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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 338/2024 & CM APPL. 24424-24425/2024**

RAZIA BEGUM

..... Appellant

Through: Mr. Asad Iqbal, Advocate

versus

**THE APPELLATE COURT OF DIVISIONAL COMMISSIONER
AND ORS**

..... Respondent

Through: None

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Date of Decision: 30th April, 2024.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

CM APPL. 24425/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

LPA 338/2024 & CM APPL. 24424/2024

1. The present Letters Patent Appeal has been filed under Clause X of the Letters Patent of the then High Court of Judicature at Lahore, which stands extended to the High Court of Delhi, challenging the impugned judgment dated 19th February, 2024, passed by the learned Single Judge in W.P.(C) 7611/2022, disposing of the said writ petition with directions to the Respondent Nos. 3 and 4 herein, to pay an amount of Rs. 10,000/- each per month i.e., a total sum of Rs. 20,000/-, towards maintenance, to the Appellant herein.

2. The Appellant herein had initially filed an application under Rule 22



(3) (1) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules (Amendment) Rules, 2016 ('Rules, 2016') seeking eviction of Respondent Nos. 3 to 5 herein, from the property bearing No. A-99/2, Shaheen Bagh, Abul Fazal Enclave Part-II, Jamia Nagar, New Delhi – 110025, which consists of the basement plus four upper floors, having two flats each ('subject property').

3. Respondent No.3 is the grandson of the Appellant and is living in one of the flats, on first floor of the subject property. He is the son of Mohd. Khalid Jirjis.

4. Respondent No.4 is the widowed daughter-in-law of the Appellant. She was married to Mohd. Tarique Jirjis and has possession of a flat on the fourth floor of the subject property.

5. Respondent No.5 is the builder, who constructed the existing building on the subject property in collaboration with the Appellant i.e., the owner of the land.

6. Learned counsel for the Appellant states that the learned Single Judge vide his impugned judgment dated 19th February, 2024, has permitted Respondent Nos. 3 and 4 to continue to occupy the flats in the subject property and has only directed payment of maintenance. He states that however, the Appellant is seeking eviction of Respondent Nos. 3 and 4 from the building and she wishes to reside in the flat located on the first floor of the subject property. He states that the basement is in an unliveable condition. He admits that the Appellant's younger son i.e., S.M. Ghazalee Jirjis, is instructing him along with the Appellant in the prosecution of the appeal.

7. We have heard the learned counsel for the Appellant and perused the



appeal.

8. The Appellant has stated in this appeal that she permitted Respondent Nos. 3 and 4 to occupy the flats in the newly constructed building on the assurance that they would give maintenance to the Appellant. It is stated that however, she has now been relegated to living in the basement of the building, which is inhabitable and she is not being paid the maintenance by Respondent Nos. 3 and 4.

9. The learned Single Judge by the impugned judgment has directed both Respondent Nos. 3 and 4 to pay Rs. 10,000/- each, per month, to the Appellant so as to ensure that she receives a payment of Rs. 20,000/- per month. The said direction was challenged by Respondent No. 3 herein in LPA No. 288/2024 and the same has been dismissed by this Court vide order dated 9th April, 2024. Thus, the direction to Respondent Nos. 3 and 4 to make payment of Rs. 20,000/- per month has attained finality.

10. The said direction for payment of maintenance issued by the learned Single Judge is in consonance with the facts pleaded by the Appellant in this appeal. The occupation of the flats by Respondent Nos. 3 and 4 with the permission of the Appellant is also admitted in this appeal.

11. The Local Commissioner's report¹ dated 9th February, 2023, records that the Appellant is, in fact, not living in the suit property and is residing separately with her daughter in some other property. As per the report, it is the younger son, S.M. Ghazalee Jirjis, who is residing in the basement and has control of the flats on the ground floor. In the LPA 288/2024 filed by Respondent No. 3, it has been contended that the present proceedings have

¹Filed in W.P.(C) 7611/2022



been initiated at the behest of S.M. Ghazalee Jirjis.

12. The Local Commissioner's report shows that the basement and flats on the ground floor are in occupation of S.M. Ghazalee Jirjis, the younger son, with whom the Appellant has a cordial relationship. One flat on the first floor is with Respondent No. 3 and one flat on the fourth floor is with Respondent No. 4; and both Respondent Nos. 3 and 4 have been directed to pay maintenance of 10,000/- each. In fact, Respondent No. 3 has relied upon the collaboration agreement dated 17th February, 2015 which contains an addendum as per which flats on each floor were divided amongst all the children of the Appellant herein and Respondent Nos. 3 and 4 are occupying the flats as per the said addendum.

13. In the overall conspectus of the facts, the directions issued by the learned Single Judge to Respondent Nos. 3 and 4 to pay maintenance appears just and reasonable in the facts of this case. In fact, if the Respondent Nos. 3 and 4 fail to make the payment of maintenance as directed in the impugned judgement, the Appellant will be at liberty to then seek eviction of Respondent Nos. 3 and 4 as per Rule 22 (3) (1) of Rules, 2016.

14. In view of the aforesaid, we find no ground for interference in the present appeal. Accordingly, the present appeal stands dismissed along with pending applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 30, 2024/hp/aa