



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 17th September, 2024.

Pronounced on: 8th October, 2024.

+ W.P.(C) 6710/2023

VINOD KUMAR BALI

.....Petitioner

Through: Mr. R.K. Tarun, Ms. Aditi
Shivadhatri, Ms. S. Rani and Mr. R.R.
Bharati, Advocates.

versus

ASHISH BALI & ANR.

.....Respondent

Through: Mr. S.C. Singhal, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J:

1. The Petitioner, Mr. Vinod Kumar Bali, a senior citizen, had filed an eviction petition under Rule 22(3)(1) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009,¹ seeking eviction of his son, Respondent No. 1, and daughter-in-law, Respondent No. 2 from property bearing No. B1/107, UGF, Janakpuri, Delhi.² The District Magistrate, through order dated 10th November, 2022, allowed the Petitioner's eviction petition, directing the Respondents to vacate the Subject Property. The Respondents filed an appeal against the said order, whereby the Divisional Commissioner *vide* order dated 1st May, 2023,³ set aside the order of the District Magistrate.

2. Aggrieved by the order of the Divisional Commissioner, the Petitioner

¹ "Senior Citizens Rules"

² "Subject Property"

³ "impugned order"



has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950, assailing the impugned order. The Petitioner challenges the legality and propriety of the impugned order, arguing that it disregards his right to reside peacefully in his own property, as envisaged under the Delhi Maintenance and Welfare of Parents and Senior Citizens Act, 2007,⁴ and the Rules framed thereunder.

PETITIONER'S CASE

3. Mr. R.K. Tarun, counsel for the Petitioner presents the following facts leading to the initiation of the present proceedings:

3.1 The Petitioner, aged about 77 years, is the lawful owner of the Subject Property, and has been residing there along with his wife, aged 66 years. The property was the self-acquired asset of the Petitioner's father, Late Shri Krishna Bali, who had executed a Will dated 15th December, 1997, duly registered with the Sub-Registrar-II, Delhi. Upon his demise on 29th December, 2002, as per the Will, the Subject Property bequeathed upon the Petitioner, his mother and his sister, Ms. Shashi Mohan. Subsequently, after the death of the Petitioner's mother, the property bequeathed upon the Petitioner and his sister on account of being the only surviving legal heirs of their parents. Thereafter, the Petitioner's sister relinquished her share in the Subject Property through Relinquishment Deed dated 15th February, 2006, thereby making the Petitioner the absolute owner of the property.

3.2 Respondent No. 1, the son of the Petitioner, got married to Respondent No. 2 on 18th February, 2022. Following the marriage, the Respondents requested the Petitioner to allow them to reside in the Subject Property. In a gesture of goodwill, the Petitioner granted them a 'permissive license' to occupy the property.

⁴ "Senior Citizens Act"



3.3 Shortly thereafter, the Respondents started subjecting the Petitioner and his wife to ill-treatment and harassment, frequently threatening and abusing them. The attitude of the Respondents rendered it impossible for the Petitioner to cohabit in the same property. Faced with this distressing situation, the Petitioner sought legal recourse by filing an eviction application under Rule 22(3)(1) of the Senior Citizens Rules before the District Magistrate.

3.4 Apprehending imminent eviction from the Subject Property, Respondent No. 2 filed a complaint against the Petitioner and his wife under the Protection of Women from Domestic Violence Act, 2005.⁵ In the said proceedings, the Metropolitan Magistrate, Dwarka Courts, passed a protection order dated 25th July, 2022 in favour of Respondent No. 2, directing the Petitioner not to dispossess her from the Subject Property without following due process of law.

3.5 In the aforesaid background, the District Magistrate *vide* order dated 10th November, 2022, passed an order directing the eviction of the Respondents from the Subject Property.

3.6 Aggrieved with the aforesaid order, the Respondents preferred an appeal before the Appellate Authority of Divisional Commissioner, who passed an order dated 1st May, 2023, setting aside the order of the District Magistrate.

