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

+ W.P.(C) 1489/2025 and CM APPL.7298/2025 (Stay)

SHYAM KUMAR & ANR.

.....Petitioners

Through: Mr. N.N. Kantawala, Advocate.

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Raghvendra Upadhyay, PC
alongwith Ms. Purnima Jain and Mr.
Chandra Kishore Yadav, Advocates
for R1 and R2.

Mr. Mayur Vashisht and Ms.
Manisha, Advocates for R3.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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06.02.2025

CM APPL.7299/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 1489/2025

3. The present petition assails an order dated 08.01.2025 (hereinafter '*the impugned order*') passed by the Office of the District Magistrate cum Appellate Tribunal for Maintenance and Welfare of Parents and Senior Citizens Districts-South West while considering the complaint of the complainant (respondent no.3) under Section 16 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 read with Rule 22(3)(1) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules 2009.
4. Although, the impugned order is appealable, it is submitted that



petitioner has been constrained to file the present petition inasmuch as the appeal filed by the petitioner before the concerned appellate authority has not yet been listed.

5. Since an efficacious appellate remedy is available to the petitioner [which has already been availed], it would be apposite to relegate the petitioner to the appellate forum. It is directed accordingly. The appellate forum is requested to take up the matter on priority, as expeditiously as possible.

6. Learned counsel for the petitioner also strenuously presses for an interim order pending consideration of the matter by the appellate authority. However, given the factual conspectus, this Court is not inclined to pass any interim order/s. A perusal of the impugned order passed by the District Magistrate reveals that the same takes into account all relevant aspects of the matter including the SDM report submitted vide letter dated 12.07.2024. It has been clearly brought out that the suit property is in the name of respondent no.3 (complainant/mother of the petitioner herein).The conclusions rendered in the impugned order are as under:-

“In view of the above facts and circumstances, this court found ill-treatment made by the respondents and complainant deserves to live in peace. The facts of the case and arguments of the parties attract the provisions of Senior Citizen Act, hence the respondents are directed to vacate the suit property, within 30 days of this Order.

The Respondents are directed not to interfere in the peaceful living & possession of the "suit property" of the Complainant and also not to cause any physical or verbal harassment to the Complainant and his family.”

7. No material has been placed on record in these proceedings on the basis of which the above findings can be faulted.

8. Learned counsel for the petitioner submits that the property in



question was purchased using the funds of the petitioner. Although the petitioner has filed certain bank account statements, he is not able to point out the relevant entries reflecting the payment of consideration amount for the purpose of purchase of the suit property.

9. In the aforesaid circumstances, in these proceedings and at this stage, this Court is not inclined to pass any interim orders. However, all rights and contentions of the petitioner are left open for consideration by the appellate authority on its own merit.

10. The present petition stands disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

FEBRUARY 6, 2025/at