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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8193/2022 & CM APPLs. 24758/2022, 33503/2022, 53408/2023, 53409/2023**

RUCHIKA JAIN & ANR.

.....Petitioners

Through: Ms. Meera Kaura Patel, Ms. Ritika Saini, Mr. Aditya Tripathi and Mr. Puru Pratap Singh, Advocates with Petitioner No. 1 (in-Person).

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Anuj Jain, Advocate for R-4 with Respondent No. 4 (in-Person).

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
04.09.2024

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1. Petitioner No. 1 is the daughter in law of the Respondents No. 2 and 3 who are senior citizens. Due to major disputes between the parties, Respondent No. 2 and 3 filed a petition seeking eviction of Petitioner No. 1 and Respondent No. 4 (*son of the senior citizens*) from the family property bearing no. 2972, IInd floor, Gali Lacchho wali, Ram Bazar, Mori Gate, Delhi-110006, under Rule 22(3) of the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016.

2. In the said proceedings, through the order dated 9th September, 2019, an eviction order was passed by the District Magistrate, directing the Petitioner to vacate the subject property within 30 days of receipt of the



order. Thereafter, Petitioner No. 1 challenged the order of the District Magistrate before the Appellate Authority of the Divisional Commissioner. The said appeal was rejected *vide* order dated 21st April, 2022¹, thereby confirming the eviction order. Aggrieved, the Petitioner No. 1 invoked this Court's jurisdiction under Article 226 of the Constitution of India, 1950, on behalf of herself and her minor daughter – i.e., Petitioner No. 2, seeking a stay on the impugned order and additionally seeking a direction to be issued to Respondent No. 4 (*husband of Petitioner No. 1 and father of Petitioner No. 2*) to provide alternate accommodation to the Petitioners in light of the fact that Petitioner No. 1 had also filed a case against him under the Protection of Women from Domestic Violence Act, 2005².

3. When proceedings in the present writ petition commenced, the Court on 2nd June, 2022 passed an interim direction to the following effect:

“Pursuant to the liberty granted by the Court in its order of 24 May 2022, the Court is apprised that on due enquiry, the petitioner has identified a flat in Manav Apartments, Bhagya Luxmi Apartments and Mayur Apartments. The rent of the aforesaid apartments is stated to be approximately Rs. 25,000/-. It is stated that in terms of the earlier order if the respondent husband were to partly bear the burden of rent and contribute towards that expenditure, the petitioner would be ready and willing to vacate the premises which form subject matter of dispute in the present writ petition.

Learned counsel for the respondent husband has submitted that without prejudice to his rights and contentions in the proceedings pending under the Protection of Women from Domestic Violence Act and the challenges raised to the fixation of maintenance, he shall transfer Rs. 14,000/- per month to the petitioner to enable her to partly meet the expenditure towards rent. The statement so made is recorded and accepted.

Subject to the respondent husband remitting rental for two

¹ “Impugned order”

² ‘the DV Act’



months initially, the petitioner shall vacate the premises in question within a period of three weeks from the date of receipt of the aforesaid sum. Upon vacation, all keys to the premises shall be handed over to the parents by the petitioner. The petitioner shall place on the record copies of the rental agreement which may be executed or entered. Additionally, an account of the rent that shall be paid will also be placed before the Court.

The interim orders operating on the present writ petition shall continue till the respondent husband effects deposit of the monies in terms of the directions issued hereinabove and for the period of three weeks during which the petitioner is to vacate the premises in question.

In case either of the parties fail to comply with the directions aforesaid, liberty is accorded to the aggrieved party to approach this Court for appropriate directions.

List again on 23.11.2022.”

4. In terms of the said directions, Respondent No. 4 started making the payment of Rs. 14,000/- to Petitioner No. 1. However, in a subsequent order dated 19th December, 2022, this Court noted the contention of counsel for Respondents that the writ petition had been rendered infructuous since the Petitioners had already shifted to an alternate accommodation and as directed by this Court, Respondent No. 4 has been making the payment. The said order reads as follows:

“1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner/Wife and her minor daughter challenging the order dated 21st April, 2022 passed by the Divisional Commissioner in the case bearing No.PA/Div. Comm./Appeal No. 170/2019/954-957. By the impugned order, the Petitioner No.1, along with Petitioner No.1 i.e., her minor daughter, has been directed to handover the peaceful vacant possession of the subject property to the Respondent No.2 and 3 herein i.e., the father-in-law and mother-in-law.

3. The prayer in the present petition reads as under:

“i. Stay the operation of impugned order dated 21.04.2022 passed by Ld.



Divisional Commissioner in the case bearing no. PA/Div. Comm./Appeal No. 170/2019/954-957 titled as “ Smt. Ruchika Jain Vs. Sh. Samat Prasad Jain & Ors.”

thereby directing the Respondents to not to evict the Petitioner;

ii. Direct the Respondent No. 4 to provide alternate accommodation to the Petitioner No.1 and her minor daughter/Petitioner No.2 aged 10 years approx;”

4. *Ld. Counsel for the Respondents submits that these writ petitions have been rendered infructuous as the Petitioner has already shifted to the alternate accommodation. It is further submitted that a part of the rent in respect of the said alternate accommodation, as directed by the Court in this petition, is also being paid by the husband of the Petitioner.*

5. *Ld. Counsel for the Petitioners to obtain instructions in this regard, by the next date.*

6. *List on 24th July, 2023.”*

5. Subsequently, the parties were referred to mediation, however there was no resolution.

6. In the meantime, the proceedings before the Mahila Court in the petition filed by the Petitioner No. 1 under the DV Act progressed and the Mahila Court has passed an order dated 20th April, 2024 to the following effect:

