



2024:DHC:4953



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

Date of decision: 02nd JULY, 2024

IN THE MATTER OF:

+ **W.P.(C) 5079/2024**

HARISH BAJAJ

..... Petitioner

Through: Mr. Aman Panwar and Mr. Shivam
Singh Baghel, Advocates with
Petitioner in-person.

versus

DIVISIONAL COMMISSIONER & ORS.

..... Respondents

Through: Ms. Hetu Arora Sethi, ASC for
GNCTD with Ms. Kavita Nailwal,
Advocate.
SI Abhishek Guleria, PS Kalyanpur.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court challenging an Order dated 22.11.2022 passed by the Appellate Authority under Rule 22(3)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules wherein the Appellate Authority has refused to grant stay against the order of eviction dated 13.09.2022 passed by the District Magistrate in Eviction Case No. 518/2022 directing the Petitioner herein to vacate the subject property, i.e., H. No. R-78, East Vinod Nagar, Delhi-110091.
2. The Petitioner also seeks to challenge the Order dated 02.04.2024 passed by the District Magistrate by which the District Magistrate has passed orders for ensuring compliance of its Order dated 13.09.2022



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directing eviction of the Petitioner herein from the property in question.

3. The Petitioner had earlier challenged the Order dated 22.11.2022 passed by the Appellate Authority by filing W.P.(C) No.3388/2024 and this Court *vide* Order dated 06.03.2024 was not inclined to interfere with the order dated 22.11.2022 and has disposed of the said writ petition with a request to the Appellate Authority to decide the appeal as expeditiously as possible, preferably within a period of six months.

4. This writ petition is complete abuse of the process of law inasmuch as the Petitioner seeks to challenge the same order which has been dismissed by this Court *vide* Order dated 06.03.2024 passed in W.P.(C) No.3388/2024. The Petitioner herein has now added the Order dated 02.04.2024 passed by the District Magistrate directing execution the Order dated 13.09.2022 by which the Petitioner has been directed to be evicted from the premises in question.

5. The facts in brief leading to the writ petition are that the property in dispute bearing No. R-78, East Vinod Nagar, Delhi-110091 was owned by late Jaswant Kumar Bajaj, i.e., the father of the Petitioner herein, who is also the husband of Respondent No.4 herein. It is stated that the said Jaswant Singh had three properties and by way of Will dated 01.07.2005, the said properties stand bequeathed to Respondent No.4. The said Will has been challenged by the Petitioner herein in a Suit bearing CS No. 571/2022 pending before Karkardooma Court, Delhi.

6. Claiming that the Petitioner and his wife are constantly harassing Respondent No.4, i.e., the mother of Petitioner herein, the Respondent No. 4 filed a petition under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*in short* 'Senior Citizens Act').



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7. The District Magistrate *vide* Order dated 13.09.2022 accepted the submissions made by the Respondent No.4 herein that she was being subjected to ill treatment by the Petitioner herein and the District Magistrate *vide* Order dated 13.09.2022 has ordered eviction of the Petitioner herein with his wife and sons from the premises bearing No. R-78, East Vinod Nagar, Delhi-110091. Order of eviction is under challenge in Appeal No.PA/Div. Comm./ Appeal No. 587/2022/681-685. The Appellate Authority *vide* Order dated 22.11.2022 refused to grant stay against the Order dated 13.09.2022 passed by the District Magistrate. The same was challenged by the Petitioner herein by filing W.P.(C) 3388/2024, which as stated earlier, has been dismissed by this Court *vide* Order dated 06.03.2024.

8. Since the stay against the Order dated 13.09.2022 passed by the District Magistrate was not granted by the Appellate Authority, the District Magistrate *vide* Order dated 02.04.2024 has directed implementation of the Order dated 13.09.2022.

9. The Petitioner cannot time and again challenge the very same order which as stated earlier is an abuse of the process of law. Once stay has not been granted, it is for the District Magistrate to direct for implementation of his order and no fault can be found by this Court in the District Magistrate passing an order dated 02.04.2024 for implementation and ensuring compliance of the Order dated 13.09.2022 which has not been stayed by the Appellate Authority and refusal to grant stay by the Appellate Authority has been confirmed by this Court in W.P.(C) 3388/2024.

10. In view of the fact that the present writ petition challenging the very same order which has been challenged by the Petitioner earlier in a writ petition is an abuse of the process of law, this Court is inclined to impose



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costs of Rs.25,000/- on the Petitioner. Let the costs be paid to the *Armed Forces Battle Casualties Welfare Fund* within four weeks from today.

11. The writ petition is dismissed along with application(s), if any.

SUBRAMONIUM PRASAD, J

JULY 02, 2024

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