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

Date of Decision: 6th September, 2024

+ W.P.(C) 12507/2024 & CAV 438/2024, CM APPLs. 51953-51954/2024

NEELAM AHUJA

.....Petitioner

Through: Mr. Sugam Puri, Advocate with
Petitioner (in-Person).

versus

RAJ AHUJA & ORS.

.....Respondents

Through: Mr. Sandeep Sharma, Mr. Hunny
Veer Singh, Mr. Maine Ahuja, Mr.
U.S. Gautam and Mr. Ankit
Parindiyal, Advocates for R-1.
Ms. Mehak Nakra, ASC for R-2 to 4.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner, a widowed daughter-in-law of Respondent No. 1, has filed the present writ petition, assailing the order dated 21st August, 2024, passed by District Magistrate (West), GNCT of Delhi in Case no. 880/DCW/2023 titled *Smt. Raj Ahuja v. Smt. Neelam Ahuja*.¹ The Impugned Order has allowed the eviction application filed by Respondent No.1 under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.² As a result, Petitioner and her minor son have

¹ "Impugned Order"

² "Senior Citizens Act"



been directed to vacate GH-1/93, MIG Flats, Archana Apartments, Paschim Vihar, Delhi.³

2. The Petitioner has the statutory remedy of filing an appeal against the Impugned Order. However, the appellate authority, i.e., the Divisional Commissioner, is currently vacant, resulting in the indefinite adjournment of appeal proceedings due to the absence of a presiding officer. Ms. Mehak Nakra, ASC for Respondent Nos. 2 to 4, has been unable to provide any explanation for the delay in making this appointment, despite repeated court directions underscoring the necessity of such an appointment to ensure that parties aggrieved by orders of the District Magistrate, have access to an appellate remedy. However, considering the urgency expressed, and given the lack of any alternative remedy available to the Petitioner, this Court has deemed it appropriate to entertain the present writ petition.

Petitioner's case

3. Mr. Sugam Puri, Counsel for the Petitioner, contends that the Petitioner's grievance stems from the death of her husband and her subsequent eviction from the Subject Property. Mr. Puri presents the following facts leading to the initiation of the present proceedings:

3.1 The Petitioner got married to Late Sh. Manish Ahuja, son of Respondent No. 1, in 2006, and commenced residing in the Subject Property in October 2010. The Subject Property is her matrimonial home, where she lived with her husband and minor son, and it constitutes a shared household within the meaning of the Protection of Women from Domestic Violence Act, 2005.⁴

³ "Subject Property"

⁴ "PWDV Act"



3.2 Respondent No. 1 had gifted the Subject Property to her and her husband, by way of an oral Family Settlement Deed dated 23rd July, 2021.⁵

3.3 After the death of her husband on 20th January, 2023, Respondent No. 1 began to harass the Petitioner and attempted to forcibly evict her from the Subject Property, effectively reneging on the terms and conditions of the Family Settlement Deed.

3.4 Due to this continuous harassment and abuse, the Petitioner, fearing for her safety and the well-being of her son, lodged a complaint with the Crime Against Women Cell on 17th March, 2023. Subsequently, she filed a complaint under the PWDV Act on 27th March, 2023, resulting in the Mahila Court passing a residence order in her favour under Section 19 of the PWDV Act. The order dated 23rd August, 2024, states as follows:

“MC 229/2023
NEELAM AHUJA Vs. RAJ AHUJA
PS Paschim Villar West

23.08.2024

*Present: Sh. Sugam Puri, Ld. Counsel for petitioner alongwith petitioner.
Sh. Mohit Batra, Ld. Counsel for respondents alongwith respondent no.3.*

An application has been filed on behalf of respondents to stay the proceedings in the present matter as certified copy of eviction order passed by DM dated 21.08.2024 has been placed on record.

Per contra L.d. Counsel for petitioner submits that these two are different proceedings and passing an order in one of the proceedings does not legally warrant the stay in the other proceedings. It is further submitted that both the proceedings are under special provisions and stand on different footings.

Arguments on application U/s 19 of DV Act 2005 heard on behalf of both the parties.

Put up for orders at 4.00pm.

⁵ “Family Settlement Deed”



At 4.00pm

Present: Sh. Sugam Purl, Ld. Counsel for petitioner alongwith petitioner.
None for respondent.

Firstly it is important to mention here that neither any reply nor any written statement has been filed on behalf of respondents despite being directed to do so vide order dated 05.06.2023 and then again on 10.05.2024.

It is submitted on behalf of petitioner that petitioner alongwith her minor son has been staying at GH-1/93, Archana Apartments, Ground Floor, Paschim Vihar, New Delhi – 110063 since October 2010 and that respondents are trying to dispossess her from the said address, which is her matrimonial home and has stayed with her husband till he expired in January 2023, with mala fide intention. It is further submitted that petitioner has no other alternative accommodation and that if she is not granted residence order she and her minor son would be left homeless.