4. In light of the foregoing factual background, Mr. Tarun makes the following submissions to assail the impugned order:

4.1 The Appellate Authority's decision rests on the incorrect assumption that Respondent No. 2 enjoys an unequivocal protection against dispossession based on the Metropolitan Magistrate's order dated 25th July,

⁵ "DV Act"



2022. This protection order simply directed that Respondent No. 2 shall not be dispossessed from the Subject Property without following due legal process. This does not preclude the Petitioner from seeking eviction under the Senior Citizens Act, which itself constitutes “due process of law”. Moreover, the Divisional Commissioner, in passing the impugned order, failed to consider a crucial development: the interim protection order granted to Respondent No. 2 had been vacated by the Mahila Court through an order dated 1st April, 2023. Therefore, there was no legal impediment to upholding the eviction order passed by the District Magistrate.

4.2 The impugned order mechanically places reliance on the judgment of the Supreme Court in *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District & Ors*,⁶ which is not applicable to the facts of the present case. In the aforesaid judgement, the Petitioner, *i.e.*, the daughter-in-law had estranged from her husband, while in the instant case, Respondent No. 2 is conniving with her husband, which is evident from the fact that Respondent No. 2, in the complaint before the Mahila Court, did not level any allegations against Respondent No. 1, indicating that the action was specifically targeted against the Petitioner and his wife.

4.3 Furthermore, the impugned order exhibits a contradictory approach. While it does not disturb the findings of the District Magistrate regarding the Petitioner’s ownership of the Subject Property, it sets aside the eviction order based purely on conjecture and surmises. The legal position is clear: the primary requirement for directing eviction under the Senior Citizens Act is that the senior citizen must have right or interest in the property. In this case, the Petitioner inherited the Subject Property from his father, establishing his status as the lawful owner. This fact alone provides

⁶ (2021) 15 SCC 730.



sufficient basis to uphold the eviction order against the Respondents. The Divisional Commissioner, by setting aside the order of the District Magistrate, without addressing the clear-cut legal criteria of ownership, has acted contrary to the established legal principles.

4.4 The impugned order fails to take note of the judgment in *Sunny Paul v. State of NCT*,⁷ whereby this Court had observed that senior citizen parents have the right to evict their children from the property on account of ill-treatment and misbehaviour meted out to them.

RESPONDENT'S CASE

5. On the other hand, Mr. S.C. Sehgal, counsel for the Respondents, strongly opposes the present petition and argues the following:

5.1 The Petitioner has made false and frivolous allegations of ill-treatment and harassment against the Respondents, and there is nothing on record to substantiate the said claims. Considering the aforesaid position, the Divisional Commissioner, through the impugned order, set aside the eviction order on the ground that the case of ill-treatment and non-maintenance on part of the Respondents was not made out.

5.2 On the contrary, the Petitioner and his wife have been harassing and misbehaving with the Respondents. On account of the constant demands for dowry and instances of harassment, Respondent No. 2 was constrained to file a complaint against the Petitioner and his wife under the DV Act.

5.3 The Petitioner has initiated the eviction proceedings under the Senior Citizens Act with the sole intention to evict the Respondents and sell the Subject Property. The Petitioner has already sold two floors of the property, and has personally retained the entire consideration amount thereof, benefiting solely from the financial gains.

⁷ 2018 SCC OnLine Del 11640.



5.4 Furthermore, the Petitioner has concealed vital facts regarding the title of the Subject Property. Initially, the property was allotted to the Petitioner's father, who, along with his wife, constructed the first two floors. Subsequently, Respondent No. 1 added the second and third floors at his own expense. Moreover, the Petitioner has intentionally withheld a Will dated 27th June, 1983, executed by his late father, Shri Krishna Bali, which explicitly debars the Petitioner and his sister from claiming any right or interest in the property. There are ongoing litigations between the parties regarding the title to the property, matters that fall within the jurisdiction of a competent court, not under the Senior Citizens Act. Therefore, the present eviction proceedings are an inappropriate and misconceived attempt to bypass the rightful legal process.

5.5 The Subject Property constitutes the matrimonial home and 'shared household' of Respondent No. 2 within the meaning of the DV Act. As per the judgment of this Court in *Smt. Seema Bansal v. Shri Durga Dass Bansal*,⁸ the daughter-in-law cannot be evicted from her shared household, except in accordance with procedure established by law. Furthermore, this Court, in *Smt. Saraswati Devi v. Sh. Ganga Ram Sharma & Anr.*,⁹ has categorically held that in cases involving competing claims under the Senior Citizens Act and DV Act, the Court has to balance between the rights of both the parties. Therefore, in light of Respondent No. 2's right to shared household, she cannot be evicted from the Subject Property under the Senior Citizens Act.

