



\$~33

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

+ **W.P.(C) 5070/2023, CM APPL. 19767/2023, CM APPL. 37997/2024,
CM APPL. 38001/2024**

RAJENDRA KUMAR MITT

....Petitioner

Through: **Mr. Akshit Sachdeva, Adv.**

versus

DISTRICT MAGISTRATE (SOUTH-EAST) AND ORS

.....Respondents

Through: **Mr. T.S. Ahuja, Mr. Rajiv Jain, Mr.
Deepak Mayur, Ms. Ridhi Kapoor
and Mr. Himanshu Sharma, Advs. for
R-3**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

03.12.2024

%

1. Mr. Rajendra Kumar Mittal, the Petitioner, filed an application before Respondent No. 2 – Additional District Magistrate¹ (South East) under Section 4 read with Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007². This application was filed by the Petitioner against his younger son Respondent No. 3 - Mr. Pradeep Kumar Mittal, for transfer of monies amounting to INR 7.15 Crores, alleged to be the sale receipts from the sale of the Petitioner's property in Sukhdev Vihar, New Delhi which were allegedly transferred to Respondent No. 3, on the promise that he would take care of the Petitioner and his wife.

¹ "ADM"

² "Act"



2. The aforementioned application was decided by the ADM through order dated 31st March, 2022, in favour of Petitioner and accordingly, Respondent No. 3 was directed to return the said amount within two months from the date of receipt of the order. Further, Respondent No. 3 along with Mr. Rishi Kumar Mittal, another son of the Petitioner, were directed to pay INR 20,000/- per month each, totalling to INR 40,000/- per month, to the Petitioner from the date of filing of the application till his lifetime, on account of maintenance of the Petitioner and his wife. Additionally, both Respondent No. 3 and Mr. Rishi Kumar Mittal were also directed to pay the actual medical expenses incurred by the Petitioner and his wife, on furnishing of vouchers/bills showing such expenditure incurred by the them.

3. Aggrieved with the above order of the ADM dated 31st March, 2022, Respondent No. 3 preferred an appeal under Section 16 of the Act, before Respondent No. 1 - District Magistrate/Appellate Authority under the Act. The said appeal was adjudicated *vide* order dated 31st March, 2023, impugned herein, with the following directions:

“08. *In view of the above observations, I, Isha Khosla, District Magistrate, District South East, through the powers conferred upon me vide ‘The Maintenance and Welfare of Parents and Senior Citizens Act, 2007’, on considering the facts and appreciating the evidence brought on records, pass the following orders:*

- i) *The order dated 31-03-2022 passed by the Tribunal is set aside, only stands in so far as the Appellant is given directions to maintain the Respondent, in view of the Order dated 27-01-2023 of the Hon’ble High Court of Delhi.*
- ii) *The matter is remanded back to the Tribunal to conduct fresh proceedings considering all documents and evidences placed on record and the Tribunal is further directed to dispose of all pending applications.”*

4. In light of the above, the proceedings have been remanded back to the



ADM (South-East). Although, the Petitioner has raised several grounds assailing the impugned order of the Appellate Authority, however, during the course of oral submission, this challenge is confined to the ground that the impugned order does not set out any ground or reason for directing a remand. Thus, counsel for the Petitioner submits that the Appellate Authority ought to have decided the matter on merits.

5. On this issue, the Court has heard the counsel for the parties at length. The only ground which perhaps weighed with the Appellate Authority, in directing the remand, is found in paragraph no. 7 of the impugned order, which reads as under:

“07. *Appreciating the documents placed on record, and the arguments made thereon, following facts emerges:*

- i) ***The Appellant has submitted that the Tribunal did not take cognizance of the documents and evidences placed on record by the Appellant. The Respondent has objected to fresh documents filed before the Appellate Court and not before the Tribunal.***
- ii) *The Tribunal has not decided on the Applications filed before the Tribunal by the Appellant.”*

[Emphasis added]

6. The aforementioned observations indicate that during the appeal proceedings, Respondent No. 3 had relied upon certain documents before the Appellate Authority, which were being objected to by the Petitioner on the ground that those documents were never produced before the ADM.

7. However, during the course of submissions in the present writ petition, counsel for the Petitioner, very fairly states on instructions that if the Court were inclined to accept the instant writ petition and direct the matter to be reconsidered by the Appellate Authority, the Petitioner would have no objection to the new/additional documents being considered by the



Appellate Authority.

8. On the other hand, Mr. T.S. Ahuja, counsel for Respondent No. 3, states that in such an event, the Court must also keep the ADM's order dated 31st March 2022 in abeyance, till such time the Appellate Authority has taken a final view of the matter. Further, Mr. Ahuja points out that there were certain applications filed by Respondent No. 3 before the ADM, which were not decided before passing of the order dated 31st March, 2022. Upon query, the Court has been informed that such applications related to jurisdictional objections on the maintainability of the proceedings initiated by the Petitioner under the Act.

9. To the above submission, counsel for the Petitioner points out that this Court has granted interim directions in the present writ petition *vide* order dated 26th May, 2023, to the effect that the maintenance of INR 20,000/- shall continue to be paid to the Petitioner during the pendency of the writ petition. As such, counsel for the Petitioner prays that, if the Court were to direct the matter back to the Appellate Authority for reconsideration, the Court may also issue a direction for the interim arrangement to continue till such time the appeal of Respondent No. 3 is decided by the Appellate Authority.

10. In light of the above submissions and the peculiar facts of the case, the present writ petition is disposed of with following directions:

- (i) The impugned order dated 31st March, 2023 passed by Respondent No. 1 - District Magistrate/Appellate Authority, is set aside and the matter is remanded back to them for fresh adjudication of the appeal filed by Respondent No. 3 bearing case No. 503/2022, after hearing all the parties and in accordance with law. Respondent No. 1 shall



decide the matter uninfluenced by any of the observation previously made by them in the impugned order or the observations of this Court in the instant order. It is clarified that jurisdictional objections raised by Respondent No. 3, in terms of the maintainability of the proceedings under the Act, shall also be dealt with by Respondent No. 1.

- (ii) As far as reliance on certain documents is concerned, it is made clear that the parties shall be permitted to place reliance on the documents which were placed on record before the Additional District Magistrate originally or through applications which were not decided, as well as the documents which were filed before the Appellate Authority. However, no other documents shall be allowed to be filed by either of parties.
- (iii) The order of the Additional District Magistrate (South East) dated 31st March, 2022, shall be kept in abeyance till such time the appeal is finally decided by Respondent No. 1 - the Appellate Authority.
- (iv) Respondent No. 3 shall continue to make the payments of INR 20,000/- towards the maintenance of the Petitioner, in terms of the order dated 26th May, 2023, passed by this Court till the date of adjudication of the appeal.
- (v) The Appellate Authority is directed to decide the matter as expeditiously as possible, preferably within a period of four months from today.

11. All rights and contentions of the parties are reserved. The Court has not expressed any opinion on the merits of the case.

12. With the above directions, the writ petition is disposed of, along with



pending applications.

SANJEEV NARULA, J

DECEMBER 3, 2024
d.negi