



2024:DHC:5252



\$~106

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

Date of decision: 05th JULY, 2024

IN THE MATTER OF:

+ **W.P.(C) 2254/2024, CAV 73/2024, CM APPLs. 9375/2024, 9377/2024**

RITU BHARADWAJ & ANR.

.....Petitioners

Through: Mr. Mohit Chaudhary, Mr. Kunal Sachdeva and Ms. Vaishali Shukla, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Ms. Rachita Garg, Mr. Agam Rajput, Ms. Preeti Chauhan, Advocates for R-1.
Mr. Akhil Mittal, Mr. Sumit Mittal and Mr. Sidhant Garg, Advocates.
Mr. Prasad Hegde, Advocate for R-3 to 5.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. Petitioners have filed the present Writ Petition challenging the Order dated 19.01.2024, passed by the Appellate Authority of Divisional Commissioner, disposing of the Appeal, being Appeal No.859/2023, by directing the Respondents herein either to provide for an alternate accommodation to the Petitioners herein or to pay Rs.25,000/- per month to the Petitioners as rent for the alternate accommodation in the bank account of the Petitioner No.1. The said Appeal was filed by the Petitioners herein



2024:DHC:5252



against the Order dated 18.09.2023, passed by the District Magistrate, directing the Petitioners herein to vacate House No.90, Ground Floor, Banarsi Dass Estate, Timarpur, Delhi (*hereinafter referred to as 'the Property in question'*).

2. The facts, in brief, leading to the present Writ Petition are that the Petitioner No.1 is the daughter of Respondent No.2 and Petitioner No.2 is the daughter of Petitioner No.1 herein. Respondents No.3 to 9 are the sisters of Petitioner No.1. It is stated that the Father of the Petitioner No.1 herein Late Mr. Jai Kishan Kaushik married the Respondent No.2 and out of the said wedlock the couple had eight daughters, i.e. Petitioner No.1 and Respondents No.3 to 9. It is stated that Mr. Jai Kishan Kaushik passed away on 23.08.2022 leaving behind eight daughters and his wife. Mr. Jai Kishan Kaushik left behind a number of moveable and immovable properties, including the property in question. It is also pertinent to mention that there is a will dated 26.04.2022 in favour of Respondent No.2 herein. It is stated that Petitioners No.1 and 2 are occupying the property in question. Material on record discloses that complaints and cross complaints have been filed by the daughters and the mother and there is acrimony in the family.

3. It is stated that Respondent No.2 herein/mother has approached the authorities under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*hereinafter referred to as 'the Senior Citizen's Act'*) seeking eviction of the Petitioners herein. In her application, the Respondent No.2 herein/mother has stated that she is more than 76 years of age and is not keeping good health. In the said application allegations have been made against the Petitioner No.1 that she is harassing the Respondent No.2 herein and also making attempts to grab the property.



2024:DHC:5252



4. Material on record also discloses that a Civil Suit, being CS(OS) No.255/2023, has also been filed by Petitioner No.1 and Respondents No.6, 7 & 8 against Respondents No.2, 3, 4, 5 & 9 before this Court for partition and rendition of accounts. In the said Suit, a Co-ordinate Bench of this Court vide Order dated 26.04.2023 has passed an Order of status quo with regard to the title and possession of the properties left behind by Late Mr. Jai Kishan Kaushik.

5. In the application filed by Respondent No.2 seeking eviction of the Petitioners herein from the property in question, the learned District Magistrate *vide* Order dated 18.09.2023, on the basis of the registered will dated 26.04.2022, came to the conclusion that Respondent No.1 is the owner of the property in question. The learned District Magistrate was of the opinion that the Respondent No.2/Mother is being ill-treated by the Petitioners herein and, therefore, directed for their eviction from the property in question.