5.6 The decision in *Sunny Paul (supra)* is not applicable to the facts and circumstances of the present case.

⁸ 2024 SCC OnLine Del 5440.

⁹ 2023 SCC OnLine Del 2093.



IMPUGNED ORDERS

6. The District Magistrate, while considering the eviction application of the Petitioner, directed the Respondents to vacate the Subject Property on account of ill-treatment, misbehaviour, and physical and mental torture meted out to the Petitioner. For ease of reference, the relevant portion of the order of District Magistrate dated 10th November, 2022, reads as follows:

“SDM REPORT: *In compliance of Rule 22(3) (iii) of “RULES” the SDM submitted his report:*

a. Property dispute?:

No, it is not a property dispute.

b. Ownership of the property?:

The complainant is the owner of the property.

c. Whether any real threat to the appellant?:

There is dispute between the complainant and his son and daughter in law

d. Any valid reason for eviction?:

As stated by the complainant that his son and daughter in law tortures him and his wife. The complainant is old and not able to bear abuse and confrontations with his son and daughter in law.

RELEVANT PROVISION OF LAW/ RULE APPLICABLE: *As per the Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizen Rules, the Procedure for eviction from Property/residential building of senior citizen/parents is as under:-*

xx.....xx.....xx

OBSERVATIONS/ FINDINGS:-

That on perusal of the facts and circumstances of the present case and after hearing the contentions of both the parties and SDM report filed after due inspection of the suit property, it is observed that it is an undisputed fact that the suit property is owned by complainant. The complainant has clear and unequivocal allegations against the respondent's son and his wife. The senior citizens/ parents are entitled for getting an eviction order in their favor.

xx.....xx.....xx

Thus in view of the above the present case is a fit case of eviction on account of ill-treatment, physically and mentally tortured and misbehavior with the complainant. Thus, there is no reason for respondents to



remain/reside in the "property" which is in the name of the complainant.

CONCLUSION:

In view of the above, this court passed the order of eviction of respondents from the suit property bearing No. B 1/107 UGF Janakpuri Delhi 110058 within 30 days of issue order.

The respondents are directed not to interfere in the peaceful living & possession of the "property" of the complainant and also not to cause any physical or verbal harassment to the complainant and his family till such time they vacate the property.

The SDM (DW) and the Concerned SHO, are directed to render the requisite assistance to the appellant in the execution of these orders.

"The present order would be appealable under Rule 22(3)(4) of The Delhi Maintenance and Welfare of Parents and Senior Citizens Rules 2009, as amended on 19th December 2016 before Divisional Commissioner, Delhi. The period of limitation for filing of appeal is 60 days."

Further Rule 22(3)(3) provides that if any person refuses or fails to comply with the order of eviction within thirty days from the date of its issue, the Deputy Commissioner/ DM or any other officer duly authorized by the Deputy Commissioner/ DM in his behalf may evict that person from the premises in question and take possession."

7. On account of an appeal preferred by the Respondents against the aforesaid order, the Divisional Commissioner set aside the eviction, holding that no ill-treatment or harassment can be deduced from the facts of the case.

The impugned order dated 1st May, 2023 is reproduced hereunder:

"1. The appellants being the son and daughter-in-law of the respondent have preferred the present appeal against the order dated 10.11.2022 (hereinafter referred as "impugned order") passed by District Magistrate (South-West) whereby District Magistrate directed the appellants to vacate the property bearing No. B1/107 UGF Janakpuri, Delhi-110058 (hereinafter referred as "property in question").

2. The case of the appellants is that the respondent is not the sole owner of the property in question as the same is an ancestral property being allotted to grandfather of appellant no. 1 who constructed it in which entire family was residing. Thereafter the first floor was raised by the grandmother of appellant no. 1 and after sometime when the appellant no. 1 started earning, he raised further two floors i.e. second floor and third floor of the house. Thereafter the house was reconstructed through a builder/collaborator, a 4 storied building out of which one floor was retained by the builder and two floors were disposed of by the respondent and the entire consideration amount was kept by the respondent. In the remaining floor the entire family resides.