“12. In the case at hand, both the parties are well placed and earning handsomely in view of their respective admissions as well as the complainant in her income affidavit has also admitted that full concession to the child for the school / tuition expenses, however, the child is currently is in the custody of complainant, therefore, the court finds submission in the arguments of the counsel of respondent no.1 that child is the joint responsibility of both the parents, thus being an able bodied person and the fact that the obligation of the husband to provide maintenance stands on a higher pedestal than the wife, he is liable to maintain the minor child. In light of the aforesaid circumstances and the order of Hon'ble High Court of Delhi dated 26.09.2023 in CrL. Rev. Pettiion 267/21, CrLMA No.13834/21 (Stay), CrLMA No.4058/22 and



CrLMA No.323/23 and having regard to the status of the parties and their responsibilities, the income of R-1 shall be assessed as per his admitted salary of Rs.1,17,000/- per month (net pay), **I hereby award maintenance in the total sum of Rs.7,000/- per month inclusive of food, clothing and other miscellaneous expenses in the favour of minor child only** against respondent no.1 from the date of filing of the petition till January 2021, considering the expenses of the child to be approximately Rs.15,000/- per month as complainant in her income affidavit dated 20.09.2019 has mentioned the expenditure on the dependent child Rs.10,500/- whereas in the income affidavit dated 04.01.2021, she has mentioned the expenditure on the minor child to be Rs.24,400/- per month which also includes the expenditure towards gas, telephone, electricity, donations, litigation expenses, religious contribution etc which the undersigned is unable to understand as to how the minor child can contribute towards religious activities, donation etc. Further, the complainant has failed to furnish any record in the form of documentary proof qua the said expenditure. **Respondent no.1 further directed to pay a sum of Rs.14,000/- per month considering the rate of inflation and the growing needs of the child from February 2021 till the disposal of the petition with an increment of 05% (five percent) per annum.** He is legally entitled to it to be deposited in the account of complainant by the 10th day of each English Calendar month. Arrears be cleared within six months from today. Payment made voluntarily earlier if any in this case or in any other case towards maintenance shall be adjusted.

13. Other reliefs sought in the interim application i.e. **direction to the respondent not to dispose off the stridhan articles / joint locker, movable and immovable properties etc are declined at this stage** as the same shall be decided after the appreciation of evidence at the end of trial as the burden is upon the petitioner to prove the stridhan articles, lockers etc for which she is seeking relief by leading evidence as the petitioner has only filed the list of articles which can not taken as a proof that respondent is possessing the said articles being the disputed question of fact and law. Further, the eviction order has already been passed against the petitioner by maintenance tribunal in the proceedings of Maintenance and Welfare of Parents and Senior Citizen Act, 2007.

14. **No interim maintenance is granted in the favour of the complainant considering her life style** as the purpose of interim maintenance is to prevent vagrancy which in the present case is not the situation in view of the admitted salary of the complainant in her income affidavit. Also, she is receiving HRA as one of the component in her salary of Rs.12,480/- per month approximately which is reflected in her salary slip placed in August 2019 and October 2020 which must have been enhanced, therefore, the argument of the counsel for the respondent no.1



hold water and considering the decision in the authority of Smt. Ranjana Gupta (supra), no amount towards rent is being awarded as complainant is sufficiently capable to arrange separate accommodation till the disposal of the petition. Therefore, this relief is also declined. The relief sought towards ad-interim maintenance is infructuous now as present order is qua the relief of interim maintenance sought by the petitioner.

15. *Nothing stated herein above shall tantamount as any expression of opinion upon the merits of the case. The amount paid towards maintenance in other proceedings shall stand adjusted.*

16. *To come up before the Court for complainant's evidence on 12.07.2024. Complainant is directed to supply advance copy of affidavit of the complainant witnesses to the counsel of the other side under acknowledgment at least 5 days prior to the next date of hearing. It be impressed that only three opportunities shall be given for leading the evidence. Copy of this order be given dasti, as prayed."*

[Emphasis added]

7. In light of the above directions, Respondent No. 4 herein (husband of Petitioner No. 1) had been directed to pay Rs. 14,000/- per month from February, 2021 till the disposal of the petition with the increment of 0.5% per annum. The counsel for Respondent No. 4 states that an amount of Rs. 14,000/- per month has been duly paid upto July, 2024.

8. Irrespective, Ms. Ruchika Jain, Petitioner No. 1 in person, states that she has assailed the aforementioned order of the Mahila Court before the Sessions Court.

9. Be that as it may, the subject property in question for which the Petitioner No. 1 had assailed the order of eviction, today stands vacated and the possession thereof has been handed over to the senior citizens.

10. Therefore, in light of the above development, no further directions are required to be passed in the present writ petition as the same has been rendered infructuous. At this juncture, it must be nonetheless be noted that subsequent to the order of this Court dated 2nd June, 2024, the Mahila Court



through an order dated 20th April, 2024, has already passed appropriate directions to Respondent No. 4 to make the payments to Petitioner No. 1 towards maintenance and declined to grant any amount towards partial rent payments, as is evident from Paragraph No. 14 of the order dated 20th April, 2024.

11. It is however made clear that the Petitioners shall be free to urge all their grievances before the Appellate Court with respect to any increase in the maintenance amount or for the payments towards the rent, if the same are payable in accordance with law. It is also made clear that the Court has not made any observations on the merits of the case and all rights and contentions of the parties are left open.

12. Accordingly, the present writ petition is disposed of, along with pending application(s).

SANJEEV NARULA, J

SEPTEMBER 4, 2024

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