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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 17173/2024 & CAV 605/2024, CM APPL. 72880-
72881/2024

SAKSHI SHIVA

.....Petitioner

Through: Mr. Vishal Raj Sehijpal, Mr.
Purushendra Bhardwaj, Ms. Priyanka
Handa, Advocates

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Abhinav Sharma, Mr. Abhishek
Shandilya, Advocates for R-1 & 2
Mr. Milind P Singh, Ms. Manisha
Singh, Mr. Aditya Pathak, Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **12.12.2024**

CM APPL. 72881/2024 (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) 17173/2024 & CAV 605/2024, CM APPL. 72880/2024 (for interim stay)

4. The Petitioner is aggrieved by the order dated 20th September, 2024, passed by the Deputy Commissioner/District Magistrate under Rule 22(3)(1)



of the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016¹, whereby the Petitioner has been directed to vacate her matrimonial home within a period of three months.

5. The Petitioner submits that since the designated appellate authority under the Delhi Senior Citizens Rules, 2016, was lying vacant and considering the urgency in the matter, the Petitioner filed CM(M) No. 3559/2024 before the Court assailing the impugned order of the District Magistrate. In the said proceedings, the Court *vide* order dated 07th October, 2024 directed the Petitioner to first exhaust the statutory remedy provided under the rules.

6. Accordingly, the Petitioner preferred an appeal before the Appellate Authority-cum-Divisional Commissioner under Rule 22(3)(4) of Delhi Senior Citizens Rules, 2016, which was scheduled for hearing on 22nd November, 2024, however on the said date the Appellate Authority did not preside over the Court and the matter was renotified.

7. Thereafter, since the Petitioner had preferred an appeal under the Delhi Senior Citizens Rules, 2019, the Court disposed of CM(M) No. 3559/2024 on 3rd December, 2024, with the following observations:

“CM(M) 3559/2024 & CM APPL. 70494/2024 (Early Hearing)”

1. Learned counsel for the petitioner submits that he has already filed an appeal before the competent Appellate Tribunal.

2. In view thereof, he submits that petitioner does not want to pursue the present petition and seeks permission to withdraw the same. However, he seeks liberty for filing an appropriate application before the Appellate Tribunal for early hearing.

3. The aforesaid statement made by learned counsel for the petitioner is taken on record.

¹ “Delhi Senior Citizens Rules, 2016”



4. The present petition is dismissed as withdrawn with liberty as prayed for.

5. Copy of this order be given dasti under the signature of court master.

6. The date of 17.12.2024 stands cancelled.”

8. Pursuant to the liberty granted by the Court, the Petitioner filed an application for early hearing of the appeal as well as interim relief before the Appellate Authority-cum-Divisional Commissioner. However, the Petitioner's appeal and the interim prayer has not been considered as of yet. It is contended that the Petitioner was informed of the next date of hearing before the Appellate Authority which was scheduled for 20th December, 2024, through an SMS message. However, since the three months' time period given for complying with the impugned order of the District Magistrate is expiring on 20th December, 2024, the Petitioner has been constrained to approach this Court seeking the following reliefs:

“(a) Direct the Ld. Divisional Commissioner/Appellate authority GNCTD to take up the appeal No. 1023/2024 titled Sakshi Shiva Vs. Santosh Kumar Shiva & Anr. of the petitioner on urgent basis; and/or;

(b) Or in the alternative restrain the respondents from dispossessing the petitioner from her house/matrimonial home till pendency of the statutory appeal No. 1023/2024 pending in the court of Ld. Divisional Commissioner;”

9. The Petitioner apprehends that the appeal remedy available to her under the Delhi Senior Citizens Rules, 2016 would be rendered infructuous in case the application for interim relief or early hearing is not considered prior to the expiry of the period provided for vacating the property, as per the order dated 20th September, 2024 passed by the District Magistrate.

10. Considering the above, the Court finds merit in the submission of the



Petitioner that her appeal remedy would be rendered infructuous if the appeal and application for interim relief filed by her is not taken up for hearing at the earliest. Therefore, without going into the merits of the case, it is directed that order dated 20th September, 2024, passed by the District Magistrate which is been impugned in the appeal pending before the Divisional Commissioner, shall not be implemented till such time the Appellate Authority considers and takes a decision on the Petitioner's application for interim relief.

11. All rights and contentions of the parties are reserved. The Court has not expressed any opinion on the merits of the case and the Petitioner's entitlement on interim relief.

12. In light of the foregoing, the present writ petition is disposed of along with pending applications.

SANJEEV NARULA, J

DECEMBER 12, 2024/ab