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

+ **W.P.(C) 16977/2024, CM APPL. 71897/2024**

MS. RUBY

.....Petitioner

Through: Mr. Abhinav Singh, Mr. Praveen
Kumar Kaushik, Mr. Abheek
Maugleek, Advocates for R-1 to 4

versus

THE STATE(GOVERNMENT OF NCT OF DELHI) AND ORS

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.12.2024

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CM APPL. 71898/2024 (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.

W.P.(C) 16977/2024 & CM APPL. 71897/2024 (for stay)

4. The present writ petition impugns order dated 14th August, 2024 passed by the District Magistrate, South-East District in case No. 652/2023 titled as "***Abdul Salam & Anr. vs. Ms. Ruby***" under Section 22(3)(1) of the Delhi Maintenance and Welfare of Senior Citizen Rules and order dated 28th October, 2024, passed by the Sub-Divisional Magistrate, Sarita Vihar, New Delhi.

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5. In the Impugned order, while allowing the application filed by the Petitioner's parents seeking her eviction, the District Magistrate passed the following directions:

"7. After considering the record, submissions filed by both the parties and the report of the SDM, it is fairly state that in order to buy some peace, the applicants fairly offered a 2BHK Flat to the respondent in her name and this court finds fairness in the offer of the applicants.

8. In view of the above, it is ordered that the applicants will offer a new 2BHK Flat in good locality to the respondent within a period of 2 Months from the date of order and the after the offer, the respondent has to vacate the house in question within a period of 7 days from the date of offer of flat by the applicants. If the respondent failed to vacate the house within stipulated time, the SDM concerned is directed to enforce the order forcefully with the help of Police.

9. The Deputy Commissioner of Police, South East District is directed to ensure enforcement/compliance of directions mentioned above, as per provisions under the 'Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016', 3(3)(ii) and also ensure that the life and property of the applicants is secured and' no harassment is caused to them by the respondents."

6. Subsequently, Respondent No. 5 filed an application for compliance of the Impugned order whereupon, the Sub-Divisional Magistrate (Sarita Vihar) vide communication dated 28th October, 2024, issued a direction to the ACP, Police Station (Badarpur) to evict the Petitioner from the property in question.

7. The aforementioned directions have been issued on the application dated 3rd October, 2024 filed by Respondent No.5 alleging that the order has been complied with. The said application reads as follows:

"1. That the above said matter is disposed of vide order dated 14.08.2024.

2. That the applicants fairly offered a 2BHK flat in good locality to the respondent within 2 months from the date of order but after the offer the respondent did not accept the offer and nor vacate the house.

3. That it is mention in the order vide dated 14-08-2024 if the respondent failed to vacate the house within stipulated time, the SDM concerned is directed to enforce the order forcefully with the help of



police.

4. That the applicants and her family regularly harassed by the respondent and the FIR is also lodged against the respondent on 21.09.2024. vide FIR. NO. 0380/2024, Under Section 115(2) 126(2)3(5) with P.S- JAIPUR.

Prayer

It is humble request before this Hon'ble court kindly help us t and vacate the house."

8. Counsel for the Petitioner states that the order dated 14th August, 2024 has been assailed before the Divisional Commissioner, however, the said appeal has not yet been taken up for hearing. The Petitioner also filed application dated 3rd December, 2024, for advancing the hearing in the appeal proceedings, however, no decision had been taken thereon. The next date of hearing is now scheduled for 27th December, 2024.

9. Counsel for the Petitioner further asserts that although Respondent No.5 has in the application dated 3rd October, 2024 indicated that they have offered an alternate accommodation of 2BHK Flat to the Petitioner, no such offer has been received by the Petitioner. The application is also completely devoid of any details of such a property.

10. In light of the foregoing, it is directed that the impugned order dated 14th August, 2024 and the communication dated 28th October, 2024 shall remain stayed till such time the Divisional Commissioner hears and decides the Petitioner's request for interim relief in the pending appeal. It is clarified that the Appellate Authority shall consider the matter on its own merits, uninfluenced by any of the observations given above. The interim stay has been issued only to prevent the appeal from becoming infructuous on account of execution of the Impugned order without the appeal being heard on merits.



11. All rights and contentions of the Parties are reserved.
12. In view of the above, the present petition is disposed of along with pending applications.
13. *Dasti* under the signature of the Court Master.

SANJEEV NARULA, J

DECEMBER 9, 2024/ab