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

+ W.P.(C) 9548/2025

NEHA BIHANI

.....Petitioner

Through: Mr. Rakesh Kumar, Advocate.

versus

CHANDRA KANTA BIHANI & ORS.

.....Respondents

Through: Mr. Neeraj Gupta, Adv. for R1 & R2.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

30.07.2025

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1. The present petition has been filed by the petitioner assailing orders dated 21.04.2025 passed by the Court of the Maintenance and Welfare of Parents and Senior Citizens, District Magistrate, district North-West (Kanjhawala), Delhi (hereinafter referred as “*the DM Kanjhawala*”) and order dated 18.06.2025 passed by the Appellate Court of Divisional Commissioner, Office of the PR. Secretary-cum-Divisional Commissioner, Department of Revenue, Government of NCT of Delhi (hereinafter referred as “*the Appellate Authority*”) constituted under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 read with Delhi Maintenance and Welfare of Parents and Senior Citizen Rules, 2009.

2. By way of the order dated 21.04.2025, passed in proceedings initiated by the respondent nos. 1 and 2 (in-laws of the petitioner), the DM Kanjhawala directed eviction of the petitioner from her matrimonial home i.e., BN-2, West Shalimar Bagh, Delhi. Against the said order, an appeal has been preferred by the petitioner before the Appellate Authority. While the



appeal against the aforesaid eviction order remains pending, the petitioner's application seeking interim protection/stay has been dismissed by the Appellate Authority *vide* an order dated 18.06.2025.

3. It is submitted that respondent nos. 1 and 2 preferred the application under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and the rules framed thereunder even while the parties were embroiled in various proceedings/FIRs on account of serious matrimonial disputes.

4. It is the case of the petitioner, that respondent nos. 1 and 2 deliberately concealed that proceedings initiated by the petitioner under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred as "*the DV Act*"), and subsisting interim order/s therein, particularly order dated 14.11.2022 passed by the MM (Mahila Court), North-West District, Rohini, Delhi in CT. Case 8758/2022. The relevant portion of the said order reads as under:

"Accordingly, ex-parte residence order is passed in favour of the petitioner.

R1 and R2 are restrained from evicting the petitioner and her minor daughter from the shared household bearing no. BN-2, West Shalimar Bagh, Delhi without due process of law."

5. It is submitted that the order dated 21.04.2025 does not even take note of the aforesaid aspect of the matter, the pending proceedings under the DV Act, and the petitioner's entitlement to residence in the shared household.

6. It has also been submitted that the husband of the petitioner passed away on 16.04.2025 leaving behind the petitioner and a minor child. It is submitted that the petitioner and her minor child have been rendered destitute and homeless on account of the impugned orders passed by the



Appellate Authority and the DM, Kanjhawala.

7. At the outset, a perusal of the order dated 14.11.2022 passed in CT. Case 8758/2022 reveals that by virtue of the same the respondent nos.1 and 2 were restrained from evicting the petitioner and her minor child from the shared household i.e. BN-2, West Shalimar Bagh, Delhi, without due process of law. The said order continues to subsist.

8. It is noticed that the order dated 21.04.2025 passed by the DM Kanjhawala, does not deal with the scope and import of the pending DV Act proceedings and the subsisting interim order/s therein.

9. In ***S. Vineeta vs Commr., Bengaluru Urban District***, (2021) 15 SCC 730, it has been held by the Supreme Court that provisions of the DV Act and Senior Citizens Act are to be applied harmoniously recognizing the protective aims of both. It is recognized that a woman's right to reside in the shared household is important (although not absolute).

10. The petitioner has already availed of its appellate remedy against the order passed by the DM Kanjhawala. Whether or not the same suffers from any error on account of non-consideration of relevant factual aspects or on account of non-compliance / infraction of the dicta laid down in ***S. Vineeta*** (supra), are all aspects that remain to be adjudicated in the pending appeal filed by the petitioner.

11. However, even during the pendency of the appeal, the impugned order has the effect of rendering the petitioner and her minor child homeless (the petitioner and her minor child having been evicted from the said shared household on 27.06.2025 at 2.00 PM). The same is clearly unwarranted since the appellate authority is seized of the petitioner's appeal in which serious factual and legal aspects have been urged. The petitioner's appellate



remedy has been rendered illusory and futile as a result of being ousted from the shared residence, even while the statutory appeal remains pending. As such, the balance of convenience militates against the impugned order passed by the appellate authority.

12. Considering the aforesaid circumstances, the impugned order dated 18.06.2025 passed by the Appellate Authority, is stayed till disposal of the pending appeal by the appellate authority. Further, it is directed that the status of possession of the concerned premises (including the shared residence of the petitioner), as was subsisting during the pendency of the proceedings before the DM Kanjhawala shall be restored.

13. Consequently, the petitioner shall be re-inducted in the premises where she was residing prior to her dispossession pursuant to the impugned order. The same shall, necessarily, be subject to the outcome of the pending appellate proceedings.

14. The SHO and the Deputy Commissioner of Police (area concerned) shall ensure compliance with the above directions.

15. The Appellate Authority is directed to bestow its urgent consideration to the pending appeal filed by the petitioner against the eviction order dated 21.04.2025 and to make an endeavor to decide the same as expeditiously as possible, preferably within a period of 3 months from today.

16. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

JULY 30, 2025/sl/at