3. Appellants contended that they got married on 18/02/2022 but the respondent and his wife were not happy with the gifts and soon after the marriage, respondent and his wife started making dowry demand. Infact the respondents' wife i.e the mother in-law of appellants no. 2 even assaulted appellant no 2 which led to her miscarriage. The mother in-law used to make calls to the relatives of the appellant no.2, defaming her. Due to the atrocities and domestic violence, appellant no. 2 was compelled to file a petition under Section 12 of Domestic Violence Act, 2005 in which Mahila Court, Dwarka Courts vide order dated 25.7.2022 directed that the appellant no.2 shall not be dispossessed from the shared household i.e B-1/107, Janakpuri, New Delhi without following due process of law and till further orders. The respondent and his wife were also restrained not to commit any act of violence, It is also the argument of appellant no. 2 that The Delhi Maintenance and Welfare of Parents and Senior Citizen Act, 2007 as amended time to time is a summary on proceeding and thus the District Magistrate was not empowered to pass an eviction order against the appellant no. 2 in a summary proceedings ignoring the fact that the proceedings before competent Magistrate under PWDV Act, 2005 is already pending. Also Hon'ble Supreme Court of India in case titled as Smt. S.Vanitha vs. The Deputy Commissioner, Bengaluru Urban District & Ors, observed that "The right of a woman to secure residence order in respect of shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizen Act-2007".

4. On the other hand, in reply to appeal, the respondent denies the contentions of the appellants and submitted that he is the absolute owner of the property in question being bequeathed upon him after the demise of his father and mother. Further his sister relinquished her share in his favour and hence he is the absolute owner of the property in question. Respondent further submitted that the appellants have no right, title and interest in the property in question as they are only a licensee. The respondent after their marriage allowed them to reside in a portion of the house for some days on license basis.

5. Respondent contended that as per the provisions of the Senior Citizen Act, 2007 and amended Rules, the parents/senior citizen can evict their legal heirs from any kind of property including ancestral property. It is further contended by the respondent that the appellants in their case nowhere pleaded that they are maintaining the respondent and infact the respondent and his wife are the victim of harassment and ill-treatment at the hands of the appellants and they were even forced to approach Hon'ble High Court of Delhi for protection of their life and property from the illegal actions of the appellants. Respondent stated that the contention of appellant no. 2 that she has order in her favour for not dispossessing her is also of no relevance as Mahila Court simply directed not to dispossess the appellant no. 2 without following due process of law. Eviction under Senior Citizen amended Rules by the



District Magistrate is well within the precincts of procedure established by law. Respondent relied upon the following judgments of Delhi High Court (i). Sachin Vs. Jhabbulal & Anr., (ii) Shadab khairi Vs. State and (iii). Darshna Vs. Govt. of NCT of Delhi.

6. Appellants via their rejoinder submitted that the respondent has concealed the fact that there were two “Wills” and in one of the Will, the respondent was debarred by the grandfather. Also the respondent does not claim maintenance in his eviction application before the District Magistrate as he does need it. The appellants submitted that they are contributing by paying utility bills like electricity, PNG and fuel for the vehicles. Appellants stated that appellant no. 1 is from the first wife of the respondent.

7. The arguments and case records, including DM’s case records have been carefully considered. Rule 22 (3)(1) of Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, as amended from time to time, provides that “A Senior citizen /Parents may make an application before the Dy. Commissioner/District Magistrate of his district for eviction of his son and daughter or legal heir from his property of any kind, whether movable or immovable, ancestral or self - acquired, tangible or intangible and include right or interests in such property on account of his non-maintenance and ill-treatment.”

