



\$~36

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

+ **W.P.(C) 13959/2024 & CM APPL. 58426/2024**

SHRI CHAND GAUTAM & ANR.

.....Petitioners

Through: Mr. Pritish Sabharwal, Advocate with
Petitioners in person

versus

THE STATE & ORS.

.....Respondents

Through: Mr. Rajkumar Yadav, Mr. Praveen
Kumar, Advocates for R-2 & 3
S.I. Pankaj, PS GK-II

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
04.10.2024

%

1. The Petitioners, being senior citizens, have filed the present petition assailing the order dated 15th April, 2024 passed by the District Magistrate. Through the said impugned order, the District Magistrate has dismissed the Petitioners' application filed under Rule 22(3)(1) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2016, seeking eviction of Respondents No. 4 and 5, the Petitioners' son and daughter-in-law, from the subject property.

2. Mr. Pritish Sabharwal, counsel for the Petitioners asserts that the Petitioners have availed the statutory remedy of appeal against the said order before the Divisional Commissioner. The key question is whether the Divisional Commissioner has been appointed and is available to entertain appeals, given that the post was previously vacant. 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.”

3. 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. Given that the Petitioners have already filed an appeal under Rule 22(3)(4) of the Senior Citizens Rules, in the opinion of the Court, the Petitioners should first exhaust the said statutory remedy before invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. It is accordingly directed that the appeal preferred by the Petitioners be heard and decided as expeditiously as possible by Mr. Nikhil Kumar, IAS, the Link Officer, in accordance with law.

5. In case the decision of Divisional Commissioner is adverse to the Petitioners, they shall be at liberty to avail appropriate remedies against the said order, in accordance with law.

6. Considering the Petitioners’ allegations of physical assault levelled



against Respondent Nos. 4 and 5, pursuant to which they had also lodged a complaint before the Commissioner of Police, it is directed that the concerned SHO of the area shall ensure that the Petitioners are afforded adequate protection.

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 Petitioners to avail their statutory remedies of filing an appeal.

8. With the above directions, the present petition is disposed of along with pending application.

SANJEEV NARULA, J

OCTOBER 4, 2024

ab