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

+ LPA 552/2024 & C.M.No.37480/2024

SUDESH CHHIKARA

.....Appellant

Through: Mr.Jaipal Singh, Advocate.

versus

DISTRICT MAGISTRATE (WEST) DELHI AND ANR

.....Respondents

Through: Mr.Prashant Manchanda, ASC,
GNCTD with Mr.Mayank Kamra,
Advocate for R-1.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **08.07.2024**

1. Present appeal has been filed by the appellant challenging the order dated 6th May, 2024 passed by the learned Single Judge of this Court in WP(C) No.1700/2024 whereby the writ petition filed by the appellant was dismissed.
2. Learned counsel for the appellant states that the learned Single Judge failed to appreciate that the appellant is protected under Section 17(2) of the Protection of Women from Domestic Violence Act, 2005 and cannot be evicted or excluded therefrom except by way of procedure established by law.
3. He states that the learned Single Judge has not appreciated that the subject property is a shared household of the appellant and the appellant has



already filed an application under Section 12 of the Domestic Violence Act, 2005 which is pending adjudication before the M.M.Mahila Court-02, West Delhi.

4. Having heard learned counsel for the appellant, this Court is of the view that the issues raised in the present appeal are disputed questions of fact. This Court is of the opinion that the issue whether the appellant is entitled to protection under the Protection of Women from Domestic Violence Act, 2005 and whether the dispute regarding the title of the subject property is a sham or genuine one, will require an inquiry into facts by the Sub-Divisional Magistrate (SDM).

5. Consequently, the present appeal along with the application is disposed of with liberty to the appellant to urge all her contentions and submissions before the SDM. It is pertinent to mention that learned counsel for respondent no.1 has no objection to the aforesaid liberty. It is clarified that the rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 8, 2024
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