Per contra, Ld. Counsel for respondent has submitted that petitioner has other properties in her name and is also getting rent from one of the property and hence she is not entitled to get any relief U/s 19 of DV Act. Further it is submitted that the said property is in the name of respondent no.1 and she needs the same for maintaining herself. Further the said property is stated to have been given to the husband (since deceased) i.e. Son of respondent no.1 and 2 to reside there alongwith is wife (petitioner herein) and their child subject to a condition that the son of respondent no.1 was paying a sum of Rs. 30,000/- to respondent no.1 as a license fee. It is further submitted on behalf of the respondents that they are not disputing the fact that the petitioner and her son are residing at the given address since October 2010, however, it has been said that the same cannot be considered to be the matrimonial house of the petitioner.

Heard. Perused.

Death certificate of husband of petitioner, adhaar card of the petitioner and the adhaar card of her son corroborates the fact that petitioner and her son alongwith her husband i.e. since deceased have been living at the given address. The contentions taken by respondents are a matter of trial and prima facie in the considered opinion of this court petitioner and her son are granted the residence orders under Section 19 of DV Act qua property bearing no.GH-1/93, Archana Apartments, Ground Floor, Pachim Vihar, New Delhi – 110063.

Application is disposed off accordingly.

Petitioner is directed to file list of witnesses and affidavit in evidence before the NDOH with an advance copy to Ld. Counsel for respondents.

To come up for CE on 19.11.2024.



At request copy of the order be given to both the parties.”

[Emphasis Supplied]

4. In light of the foregoing factual background, Mr. Puri makes the following submissions:

4.1 The eviction application filed by Respondent No. 1 is a retaliatory measure against the complaints lodged by the Petitioner and is intended to render her homeless. Notably, Respondent No. 1 has already initiated a suit before the Civil Court of the ADJ, seeking similar relief for the Petitioner’s eviction from the Subject Property. In that suit, the ADJ granted an *ex-parte* injunction in favour of Respondent No. 1, restraining the Petitioner from parting with the possession of the Subject Property.

4.2 The Mahila Court and the Civil Court of the ADJ have the sole jurisdiction to decide on the Petitioner’s right to residence. The District Magistrate has acted without jurisdiction, in disposing the eviction petition, by adopting a summary procedure.

4.3 The Impugned Order is arbitrary and unreasonable, and in disregard to the letter and spirit of the law laid down in *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District and Others*,⁶ whereby the Supreme Court highlighted that the Senior Citizens Act cannot over-ride and nullify a woman’s right to a “shared household” under Section 17 of the PWDV Act. The District Magistrate, while deciding the application for eviction, ought to have weighed the Petitioner’s rights to residence and shared household, as also acknowledged by the Mahila Court in the proceedings under the PWDV Act. As a result of the District Magistrate’s direction of eviction, the Petitioner, who is a widow, is not left with any other place to go, along with her minor son.



Respondent's case

5. *Per contra*, Mr. Sandeep Sharma, Counsel for Respondent No. 1, has made the following submissions:

5.1 Respondent No. 1 is the absolute owner of the Subject Property, having acquired it through an Agreement to Sell and a Conveyance Deed dated 16th May, 2016. As such, she possesses the undisputed right to seek eviction of the Petitioner.

5.2 Petitioner has sufficient alternate accommodation, a fact duly noted by the District Magistrate in the Impugned Order. Thus, the Petitioner's claim of homelessness is without merit.

5.3 The District Magistrate has carefully balanced the rights of the Petitioner and Respondent No. 1, a senior citizen, in accordance with the principles laid down in the judgment of the Supreme Court in *S. Vanitha (supra)*. Therefore, the Impugned Order does not suffer from any infirmity and hence, does not call for interference.

Analysis and Findings

6. The Court has considered the contentions of the parties, as well as perused the Impugned order. The case highlights a lingering issue of competing claims of the Petitioner's right to residence and shared household under Section 17 of the PWDV Act, and the right of eviction of the senior citizens under Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2016.⁷

7. In the present case, the Court has to consider whether the Petitioner's

⁶ (2021) 15 SCC 730.

⁷ "Senior Citizens Rules"



right to residence has been adequately considered and dealt with, against Respondent No. 1's right to seek eviction under the Senior Citizens Act. The Senior Citizens Act, 2007, along with the Rules framed thereunder, seeks to protect the interests of senior citizens through procedures that ensure their right to live with dignity. The primary objective of the Act is to ensure the maintenance and welfare of senior citizens, as reflected in its provisions. It is a well-established principle that when interpreting a statute, courts must consider the legislative intent and the objectives for which the statute was enacted.

8. The Supreme Court, in *S. Vanitha (supra)*, emphasized the need for a harmonious construction of the Senior Citizens Act and the PWDV Act. This approach aims to balance the rights of both senior citizens and women within domestic spheres, ensuring that both protected groups receive timely and effective relief. Further, reaffirming this position, the Apex Court, in *Satish Chander Ahuja v. Sneha Ahuja*,⁸ highlighted that the right to residence of the daughter-in-law is not an indefeasible right, and needs to be balanced against the rights of other interested parties, especially when the daughter-in-law's claims are pitted against aged father-in-law and mother-in-law. Guided by the aforesaid judicial precedents, this Court in *Santosh Tyagi v. State (NCT of Delhi)*,⁹ had employed harmonious interpretation of the Senior Citizens Act and the PWDV Act in reconciling the competing claims of the interested parties.

