



2025:DHC:10296



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment pronounced on: 21.11.2025*+ **W.P.(C) 14078/2023 and CM APPL.55644/2023**

PIARE KHAN

..... Petitioner

Through: Mr. Naveen Kumar, Ms. Poonam,
Mr. Ujjal Das, Mr. Amit Kumar and
Mr. Manvender Rawat, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Ms. Vaishali Gupta, (Panel Counsel)
Advocate for R-1.Mr. Manish Kumar, Mr. Ashwini
Kumar, Mr. Rohit Sharma and
Mr. Mukesh Tiwari, Advocates for
R-2 to R-7.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT****FACTUAL MATRIX**

1. The present petition has been filed by the petitioner, assailing an order dated 28.08.2023 passed in PA/Appeal No. 472/2022/6069-6072 by the Appellate Authority of Divisional Commissioner, Office of the Pr. Secretary-Cum-Divisional Commissioner, Department of Revenue, Government of NCT of Delhi, whereby, an Eviction Order dated 24.03.2022 passed in Eviction No. 505/DCW/2021 by the Court of District Magistrate (West), Government of NCT of Delhi under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and Rules framed thereunder has been



set-aside.

2. *Vide* the said order dated 24.03.2022, the respondent nos. 2 to 6 were directed to vacate the second floor of property bearing no. Y-21A DDA Flat, New Ranjeet Nagar, Delhi-110008 (hereinafter referred as “*the subject property*”).

3. The petitioner in the present petition is a senior citizen residing on the first floor of the subject property along with his wife. Respondent no.2 is the daughter of the petitioner and wife of respondent no.3; respondent nos.4 and 6 are children born out of the wedlock of respondent nos. 2 and 3 and respondent nos. 5 and 7 are spouses of respondent nos. 4 and 6 (respectively). It is stated that the respondent nos. 2 to 7 are residing on the second floor of the subject property.

4. The subject property is stated to have been allotted to the petitioner by virtue of a Possession Slip No.3321 dated 23.12.1976 issued by the Delhi Development Authority (J.J Cell). It is the case of the petitioner that the petitioner in the year 2003 constructed up to three storeys at the allocated subject property with an intention to reside on the first floor and to rent out the second and third floor for a steady post-retirement income. However, in the year 2014, out of love and affection, the petitioner allowed the respondent no.2 and her family to temporarily reside on the second floor of the subject property as permissible licensee. Subsequently, upon mutual consent, the petitioner and respondent nos. 2 and 3 executed a rent agreement dated 20.11.2014 for the second floor of the subject property.

5. However, subsequently, the relationship of the petitioner with respondent no.2 and her family went sour on account of alleged ill treatment meted out on him and his wife by the respondent no. 2 and her family.



Consequently, the petitioner filed a complaint dated 03.03.2021 against the respondent nos. 2 and 3 under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred as “the Senior Citizen Act”) and the Delhi Maintenance and Welfare of Parents and Senior Citizen Rules 2009 (hereinafter referred as the “Senior Citizen Rules”) before the concerned District Magistrate seeking eviction of respondent nos. 2 to 7 from the second floor of the subject property.

6. While the said complaint was sub-judice before the concerned District Magistrate, the petitioner also issued a public declaration dated 07.02.2021, in terms whereof the petitioner disowned respondent no.2. The said notice reads as under: -

“PUBLIC NOTICE

My client Piare Khas So Uramid Khan, and his daughter Kheru Nisha W/o Israil Khan 54 and his family member R/o Y21A, DDA Flat New Ranjort Nagar, Central Delhi, Delhi- 110008 his disowned /debarred her daughter Kheru Nisha bar all movable and immovable properties and severed all her relations with her. My clients will not be responsible for any civil or criminal act. If any one person may do at this his/her own risk, cost and consequences

*Ekta Gaur, Advocate
Ch. No. 168, Civil Wing Tis Hazari Court
Delhi - 110052”*

7. Subsequently, the District Magistrate (West), Government of NCT of Delhi in Eviction no. 505/DCW/2021 dated 24.03.2022 directed the respondent no.2 and her family to vacate the subject property and peacefully handover the possession of the same to the petitioner. The relevant portion of the said order reads as under:-



Decision:

34. Firstly, on the question of maintainability, it is observed that the Respondents are the Daughter and Son in-law of the Applicant/Complainants. Thus, the present Application is clearly maintainable against the Respondents herein.
35. Secondly, on the question of ownership, it is observed according to **SDM report** that the actual owner of the property is the complainant i.e. Pearay Khan. As per the provision of Parents and senior citizen act and amended rules, 2009 in rule 22 in sub-rule (3), for clause (iv) *"A senior citizen/parent may make an application before the Deputy Commissioner/District Magistrate of his district for eviction of his son and daughter or legal heir from his property of any kind whether movable or immovable, ancestral or self-acquired, tangible or intangible and include rights or interest in such property on account of his non-maintenance and ill treatment"*. According to the above provision the complainants have the right to evict the respondents on account of non-maintenance and ill-treatment.
36. Further as far as **ill-treatment and harassments** is concerned, it has been submitted by the Applicant that the Respondent no. 1 & 2 and their family members have been abusive, both physically as well as verbally and threatened of killing them on numerous occasions.
37. Hence, it is evident that the Respondent no. 1 & 2 and their family members are causing harassment to the Complainant and her other family members i.e. Senior Citizens. Now therefore, *by the powers vested Under clause (1) (i) of sub-rule 3 of Rule 22 of the Delhi Maintenance and welfare of Parents and*



- Senior Citizens Rules, 2009*, this Tribunal is of the considered view that the ends of justice would be met if the Respondent no.1 & 2 and their family members are evicted from the subject property so that the Senior Citizens i.e. the Complainant can enjoy the remaining years of her life in peace. Accordingly, the Respondent no. 1 & 2 and their family members are directed to Vacate the subject property, Y-21A, DDA Flat, New Ranjeet Nagar, Delhi-110008 within 30-days from the date of this order. In the event that the Respondents fail to evict the subject property within the stipulated time of 30 days, the SHO (Ranjeet Nagar) shall evict the Respondent no.1 & 2 and their family members forcibly and handover the possession of the property to the Complainant. Further, if the respondents and their family members will not vacate the subject property the SHO (P.S. Ranjeet Nagar) forcibly evict the respondent's alongwith other family members and deposited the articles in his custody and the above seized articles will be released with the permission of the SDM concerned. A compliance of the same shall be filed by the SHO (P.S. Ranjeet Nagar) within 7- days thereafter. The file be consigned to the record room after the receipt of necessary compliance report from the SHO (P.S. Ranjeet Nagar), if any.
38. It is further directed that the SDM (Patel Nagar) shall ensure that the Tehsildar (Patel Nagar) and Patwari (Patel Nagar) shall give all necessary assistance as required for the implementation of this order. Ordered accordingly.
39. As per provision of Rule 4 of the DM&WPSC (Amendment) Rules, 2016 an appeal against this Order lies before the Court of Divisional Commissioner, Delhi at S-Sham Nath Marg, Delhi-110054.
40. Parties to be communicated accordingly.
41. Given under the signature & seal of this authority, the ²⁴ of March, 2022.

8. Against the said order dated 24.03.2022, the respondent nos. 2 and 3 on 19.04.2022 preferred an appeal before the Court of Divisional Commissioner/ respondent no.1. Subsequently, the respondent nos. 2 and 3 also filed W.P(C) 6581/2022 before this Court seeking for expeditious



consideration and adjudication of the aforementioned appeal and the application for stay filed therein. This Court *vide* an order dated 26.04.2022 disposed of the said petition by observing as under:-

“Undisputedly, against the order of 24 March 2022, the petitioners have preferred a statutory appeal before the Divisional Commissioner. That appeal has been instituted on 19 April 2022. The grievance of the petitioners is that even though that appeal has been duly presented along with an application for stay, no dates have been provided by the Divisional Commissioner and consequently, the petitioners face the spectre of eviction.

The Court however notes that after the filing of the appeal on 19 April 2022, the petitioners have immediately rushed to this Court without having moved any application before the Appellate Authority requesting it to take up the appeal for expeditious consideration. In that view of the matter, this petition shall stand disposed of with liberty reserved to the petitioners to move the Divisional Commissioner for expeditious consideration of the appeal and the stay application which have been filed.

The Court also takes on board the statement of learned counsel representing that Authority that in case any such application is moved by the petitioners, the same shall be taken for expeditious consideration and for appropriate orders being considered to be passed on the stay application.

The petition stands disposed of along with pending applications.”