6. This Order was challenged by the Petitioners by filing an Appeal before the Appellate Authority of Divisional Commissioner. The Appellate Authority vide the Order impugned herein has directed the Respondents to either to provide for an alternate accommodation to the Petitioners herein or to pay Rs.25,000/- per month to the Petitioners as rent for the alternate accommodation in the bank account of the Petitioner No.1 herein in lieu of the alternate accommodation. Relevant portion of the said Order reads as under:

"18. As the respondent no. 1 has already offered more than one alternative accommodations. The appellants may accept anyone of them for their residential purpose. If they do not, the respondent no. 1 shall pay



Rs. 25,000/- per month as rent for the alternate accommodation in the bank account of the appellant no. 1 in lieu of the alternate accommodation. The appellant shall vacate the property in question. As the Ld. Counsel for the appellants requested for one month time for vacating the property in question, the same is allowed in the interest of justice. The appellants shall stand evicted after one month from the date of this order. If they do not vacate they will forcibly evicted by area SDM with the help of local police. As regard their title dispute both the parties may approach the concerned court. The appeal is disposed of, accordingly."

7. It is this Order which has been challenged by the Petitioners in the present Writ Petition.

8. Material on record discloses that there is acrimony in the family. Complaints and cross-complaints have been filed. A Civil Suit has been filed wherein the correctness or otherwise of the will dated 22.06.2024 will be determined. Shares of the parties will also be determined in the said Suit. Undoubtedly, a Status Quo Order has been passed by a Co-ordinate Bench of this Court in CS(OS) No.255/2023 which has been filed by Petitioner No.1 and Respondents No.6, 7 & 8 against Respondents No.2, 3, 4, 5 & 9 for partition and rendition of accounts. However, this Court cannot loose sight of the fact that the Senior Citizens Act has been enacted for providing and ensuring care and protection of the senior citizens. At this juncture, it is necessary to reproduce the statement of objects and reasons of the Senior Citizens Act and the same reads as under:

“Statement of Objects and Reasons.—Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to



withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.

2. The Bill proposes to cast an obligation on the persons who inherit the property of children or their aged relatives to maintain such aged relatives and also proposes to make provisions for setting up oldage homes for providing maintenance to the indigent older persons.

The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.

3. The Bill, therefore, proposes to provide for—

(a) appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens;

(b) providing better medical facilities to senior citizens;

(c) for institutionalisation of a suitable mechanism for protection of life and property of older persons;



(d) setting up of oldage homes in every district.

4. The Bill seeks to achieve the above objectives.”

9. The purpose of the Senior Citizens Act is, therefore, to provide for an appropriate mechanism for protection of life and property of older persons.

10. Continuation of the Petitioner No.1 on the property in question will lead to constant fights between the mother and the daughters and in such a situation Respondent No.2/Mother, who is nearing 80 years of age would not be able to live peacefully.

11. Though findings have been given by the forums below regarding title of the property, this Court is of the opinion that those findings cannot be conclusive findings because the authorities under the Senior Citizens Act are only concerned with the well-being of the Senior Citizens and cannot adjudicate on the title and property and the same can only be adjudicated upon by Courts which are competent to adjudicate on this issue. However, this Court is of the opinion that the Orders of the forums below have been passed keeping in mind the interest of the Senior Citizen and the object of the Senior Citizens Act is to permit the Senior Citizens to live peacefully in the eve of their life.

12. Material on record indicates that the Petitioner No.1 is wheel chair bound and has to look for accommodation only in a ground floor in any premises or in any premises where there is provision for a lift, i.e. in a modern building. This Court made an endeavour to ensure that the Respondents No.2 to 9 offer any alternate accommodation to the Petitioners but despite several adjournments no consensus could be arrived at between the parties. Accordingly, looking at the need of the Petitioner No.1 this



2024:DHC:5252



Court is of the opinion that Rs.25,000/- per month as rent is on the lower side as the Petitioners would not be in a position to get an appropriate accommodation within Rs.25,000/-. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India enhances the amount of rent which has been directed to be paid by the Appellate Authority to the Petitioner from Rs.25,000/- per month to Rs.60,000/- per month.

13. Accordingly, the Respondents are directed to give a sum of Rs.60,000/- per month to the Petitioner No.1 herein in lieu of alternate accommodation. It is made clear that the amount that is being paid by the Respondents would be adjusted when the accounts are settled in CS(OS) No.255/2023.

14. With these directions, the Writ Petition is disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JULY 05, 2024

Rahul