8. On perusal of the case, this appellate authority finds that the case seems to be the ego problem or triggered by the respondent under the influence of her other children. There is nothing on record to show that the appellants have ill-treated or harassed the respondent or his wife. Also it is the specific plea of the appellants that the appellant no. 1 is from the first wife of the respondent and had contributed in the construction of two floors of the house. It is also an admitted fact that the appellant no. 2 has filed domestic violence case against the respondent and other family members which is pending before the Karkardooma Court in which, it is stated, Hon’ble MM directed the respondent not to dispossess the appellant no. 2 from the property in question without following due process of law. The filing of complaint is indeed a due process of law but for eviction under the provisions of the Senior Citizen Act, the conditions of ill-treatment and non-maintenance needs to be fulfilled. In this case this appellate authority did not find any ill-treatment to respondent. The respondent has also not asked the maintenance before the District Magistrate. The respondent has not denied that he sold the two floors and the consideration amount received by him only. Appellants have also placed on record the CD to show that the respondent and his wife harassing them and they are the actual victims and have been stranded into one room only. There are litigations between the parties pending including one of Domestic violence case. The appellants claims to have contributed to the property in question which is an ancestral property. These need to be resolved in competent court. The provision of Senior Citizens Act should not be misused.



9. *The Hon'ble Apex Court in S. Vanitha case acknowledged the residential rights of the women to reside in the shared household/matrimonial house. The Hon'ble Apex Court held that "Even otherwise, we are clearly of the view that recourse to the summary procedure contemplated by the Senior Citizen Act 2007 was not available for the purpose of facilitating strategies that are designed to defeat the claim of the appellant in respect of a shared household. Allowing the Senior Citizens Act 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act 2005, would defeat the object and purpose which the Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives. Equally, the purpose of the PWDV Act 2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act 2007." The Senior Citizen Act, 2007 is a beneficial law protecting the vulnerable group namely senior citizens. Likewise PWDV Act, 2005 is also beneficial law protecting another vulnerable group namely, women. Both need to be given effect to by reading harmoniously.*

10. *Keeping in view the facts and circumstances of the case and in the light of the Judgment of S. Vanitha and pendency of DV Case, this appellate authority does not find the present case to be a fit case for eviction of appellants. Both the parties are directed to reside peacefully in their respective portions in the property in question. Accordingly impugned order is hereby set-aside. Appeal is allowed.*

11. *Appeal stands disposed of accordingly. Copy of this order be provided to both parties. Record of the Proceedings before DM (South-West) be also sent back to DM with the copy of this order.*

Emphasis supplied"

ANALYSIS AND FINDINGS:

8. The Senior Citizens Act and Rules seek to preserve the dignity, welfare, and peaceful living conditions for senior citizens, by allowing for eviction of their son, daughter, or legal heir causing distress to them, at an advance stage of their lives. Rule 22(3)(1) of the Senior Citizens Rules envisages the procedure for eviction of a person from a senior citizen's property. Sub-rule (iv) empowers the authorities to initiate summary

W.P.(C) 6710/2023

Page 11 of 18



proceedings and conduct inquiries to determine whether eviction is justified, particularly in cases where non-maintenance or ill-treatment have been alleged against the occupants. The summary nature of the procedure is in order to protect the rights of senior citizens promptly. Keeping in view the objective of summarily resolving disputes, the framework of the Senior Citizens Act does not necessitate a full adjudication of title in order to decide the eviction application. The senior citizen only has to demonstrate some right, title, or interest in the property from which eviction is sought; the property can be self-acquired, ancestral, or a property in which the senior citizens have any rights or interests. As observed by this Court in ***Abhishek Grover v. Divisional Commissioner Delhi & Ors.***,¹⁰ mandating a conclusive determination of title in favour of the senior citizens, for the purpose of seeking eviction of the occupants, would dilute the very spirit and objective of the Senior Citizens Act, which is designed to provide immediate and effective relief to senior citizens. This has also been considered in ***Manju Tokas & Anr. v. Govt of NCT Delhi***,¹¹ where the Court observed that even if there is a modicum of right of senior citizens over the property, they are entitled to file an application for eviction in respect of such property.

9. In the instant case, the Divisional Commissioner made certain observations pertaining to the ownership of the Subject Property, which can be noticed from Paragraph Nos. 4 and 6 of the impugned order extracted above. While noting the disputed stand of the parties relating to the title of the property, the Divisional Commissioner made a reference to the Will produced by the Respondents, but did not give any finding overruling the conclusion drawn by the District Magistrate. Therefore, the observations

¹⁰ 2024 SCC OnLine Del 6524.

