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

+ **W.P.(C) 1352/2020 & CM APPL. 4729/2020**

MAMTA @ ANITA

..... Petitioner

Through: Ms. Arati Mahajan Shedha, Advocate
versus

SH. LAXMI NARAYAN AND ORS.

..... Respondents

Through: Mr. Vivek Vidyarthi, Ms. Sarvagya
Vidyarthi, Ms. Suvigya Vidyarthi,
Ms. Prabhleen Kaur Gill and
Mr. Shivam Bajpai, Advocates for
R-2
Mr. Abhinav Singh and Mr. Praveen
Kumar Kaushik, Advocate for R-3

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

20.05.2024

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1. The respondents no. 1 and 2 (since respondent no.1 has already expired) filed an application in the office of the District Magistrate, North East vide diary bearing no. 4672 dated 17.10.2018 for invoking the jurisdiction under the relevant provisions of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules (Amendment) Rules, 2017 read with provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
2. The respondents no. 1 and 2 prayed for eviction of the petitioner from the property bearing House no. 91-B, Gali No.-04, Rama Garden, Karawal Nagar, New Delhi-110094.
3. The District Magistrate, North East, vide the impugned order dated 23.08.2019 in exercise of the powers conferred under the Delhi Maintenance



and Welfare of Parents and Senior Citizens Rules (Amendment) Rules, 2017 has directed the petitioner along with her minor kids to vacate the property in question bearing House no. 91-B, Gali No.-04, Rama Garden, Karawal Nagar, New Delhi-110094 and handover the vacant and peaceful possession to the respondents no. 1 and 2 within 30 days from the date of the impugned order. Being aggrieved, the petitioner filed the present petition.

4. Ms. Arati Mahajan Shedha, Advocate for the petitioner argued that the impugned order passed by the District Magistrate, North East was without any jurisdiction and as such the present writ petition is maintainable.

5. Mr. Vivek Vidyarthi, Advocate for the respondents no. 1 and 2 stated that the present writ petition is not maintainable as an alternate and appropriate remedy is available for the petitioner to file an appeal as per section 16 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

6. Section 15 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 deals with the Constitution of the Appellate tribunal and section 16 of the Act deals with the appeal which provides that any senior citizen or a parent aggrieved by the order of the tribunal may within 60 days from the date of the order prefer an appeal to the Appellate tribunal in accordance with the procedure as laid down under section 16 itself.

7. The Appellate tribunal as constituted under section 15 provides for appeal as per section 16 of the Act as an alternate and efficacious remedy which is available to the petitioner.

8. The counsel for the petitioner in fairness stated that she be allowed to withdraw the present petition with the liberty to file an appeal before the appellate tribunal as per section 16 of the Act but till the disposal of the



appeal, the interim protection granted by this Court vide order dated 05.02.2020 be kept in operation.

9. Accordingly, the present petition on instructions of the petitioner is allowed to be dismissed as withdrawn with the liberty to the petitioner to file appropriate appeal before the Appellate tribunal as per section 16 of the abovementioned Act in accordance with law but not later than 45 days from today and thereafter the Appellate tribunal is directed to decide the appeal within 03 months in accordance with law.

10. The petitioner shall also be entitled to claim the benefit under section 14 of the Indian Limitation Act, 1963.

11. It is also made clear that the interim order granted to the petitioner vide order dated 05.02.2022 shall remain enforced till the disposal of the appeal by the appellate authority.

DR. SUDHIR KUMAR JAIN, J

MAY 20, 2024

Sk/ak