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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10683/2024 & CM APPL. 43925/2024**
PRIYANKA KUMARIPetitioner

Through: Mr. Rohit Singh, Ms. Aryushi Singh
and Mr. Ashish Rohhilla, Advocates.

versus

DISTRICT MAGISTRATE SOUTH WEST DISTRICT & ORS.

.....Respondents

Through: Mr. Anuj Aggarwal, Mr. Pavan K.
Aggarwal, Mrs. Manika V. Aggarwal,
Mr. Shashank Goel and Ms. Arshya
Singh, Advocates for R-1 to 3.
Mr. Y.P. Singh and Mr. Harsh
Vardhan Singh, Advocates for R-4
with Respondent No. 4 (in-Person).
Mr. Rishabh Anand, Advocate for R-
5.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
02.08.2024

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1. The Petitioners are facing eviction from the property bearing No. A-31, 2nd Floor, Sector-08, Dwarka, New Delhi-110077 pursuant to order passed by the District Magistrate on an application filed by Respondent No. 4 under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and rules framed thereunder. On 31st July, 2024, the Petitioners exercised their right of appeal before the Divisional Commissioner as provided under the Delhi Maintenance and Welfare of Parents and Senior



Citizen (Amendment) Rules, 2016. However, on account of vacancy in the position of Divisional Commissioner, their appeal has not been taken up for hearing. This vacancy, thus, impedes the Petitioner from seeking a timely relief against the eviction order, thereby affecting their rights.

2. In light of the ongoing delay in hearing of their appeal due to the vacancy in the office of the Divisional Commissioner, the Petitioners have approached this Court seeking stay on the enforcement of the eviction order dated 02nd July, 2024, until the vacancy of the post of Divisional Commissioner is filled. It is also pointed out that through order dated 01st December, 2023, passed by the Mahila Court, Dwarka, Respondent No. 4 was restrained from evicting the Petitioner.

3. In light of the circumstances noted above, the Court is particularly mindful of the consequences that may arise from enforcing the eviction order while the Petitioner's appeal remains unheard. The potential for irreparable harm to the Petitioner, should they be evicted unjustly, underscores the need for a cautious approach. Given that the Petitioner has not had an effective opportunity to contest the eviction due to administrative delays in hearing the appeal, the Court finds it appropriate to intervene temporarily to maintain the status quo and prevent potential injustice.

4. Accordingly, it is directed that the enforcement of the eviction order dated 02nd July, 2024, shall be suspended. The Petitioner is directed to file an application seeking interim relief, if not already filed. This suspension will remain in effect until the Divisional Commissioner assumes office and considers the Petitioner's application for interim relief, if. This measure is only intended to ensure that the Petitioner is not deprived of their property without due process, thereby safeguarding their rights pending the outcome



of the appeal.

5. The Divisional Commissioner shall first decide the said interim application after hearing the parties, and thereafter proceed to adjudicate the appeal on its merits. The Divisional Commissioner is directed to expeditiously decide the appeal preferred by the Petitioner.

6. The petition is disposed of in the above terms. It is clarified that the Court has not examined the merits of the case and no opinion has been expressed thereon.

7. All rights and contentions of the parties are left open and the Divisional Commissioner shall adjudicate the appeal on its own merits, in accordance with law.

SANJEEV NARULA, J

AUGUST 2, 2024
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