¹¹ 2024 SCC OnLine Del 3974.



made in Paragraphs Nos. 4 and 6 of the impugned order with respect to the title of the property, are inconsequential. Nonetheless, the Respondents have yet again raised their claim of title over the Subject Property, on the basis of a Will dated 27th June, 1983, purportedly executed by Late Sh. Krishna Ram Bali. Therefore, it is considered apposite to delve into this issue.

10. In the instant case, it is undisputed that the Subject Property was originally allotted to Late Sh. Krishna Ram Bali, through a perpetual Lease Deed duly registered on 09th March, 1970. Upon his demise, the property, as per his Will dated 15th December, 1997, bequeathed upon the Petitioner, his mother and his sister, Ms. Shashi Mohan. Subsequently, after the death of the Petitioner's mother, the property devolved by succession upon the Petitioner and his elder sister, Ms. Shashi Mohan, being Class I legal heirs of their parents. Thereafter, Ms. Shashi Mohan executed a Relinquishment Deed dated 15th February, 2006, registered with the Sub-Registrar, Janakpuri, relinquishing her share in the property in favour of the Petitioner. The said documents were also produced before the District Magistrate, who appropriately relied on them to ascertain the Petitioner's title over the Subject Property.

11. Additionally, the District Magistrate relied upon the Supreme Court judgement of *Uttam v. Saubhag Singh and Ors.*,¹² and observed that since the Subject Property was a self-acquired property of Late Mr. Krishna Ram Bali and not an ancestral property, Respondent No. 1 could not lay any claim over the same. Therefore, the District Magistrate correctly decided on the Petitioner's title over the Subject Property. While the Respondents have relied on a Will to claim that the Petitioner was debarred from the Subject Property, in the opinion of the Court, their claim of ownership based on an

¹² (2016) 4 SCC 68.



unregistered Will, that has not been established, cannot constitute the basis for rejection of the eviction proceedings. Be that as it may, as observed above, the Divisional Commissioner has not given any adverse findings regarding the lack of Petitioner's claim over the title.

12. In Paragraph No. 8 of the impugned order, the Divisional Commissioner has overruled the decision of the District Magistrate on account of lack of substantiation of the allegations of ill-treatment and accordingly, we shall now proceed to examine the same. On the issue of ill-treatment, the report under Rule 22(3)(iii) of the Senior Citizens Rules prepared by Sub-Divisional Magistrate, records that the Petitioner has been subjected to physical and mental torture by the Respondents, and is unable to bear the abuse and harassment meted out to him. While the Divisional Commissioner has disagreed with the findings of the District Magistrate, however, in the opinion of the Court, this conclusion has been derived without any cogent or reasonable ground. A perusal of the Petitioner's eviction application reveals that the Petitioner has made categorical and specific allegations of ill-treatment and harassment against the Respondents. The acrimonious relationship between the parties is further established from the fact that Respondent No. 2 has initiated domestic violence proceedings against the Petitioner, without making any averments against her husband, *i.e.*, Respondent No. 1, thereby, specifically targeting the Petitioner and her wife through the DV Complaint.

13. It must also be emphasized that ill-treatment comprises several acts, including mental agony, torture and harassment, and the Court cannot adopt a straightjacket formula to ascertain the averments made with respect to the same. Therefore, the determination as to the acts of ill-treatment has to be made in light of the specific facts and circumstances of every case. In the



instant case, the allegations levelled against the Respondents, the complaint filed under the DV Act, and the enquiry conducted by the Sub-Divisional Magistrate, adequately substantiate the Petitioner's claim of ill-treatment. In such circumstances, the allegations of ill-treatment, in the opinion of the Court, could not have been disregarded by the Divisional Commissioner merely on the basis of certain conjectures and surmises.