9. Regarding the claims and disputes of ownership of the Subject Property, the framework of the Senior Citizens Act does not vest jurisdiction on the forums constituted under the statute to adjudicate questions of title.

⁸ (2021) 1 SCC 414.

⁹ 2024 SCC OnLine Del 5947.



Although the Petitioner contends that the Subject Property was gifted to her and her husband through the Family Settlement Deed, this claim is not supported by any documentary evidence, as noted in the Impugned Order. On the other hand, Respondent No. 1's ownership has been established by way of a Registered Conveyance Deed dated 16th May, 2016. The said position is also reflected in the SDM Report dated 7th June 2023, whereby Respondent No. 1 has confirmed that the Subject Property was registered in her name. Consequently, for the purposes of the proceedings under the Senior Citizens Act, Respondent No. 1's claim of ownership stands sufficiently substantiated.

10. It is pertinent to note that the Petitioner's husband, who was the son of Respondent No. 1, passed away in 2023. The Petitioner's claims of harassment by Respondent No. 1 surfaced only after this bereavement. Respondent No. 1 has alleged mistreatment and harassment by the Petitioner following her husband's death. While it is conceivable that the grief and emotional upheaval resulting from the loss of a family member might have led to heightened tensions and conflicts between the parties, the Court must focus on the legal and statutory framework that governs the present dispute.

11. Rule 22(3)(1) of the Senior Citizens Rules establishes a detailed framework for the eviction of a person from a senior citizen's property in Delhi. Sub-rule (iv) empowers the authority to initiate summary proceedings and conduct inquiries to determine whether eviction is justified, particularly in cases where a senior citizen alleges non-maintenance or ill-treatment by their offspring or their surviving family members. In the present case, Respondent No. 1, as the owner of the Subject Property, is within her rights to seek eviction of the Petitioner under Rule 22(3)(1), given her claims of harassment and ill-treatment. These claims of ill-treatment stand proved in



light of the field enquiry recorded in the SDM Report dated 7th June, 2023, a fact duly acknowledged in the Impugned Order.

12. Moreover, the undisputed fact remains that Respondent No. 1 is the lawful owner of the Subject Property, and the Petitioner has no independent legal claim or proprietary right over the property, except for her assertion of residence rights as a widow. While the Petitioner places reliance on the residence order passed by the Mahila Court, it is imperative to note that this order does not obliterate the right of eviction in view of the fact that due process under Rule 22 of the Senior Citizens Rules had been followed. Further, the mere fact that the Petitioner was living in the Subject Property with her late husband does not override the statutory rights provided to Respondent No. 1 under the Senior Citizens Act. The Act clearly prioritizes the welfare and protection of senior citizens, ensuring that they can live free from harassment and undue stress, even if it means evicting a family member.

13. Therefore, in the absence of a valid and enforceable legal claim over the Subject Property by the Petitioner, Respondent No. 1 is entitled to seek eviction, provided the Petitioner is granted reasonable alternate accommodation to safeguard her right to residence.¹⁰

14. Perusal of Paragraph 16 of the Impugned Order reveals that the Petitioner is in possession of six properties, which include residential premises. Counsel for the Petitioner asserts that these properties were acquired by her between 2010 and 2012, during the subsistence of her marriage. Although it is contended that these properties are not in a habitable condition and that they are self-acquired assets, subject to a

¹⁰ Vinay Varma v. Kanika Pasricha, 2019 SCC OnLine Del 11530.



pending partition suit, the key fact remains that Petitioner has access to multiple properties, regardless of the ongoing disputes or the condition of the properties. Furthermore, the existence of a pending partition suit does not diminish the legal recognition that these properties, at least in the interim, provide her with a viable alternative to the Subject Property. Therefore, the Petitioner's right to residence, which she seeks to enforce under the PWDV Act, has been reasonably safeguarded by the existence of these alternative properties.

Conclusion

15. In light of these circumstances, the Court finds that the Petitioner's claim of being rendered homeless is unsubstantiated. The availability of multiple properties negates the contention that she is devoid of a reasonable place to reside. Consequently, the Petitioner's right to a residence has been adequately addressed, and her eviction from the Subject Property, as sought by Respondent No. 1, does not infringe upon her right to shelter or security, which is in line with both the Senior Citizens Act and principles of harmonious construction laid down in *S. Vanitha (supra)*.

16. In light of the foregoing, the Court is of the opinion that the Impugned Order has adequately balanced between the residential rights of the Petitioner and the right of eviction of Respondent No. 1, a senior citizen.

17. In view of the above, the Court finds no infirmity in the Impugned Order and accordingly, the instant petition is dismissed.

SANJEEV NARULA, J

SEPTEMBER 6, 2024/as