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

+ W.P.(C) 6252/2025 and CM APPL.28545/2025 (Stay)

NARESH BHARDWAJ AND ANOTHERPetitioners

Through: Ms. Vatsala Chauhan, Adv.

versus

DIVISIONAL COMMISSIONER AND OTHERSRespondents

Through: Mr. Niraj Kumar, Sr. CGC alongwith
Mr. Chaitanya Kumar, Advocates for
Delhi Police.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **09.05.2025**

CM APPL.28546/2025 (Exemption)

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

W.P.(C) 6252/2025

3. The present petition has been filed by the petitioners seeking that respondent no.1 / Divisional Commissioner, Delhi (Appellate Authority) be directed to expeditiously take up and dispose of the petitioner's appeal bearing no. 20220000012136 and Case ID No. 38809 filed under Rule 22(3)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (hereinafter '*the Delhi Senior Citizen Rules*') seeking suspension of the operation of order dated 07.04.2025 passed by the District Magistrate whereby the petitioners have been directed to evict the subject property being RZ-F, 564/14, Gali No. 23, Sadh Nagar Part-II, Palam Colony, New Delhi – 110045.



4. In the background of the present petition, a complaint dated 12.07.2021 under Rule 22(3) of the Delhi Senior Citizens Rules, 2009 came to be filed by the respondent no.4 (senior citizen) before the Learned District Magistrate seeking eviction of the petitioner nos. 1 & 2 and respondent nos. 5 & 6. The said complaint came to be dismissed by the District Magistrate *vide* order dated 09.09.2022.

5. Aggrieved by the aforesaid order dated 09.09.2022, an appeal was filed by the respondent no.4 before the Appellate Authority under Rule 22(3)(4) of the Delhi Senior Citizen Rules, 2009. *Vide* order dated 05.01.2024 passed by the Appellate Authority, the said appeal came to be allowed and the matter was remanded back to the District Magistrate for fresh adjudication.

6. Consequently, upon fresh adjudication of the matter by the learned District Magistrate, *vide* order dated 07.04.2025, the complaint dated 12.07.2021 came to be allowed and the non-complainants [petitioner nos. 1&2 and respondent nos. 5&6] were directed to evict the subject property within a period of 30 days.

7. Aggrieved by the aforesaid order, the petitioner nos. 1 and 2 preferred an appeal before the Appellate Authority under Rule 22(3)(4) of the Delhi Senior Citizen Rules, 2009. It is submitted till the time the said appeal is pending consideration before the Appellate Authority, the order dated 07.04.2025 passed by the Learned District Magistrate be kept in abeyance.

8. The perusal of the order dated 07.04.2025 reveals a very alarming state of affairs *viz.* that the senior citizen i.e. respondent no.4, has been subjected to considerable distress by her family members. The relevant portions thereof read as under:-



“PROCEEDINGS:

Briefly, the complainant alleged that the respondents, being her sons and daughters-in-law, are subjecting her to mental and physical harassment, and have even confined her to a small room in the house. She claimed to have been deprived of basic necessities and publicly disowned the respondents through a notice dated 31.05.2021. Several police complaints were also filed by her. Further, she has claimed to own the suit property by virtue of General Power of Attorney dated 09.01.1991.

The respondents in defense denied the allegations and claimed that the property was purchased from joint family earnings and that it was mutually divided among the brothers. They also asserted having invested financially in construction. Also that the electricity and water bills are paid by the Respondent-2 and appellant has made false police complaints against them to grab their share of property. Whereas the Respondents 3 & 4 has voluntarily agreed to vacate the suit property for it being under the ownership of appellant.

The SDM's report confirmed continued acrimony and domestic unrest but could not verify valid grounds for eviction or ownership disputes conclusively.

However, it is a settled position under the Act and as observed in the Hon'ble Delhi High Court judgment in Sunny Paul & Anr. v. State NCT of Delhi & Ors. that the objective of the Act is not to delve into title disputes but to ensure the welfare and protection of senior citizens in their own homes.

Moreover, the status quo orders in the pending suit before the ADJ, Dwarka Court has already been considered by the Financial Commissioner in his order and it has been observed in his order that said order of Civil Court do not bar appellant to approach the forum under Senior Citizen Act as the order is not to dispossess "without following due process of law" and that too the order is an interim ex-parte order."

OBSERVATIONS/FINDINGS:

Considering the consistent submissions by the complainant, evidence of distress caused by family members, and her being the recorded owner of the property as per available documents and the SDM's findings, it is evident that the complainant's peaceful possession and dignity are under threat. The allegations have not been effectively rebutted and the respondents have failed to establish any independent right to residence in the suit property."



9. Considering the aforesaid aspects, this Court finds no justification to pass any interim order/s interdicting with the said findings in these proceedings under Article 226 of the Constitution of India, especially when the petitioners have already availed the appellate remedy under the Delhi Senior Citizen Rules, 2009 before the Divisional Commissioner, which is pending consideration. It shall be for the appellate authority to consider whether any interim orders are warranted in the facts and circumstances of the present case.

10. The petitioners shall be at liberty to request the Appellate Authority for an expeditious consideration of the appeal in question.

11. No further orders are required to be passed in the present proceedings. The present petition is accordingly disposed of, relegating the petitioners to the Appellate Authority.

12. It is made clear that this order shall not be construed as an expression of opinion of this Court on the merits of the controversy. The Appellate Authority shall independently consider the appeal pending before it, on merits, and pass appropriate order/s thereon.

SACHIN DATTA, J

MAY 9, 2025/at