14. The Divisional Commissioner, in the impugned order, has also observed that the Petitioner has sold two floors of the Subject Property and received the consideration amount thereof. However, the said act of the Petitioner neither obviates his title, nor precludes his right to seek the Respondents' eviction from the property. While Respondent No. 1 has claimed to have contributed to the property, arguing that it is ancestral, the said claim remains unsubstantiated as the Petitioner has adequately established his interest in the property by way of succession. The Divisional Commissioner has accurately remarked that the claims with respect to the nature of the property can be resolved by a competent court, however, regardless of the nature of the property, the Petitioner is entitled to seek the eviction of the Respondents from the Subject Property. Furthermore, the CD relied upon by the Divisional Commissioner to demonstrate that the Respondents have been subjected to harassment, cannot be considered in isolation, to outweigh the findings of ill-treatment and harassment meted out to the Petitioner. Therefore, the aforesaid observations of the Divisional Commissioner do not take away the Petitioner's right to seek eviction under the Senior Citizens Act.

15. As regards the question of right of shared household of Respondent No. 2, the Divisional Commissioner, placing reliance on *S. Vanitha*, observed that the residential rights of Respondent No. 2 in shared



household/ matrimonial home must be taken into account. It is undisputed that the rights of parties under both the Senior Citizens Act and the DV Act must be interpreted harmoniously. Both Acts are designed to protect vulnerable groups—senior citizens and women—within the domestic sphere. However, this balancing of rights must ensure that neither group’s protection comes at the undue expense of the other, allowing for timely and effective relief for both senior citizens and women in need.

16. However, here reliance on *S. Vanitha* is misplaced. In that case, the daughter-in-law had estranged from her husband, and there were divorce proceedings ongoing between the wife and the husband. Further, the eviction application by the senior citizens was filed only after dowry proceedings were initiated by the daughter-in-law, suggesting that the eviction was retaliatory in nature. In contrast, in the present case, Respondent No. 2 is not estranged from her husband, nor are there any matrimonial disputes between them. This is evidenced by the fact that Respondent No. 2’s DV complaint contains no allegations against her husband. Here, the Petitioner has sought the eviction of both his son and daughter-in-law (Respondent No. 2) well before the initiation of domestic violence proceedings, indicating that the eviction was a legitimate attempt to restore peace in a household marked by internal family discord, not a retaliatory action targeting Respondent No. 2. These factual distinctions render the Divisional Commissioner’s reliance on *S. Vanitha* misplaced. The harmonious construction of the two statutes, as required by *S. Vanitha*, does not support the argument that a daughter-in-law can continue to reside indefinitely in her in-laws’ property, when she has the support of her husband and when the senior citizens are enduring harassment in their own home. The Petitioner’s ownership of the property, combined with the



evidence of ill-treatment, provides sufficient legal basis for seeking eviction under the Senior Citizens Act.

17. Additionally, the *ex-parte ad-interim* protection order dated 25th July, 2022, passed by the Metropolitan Magistrate, did not confer an indefinite right to residence for Respondent No. 2. It merely prevented dispossession without following due process. The initiation of eviction proceedings under the Senior Citizens Act constitutes “due process” as contemplated by the said order. Crucially, this interim protection was subsequently vacated by the Mahila Court on 1st April, 2023. Therefore, there was no impediment preventing the Divisional Commissioner from proceeding with the eviction. The Divisional Commissioner failed to take this crucial fact into consideration, which in the opinion of Court, significantly undermines the reasoning in the impugned order, and renders it unsustainable.

18. In conclusion, the title of the Subject Property by the Petitioner stands substantiated by the relevant documents produced and perused by the District Magistrate and verified by the Sub-Divisional Magistrate. It is also established that the Petitioner, a senior citizen, has been subjected to ill-treatment and harassment at the instance of the Respondents. In view of the same, the balance between the rights under the Senior Citizens Act and the DV Act, tilts in favour of the senior citizen, thereby entitling him to seek eviction of his son and daughter-in-law. The obligation to maintain Respondent No. 2, herein, falls upon her husband, *i.e.*, Respondent No. 1.

19. In view of the above, in the opinion of the Court, the Divisional Commissioner has committed an error in setting aside the decision of the District Magistrate. Accordingly, the following directions are passed:

- a. The present petition is allowed.
- b. The impugned order dated 1st May, 2023 passed by the Divisional



Commissioner is set aside

c. The order of the District Magistrate dated 10th November, 2022 is restored.

20. With the above directions, the present petition is disposed of, along with pending applications.

SANJEEV NARULA, J

OCTOBER 08, 2024/ab