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

+ **W.P.(C) 13694/2024, CM APPLs. 57344-57345/2024**

SMRITI BHATIA

.....Petitioner

Through: Mr. Prateek Kapur, Senior Advocate
with Mr. Shaunak Kashyap, Ms. Parul
Tuli, Ms. Mistha Gupta, Mr. Ahmad
Shad and Ms. Muskan Yadav,
Advocates.

versus

RADHA BHATIA & ORS.

.....Respondents

Through: Mr. Rajiv Nayar, Senior Advocate
with Mr. Virender Mehta, Mr. Aseem
Chaturvedi, Mr. Kunal Mehta and
Mr. Milind Jain, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

27.09.2024

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1. The Petitioner, who is the daughter-in-law of Respondent No.2, a senior citizen, has filed the present petition, impugning order dated 20th September, 2024, passed by the District Magistrate. The impugned order directs the eviction of the Petitioner from Farm House No. 5, Grand Westend, Rajokari, New Delhi - 110038. This order was issued pursuant to an application filed under Rule 22(3)(1)(i) of the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016.¹

2. Mr. Prateek Kapur, Senior Counsel for the Petitioner, argues that the impugned order is being challenged on jurisdictional grounds, urging the

¹ Senior Citizens Rules.



Court's indulgence in this matter. However, the Court is not persuaded to accept this submission, as the arguments raised in the present petition pertain to the merits of the case. These issues can be effectively addressed before the Divisional Commissioner through an appeal, as provided under Rule 22(3)(4) of the Senior Citizens Rules.

3. However, the key question is whether the Divisional Commissioner has been appointed and is available to entertain appeals under the Senior Citizens Act, given that the post was previously vacant. In addressing this query, it is appropriate to refer to the order dated 25th September, 2024, passed by the Division Bench in LPA 955/2024, which states as follows:

"1. Present appeal has been filed challenging the order dated 30th July, 2024 passed by the learned Single Judge in W.P. (C) 10437/2024, whereby the learned Single Judge granted interim protection to Respondents No.1 and 2 by suspending the eviction order dated 19th June, 2024 till the Divisional Commissioner (Revenue) i.e. the Appellate Authority assumes office.

2. Today, learned counsel for the Respondent states that Secretary (L&B) – Mr. Nikhil Kumar, IAS is the link officer for the Secretary (Revenue) cum Divisional Commissioner. She states that Secretary (L&B) is fully empowered to decide the appeal filed by the Respondents No.1 and 2.

3. Consequently, the present appeal along with applications is disposed of with a direction to the Secretary (L&B) working as the link officer for Secretary (Revenue) cum Divisional Commissioner to decide the appeal filed by the Respondents No.1 and 2 by way of a reasoned order after giving an opportunity of hearing to both the parties within four weeks. The rights and contentions of all the parties are left open."

4. In light of the above, since the Secretary (L&B), Mr. Nikhil Kumar, IAS, has been appointed as the link officer, he is now authorized to decide appeals under the Senior Citizens Act. Therefore, in the Court's opinion, the statutory remedy of appeal is indeed available to the Petitioner.

5. At this juncture, Mr. Kapur submits that the Petitioner should not be evicted from the subject property until the expiration of 30 days from the



date of the order passed by the District Magistrate. To support this contention, he relies on Rule 22(3)(3)(i) of the Senior Citizens Rules, which states:

“(i) If any person refuses or fails to comply with the order of eviction within thirty days from the date of its issue, the Deputy Commissioner/DM or any other officer duly authorized by the Deputy Commissioner/DM in this behalf may evict that person from the premises in question and take possession;”

6. In light of the above, it is directed that the impugned order shall not be enforced until the expiration of 30 days from its issuance. During this period, the Petitioner is at liberty to file a statutory appeal before the Divisional Commissioner and seek interim relief, if so advised. Should such a petition be filed, the Secretary (L&B), acting as the link officer, is directed to consider and decide on the request for interim relief, if any, before the 30-day period lapses.

7. All rights and contentions of the parties are left open. The Court has not examined the merits of the case and the above observations are only to enable the Petitioner to avail her statutory remedies of filing an appeal.

8. The petition is disposed of along with pending applications.

SANJEEV NARULA, J

SEPTEMBER 27, 2024

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