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

+ **W.P.(C) 13186/2024**

SHAILENDRA KUMAR JAIN

.....Petitioner

Through: Mr. Raj Kumar, Ms. Chanchal
Sharma, Mr. Ankit Sharma,
Advocates with Petitioner in person

versus

THE STATE GOVT OF NCT OF DELHI & ORS.Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **19.09.2024**

CM APPL. 55070/2024 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

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4. The Petitioner, a senior citizen, filed eviction applications dated 8th October, 2021 and 25th January, 2023, under the Delhi Maintenance and Welfare of Parents and Senior Citizens Act, 2007¹ and the Rules framed thereunder.² Through these applications, the Petitioner sought the eviction of his spouse (Respondent No. 2), his sons (Respondents No. 3 and 4), and his

¹ "Senior Citizens Act"

² "Senior Citizen Rules"



daughter-in-law (Respondent No. 5- wife of Respondent No. 4).

5. The District Magistrate dismissed the said applications on 27th April, 2023 and 10th November, 2023. The Petitioner then challenged these orders before the Appellate Authority/Divisional Commissioner where also he was unsuccessful. The relevant portion of the Appellate Authority's order dated 29th May, 2024³ reads as follows:

"8. Heard arguments and submissions of both sides and perused the records.

9. The District Magistrate in impugned order dated 27.04.2023 held that "it is clear that it is not the applicant who is harassed by the respondents, but in fact it is the respondents, especially respondent no 1, who is being harassed, mistreated, and abused by the acts of the applicant....Considering the submissions and observations made hereinabove, it is clear that the respondent no. is being maintained and is entirely dependent on her sons. Eviction of respondents from the subject property would not be appropriate, keeping in mind the safety of the respondent no. 1... Applicant has failed to make out a case under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007.

10. The District Magistrate in impugned order dated 10.11.2023 held that "it emerges that no serious allegations of ill-treatment or harassment have been made by the applicant against the respondents. No police complaints have been made by the applicant before the institution of the application under the Senior Citizen Act, 2007. The earlier application of the applicant to evict his wife and youngest son has also been dismissed by this Tribunal vide its order dated 27.04.2023. Applicant has failed to make out a case.

11. From the facts and circumstances of the case, it is clear that the appellant has deserted his wife and sons and wants to evict them to serve his vested interests. In fact the respondents seem to be a victim of ill-treatment. The Family court has restrained the appellant for not evicting Smt. Sunita Jain. It is the specific case of the respondents that the appellant had physically assaulted his wife Smt. Sunita Jain many times and when the sons stepped in favour of their mother, he has targeted them too. It is also the case of the respondent Smt. Sunita Jain that she is alive today because of her children. In fact, the eldest son of the appellant Sh. Anuj Jain is also residing separately with his family. Now the appellant wants to live alone which is ridiculous There is also nothing in the SDM field verification reports regarding ill-treatment to the appellant by either

³ Orders dated 27th April, 2023, 10th November, 2023 and 29th May, 2024 are hereinafter collectively referred to as "Impugned orders"



of the respondents. There is also a restraintment order by the Family Court in favour of Smt. Sunita Jain who is also a senior citizen. It is also an admitted position that there is matrimonial discord between the appellant and respondent Smt. Sunita Jain and the cases are too pending before the karkardooma Courts. Appellant argued that if the respondents were not evicted, he will donate the property in question to a Religious Trust formed by him. He argued that for establishing a temple and charitable hospital, he has purchased the land for the trust in Salasar, Rajasthan. This whole argument that the appellant wants to devote himself to religious is hogwash. He cannot expect to please God by ill-treating his wife and other family members and make them shelter less.

12. In the light of the above facts and circumstances, there are no merits in the aforesaid appeals of the appellant. The appellant failed to show any ill-treatment and harassment to him. Infact respondent Smt. Sunita Jain is the victim of ill-treatment and harassment.

She is also a senior citizen. The present case is a clear case of misusing the provisions of the Senior Citizen act, 2007. Hence appeal is dismissed being devoid of merits. There is no infirmity in the impugned order. Parties should live peacefully in the property in question. Copy of this order be provided to both the parties. Record of the Proceedings before DM (East) be also sent back to DM (East) with the copy of this order."

6. Counsel for Petitioner clarifies that the prayer for eviction is limited to Respondents No. 3 to 5—his sons and daughter-in-law—and does not extend to his wife, Respondent No. 2. Be that as it may, under the Senior Citizens Act, a senior citizen's right to seek eviction applies specifically to their son and other legal heirs, and does not extend to the spouse. Therefore, even if the Petitioner gives up the challenge for eviction against his spouse, it does not alter the fact that the foundation of this case lies in a matrimonial dispute between the Petitioner and his wife. This is further evidenced by the divorce proceedings initiated by the Petitioner against his wife under Section 13 of the Hindu Marriage Act, 1955.

7. In this context, both the District Magistrate and the Appellate Authority have rightly concluded that the application for eviction constitutes an abuse of the legal process. The claims of ill-treatment by the Petitioner



remain unsubstantiated, as the field verification report furnished by the SDM did not corroborate any of these allegations. On the contrary, it is clear that the Petitioner's sons and daughter-in-law (Respondents No. 3 to 5) are fully supporting Respondent No. 2, their mother. This further underscores the fact that the Petitioner's objective is not based on genuine grievances of ill-treatment, but rather on leveraging a legal provision to evict his family members amidst the ongoing matrimonial discord.

8. There is no lawful basis to justify such eviction. The provisions of the Senior Citizens Act cannot be invoked as a tool to circumvent the matrimonial and familial issues that exist between the Petitioner and Respondent No. 2. The Act is designed to protect senior citizens from genuine cases of neglect or mistreatment by their legal heirs, and not to be used as a means to settle personal vendettas or domestic disputes. The fact that the sons and daughter-in-law are aligned with Respondent No. 2, and have been accused of ill-treatment solely due to their support of her, further dilutes the credibility of the Petitioner's claims.

9. Counsel for the Petitioner further asserts that under Rule 22(1)(3) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, the Petitioner has the right to evict at least his sons and daughter-in-law who are allegedly ill-treating him. He contends that the findings of both the District Magistrate and the Appellate Authority are erroneous, and that they have failed to properly consider the Petitioner's rights under the said Rule. He also argues that the conclusions drawn in the Impugned orders are not supported by any evidence, whereas the Petitioner has sufficiently demonstrated that Respondents No. 2 to 5 have mistreated him, entitling him to seek their eviction.



10. However, this Court has carefully considered the submissions made on behalf of the Petitioner and finds itself unconvinced by the arguments advanced. Both the District Magistrate and the Appellate Authority have thoroughly examined the evidence, including the field verification report submitted by the SDM. The Appellate Authority rightly concluded that the allegations of ill-treatment could not be substantiated based on the available evidence. The SDM's report, which was based on an independent assessment, found no material supporting the Petitioner's claims of harassment by Respondents No. 3 to 5.

11. In light of these findings, this Court is of the opinion that no interference with the orders of the authorities is warranted. The applications for eviction appear to be an extension of the matrimonial dispute between the Petitioner and Respondent No. 2, and it is not a legitimate claim under the Senior Citizens Act. The Petitioner's attempt to use the eviction mechanism, under the guise of this Act, to resolve what is essentially a family dispute between himself and his spouse is both inappropriate and legally unsustainable. The Court finds that there has been no error in the reasoning or findings of the District Magistrate or the Appellate Authority, and the Petitioner's appeal is, therefore, devoid of merit.

12. Accordingly, the present petition is disposed of.

SANJEEV NARULA, J

SEPTEMBER 19, 2024/ab