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

+ **W.P.(C) 1828/2022**

AMIT KUMAR

..... Petitioner

Through: Mr. Vikas Dudeja and Mr. Vishal
Sharma, Advocates.

versus

KIRAN SHARMA AND ANR.

..... Respondents

Through: Mr. Arvind Bhatt, Ms. Ritika
Choubey and Ms. Swastika,
Advocates for R-1 with Respondent
No.1 in-person.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
07.03.2024

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1. The Petitioner has approached this Court challenging an Order dated 26.11.2021 passed by the District Magistrate in exercise of appellate jurisdiction under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*in short*, 'Senior Citizens Act') dismissing an appeal filed by the Petitioner.
2. The facts in brief are that Respondent No.1 filed an application under the Senior Citizens Act before ADM, Jam Nagar, New Delhi claiming that she should not be dispossessed from the property bearing Flat No.4A, GF, Block-DA, Munirka, New Delhi.
3. The said application was contested by the Petitioner herein stating that the applicant is the step mother and that the father of the Petitioner herein



had distributed the properties between the step mother and the children. It was also contended before the learned ADM that the property allotted to the applicant step mother at Najafgarh in which she had 50% share has been sold by her and that after selling the properties she cannot make any claim for any of the properties. The learned ADM after considering the case has passed the following order:-

“Accordingly, the following orders are passed by this Tribunal –

(1) The respondent is restrained from dispossessing the applicant from the house at Munirka (in which the applicant is living) and he is further restrained from alienating this property in any manner or to create any third party interest in the said property during the life time of the applicant.

(2) The applicant shall use the property for residential purposes and induct any tenant in the said property.”

4. The said order was carried on in appeal by the Petitioner by filing an appeal being Case No.02/2021 before the Appellate Court, i.e., District Magistrate, New Delhi, and a contention has been taken that the Petitioner herein has not given a proper hearing. The said contention has been rejected by the District Magistrate. Another argument was taken that suits have been filed by the Petitioner before the competent court for possession which are pending and the learned ADM has decided title pending the suit. This contention also did not find favour with the appellate court.

5. Learned Counsel for the Petitioner contends that the observations made by learned ADM would defeat the entire suit inasmuch as that without having any title, an order restraining the Petitioner from dispossessing the Respondent/step mother could not have been passed by the learned ADM



stating that the Respondent herein would have a right of residence throughout her lifetime.

6. Learned Counsel for the Respondent has drawn the attention of this Court to the Statement of Objects and Reasons of the Senior Citizens Act and also to Section 4 of the Senior Citizens Act. Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, reads as under:-

“4. Maintenance of parents and senior citizens.—

(1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of—

- (i) parent or grand-parent, against one or more of his children not being a minor;*
- (ii) a childless senior citizen, against such of his relative referred to in clause (g) of section 2.*

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such citizen or he would inherit the property of such senior citizen:



Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property.”

(emphasis supplied)

7. A perusal of Section 4 of the Senior Citizens Act shows that it is the legal obligation of the son to maintain his parent throughout his lifetime and providing maintenance will include providing shelter to the mother, and therefore, this Court does not find any infirmity in the orders passed by the two forums below.
8. The Trial Court will only decide the title of the property but it cannot take away the mandate of a child to maintain his parent throughout the lifetime which includes providing a shelter which is the purpose of the Senior Citizens Act. This Court does not find any reason to interfere with the orders passed by the two courts below.
9. The petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MARCH 7, 2024

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