitted their Reply to the said application under the Senior Citizens Act on 09.05.2022 and subsequent thereto, the daughter-in-law had preferred the complaint under the D.V. Act on 18.08.2022 and as discussed in the preceding paragraphs, the son and daughter-in-law do not seem to be having any marital discord between them and they had filed the above-said Reply jointly and to add to it, the daughter-in-law has not even arrayed her husband, i.e the son of the senior citizen, as a party in the afore-referred complaint as moved by her under the D.V. Act and admittedly, the son owns a luxury apartment in Noida and therefore, he and the daughter-in-law would not be rendered homeless on their eviction from the subject property. Then, so far as the fulfilment of the condition regarding adverting to the rival claims of the parties while granting the relief of eviction, as observed by Hon'ble Supreme Court and pointed out in the earlier part of



this judgment, is concerned, the same stands duly fulfilled/complied with in view of the fact that in the judgment dated 31.01.2024, as impugned in ***CR No.1431***, the appellate Court has specifically discussed and adjudicated the claim of the daughter-in-law qua the shared household and this judgment has been tested on the touchstone of the settled norms of legality and has been upheld by us while considering and evaluating the contentions, raised by learned Senior counsel for both the parties therein (Civil Revision).

25. As a sequel to the fore-going discussion, we are of the considered opinion that the judgment handed down by learned Single Judge on 19.10.2023, as assailed in ***LPA No.764 of 2024*** and also the judgment rendered by the appellate Court and challenged in ***CR No.1431 of 2024***, do not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any interference by this Court. Resultantly, the Letters Patent Appeal as well as the Civil Revision in hand, being *sans* any merit, stand dismissed accordingly. However, keeping in view the undisputed fact that the grandson of the senior citizen, i.e the son of the son and daughter-in-law, is presently studying in Class-XII, they (son and daughter-in-law) are granted the time up to 31.03.2025 to vacate the subject property, so that the studies of their son may not be adversely affected.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

November 14, 2024

Yag Dutt

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*