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

+ W.P.(C) 14838/2024, CM APPL. 62338/2024 & CM APPL.
62339/2024

BABLI

.....Petitioner

Through: Mr. Vivek Kumar Tandon, Ms.
Perna Tandon, Mr. Mayank Tiwari,
Mr. Harshit Gahlot, Advocates

versus

GOVERNMENT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Mohit Bhardwaj, Advocate for R-
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CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

22.10.2024

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1. The Petitioner impugns order dated 07th June, 2024,¹ passed by District Magistrate under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 read with the Delhi Maintenance and Welfare of Parents and Senior Citizen (Amendment) Rules, 2016,² directing eviction of the Petitioner from R2-E-196, Nihal Vihar, Nangloi, Delhi.

2. Mr. Tandon, counsel for the Petitioner, argues that while the impugned order is appealable before the Divisional Commissioner under Rule 22(3)(4) of the Senior Citizen Rules, the said remedy cannot be effectively availed by the Petitioner as according to the information received

¹ “the Impugned Order”

² “the Senior Citizen Rules”



by him, the post of the Divisional Commissioner is lying vacant.

3. In such background, apprehending their eviction in terms of the Impugned Order passed by the District Magistrate and since they have no alternative forum to challenge the same, the Petitioners have filed the instant writ petition under Article 226 of the Constitution of India, 1950 along with an application under Section 151 of the Civil Procedure Code, 1908, seeking an interim stay on the operation of the Impugned Order.

4. The Court has considered the aforementioned contentions. In the opinion of the Court, the appeal remedy provided by the Senior Citizen Rules, is viable and effective as the Secretary (L&B) – Mr. Nikhil Kumar, IAS, Link Officer for the Secretary (Revenue) cum Divisional Commissioner is empowered to decide the appeals under the Senior Citizen Rules. In fact, on this very issue, the Division Bench of this Court in LPA No. 955/2024 titled as *Inder Chand Bajaj v. Arun Bajaj & Ors.* through order dated 25th September, 2024, directed the Link Officer to decide the appeal under the Senior Citizen Rules.

5. Following the afore-noted decision, this Court has also issued similar directions to this effect. Accordingly, the Petitioner's concerns regarding the appeal being delayed due to the vacancy are not valid, as the designated officer is authorized to proceed with the appeal.

6. At this juncture, it must also be noted that Mr. Mohit Bhardwaj, counsel representing GNCTD, states that in fact a regular appointment has been made to the post of Divisional Commissioner and Mr. Nikhil Kumar, IAS has now been appointed as Secretary (Revenue)-cum-Divisional Commissioner.

7. In light of the above, the present writ petition is disposed of with the



following directions:

a) The Petitioners shall, within a period of ten days from today, file an appeal with the Divisional Commissioner under Rule 22(3)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizen Rules (Amendment) Rules, 2016 along with an application for interim relief.

b) The Secretary (L&B) – Mr. Nikhil Kumar, IAS, Link Officer for Secretary (Revenue)-cum-Divisional Commissioner shall consider the appeal preferred by the Petitioner along with the the request for the interim directions, and render a decision thereon as expeditiously as possible.

8. If Mr. Nikhil Kumar's appointment as the Divisional Commissioner has been confirmed as indicated by Mr. Bhardwaj, the afore-noted directions shall be read accordingly.

9. At this juncture, Mr. Tandon requests that till such time the application for interim relief is considered by the Divisional Commissioner, the Petitioner may be granted interim protection. Accordingly, it is directed that the impugned order shall not be executed for a period of ten days from today. It is made clear that this direction is being issued only to enable the Petitioner to avail the statutory remedy of filing an appeal and shall not deemed as an expression of this Court's opinion on the merits of the case.

10. All rights and contentions of the parties are left open.

11. With the above directions, the present petition, along with pending applications, is disposed of.

SANJEEV NARULA, J

OCTOBER 22, 2024/ab