9. Subsequently, applications for expeditious consideration of the appeal and for interim stay of the Eviction order dated 24.03.2022, were preferred before the concerned appellate authority. *Vide* an order dated 24.06.2022, the concerned Appellate Authority dismissed the application for interim stay by observing as under:-

“3. I have gone through the contention and argument put forward by both parties. Prima facie no ground for stay is made out. The suit property is in the name of the respondent. The Appellants alluded only towards their contribution in building the floors on the suit property. No irreparable harm will be caused to appellants if they shift to a rented accommodation till the disposal of the Appeal. The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 and Delhi Rules 2009 amended time to time, is a welfare legislation and balance of convenience lies in favour of Respondents as the Senior Citizen Act and



rules have been framed for the benefit and protection of senior citizens/Parents, so that they can spend their twilight years peacefully.

4. In the light of the aforesaid facts and circumstances, the stay application of the Appellants is hereby dismissed.”

10. Against the interim order dated 24.06.2022, passed by the concerned Appellate Authority, the respondent nos.2 and 3 preferred W.P(C) 12063/2022 before this Court. Vide an order dated 22.08.2022, this Court allowed the petition by observing as under: -

“The instant writ petition is directed against the order of 24 June 2022 passed by the Divisional Commissioner acting as the Appellate Authority under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 [2007 Act]. The appeal itself had been instituted by the petitioners here aggrieved by an order passed by the District Magistrate framing orders of eviction under the 2007 Act.

The Court notes that although the District Magistrate has referred to the fact that the petitioners were not staying in the premises in question and that the senior citizens had been restrained from entering the same post their superannuation, before this Court it is not disputed that the senior citizen as well as the petitioners are occupying the premises albeit on different floors and portions thereof. It is therefore not a case where the petitioners were not residing in the premises in question.

The Court further notes that although the appeal has been entertained, the application for interim protection has been rejected. The Court is of the considered opinion that if the order of the District Magistrate in the facts and circumstances of the present case were to be executed during the pendency of the appeal, the filing of the same itself would be rendered otiose.

In view of the aforesaid, it was submitted by learned counsels appearing for the respondents that the ends of justice would warrant the matter being disposed of with directions being framed to the Divisional Commissioner to decide the appeal expeditiously and on merits.

Accordingly, the instant writ petition is allowed. The impugned order of 24 June 2022 shall stand set aside. The parties are directed to maintain status quo till the disposal of the appeal. The Divisional Commissioner shall endeavour to dispose of the appeal with due expedition. The Court also takes on board the undertaking of the petitioners that they shall not seek any unnecessary adjournments and shall cooperate in the expeditious disposal of the appeal itself. They also undertake to ensure their good behaviour and to refrain from causing any ill treatment or harassment to the senior citizens.

The writ petition along with pending application shall stand disposed



of.”

11. The petitioner aggrieved by the aforesaid order dated 22.08.2022 preferred LPA 593/2022 before this Court. *Vide* an order dated 17.10.2022 the said petition was disposed of as withdrawn by a Division Bench of this Court by observing as under:-

- “1. Ms. Aru Jha, learned Counsel for the Appellant, very fairly submits that the Appellate Authority may be directed to decide the appeal within 30 days as senior citizens are being subjected to harassment.*
- 2. The prayer made by learned Counsel for the Appellant is genuine and, therefore, the Appellate Authority is directed to decide the appeal as expeditiously as possible, preferably within a period of 30 days from today.*
- 3. The learned Single Judge has already granted an order of status quo and, therefore, the order of status quo passed by the learned Single Judge shall continue till the disposal of the appeal.*
- 4. In view of the above, learned Counsel for the Appellant seeks permission to withdraw the instant LPA.*
- 5. Permission, as prayed for, is granted.*
- 6. The LPA is disposed of as withdrawn.”*

12. Subsequently, the Appellate Authority passed the impugned order dated 28.08.2023, setting aside the Eviction order dated 24.03.2022 passed by the District Magistrate (West), Government of NCT of Delhi by observing as under:-

- “14. The preliminary objection of the appellants is that the eviction application of the respondent is void-ab-initio and non-maintainable as the respondent is not the owner of the portion constructed above flat no. Y-21A, New Ranjit Nagar, New Delhi-110008, an allotment to the respondent, and the construction of extra floors is merely an unauthorized construction and no one is the owner of the 2nd and 3rd Floor. This appellate authority does not find merits in this argument of the appellants as this appellate authority is not the civil court to decide the ownership/title of the property in question. Otherwise also as per the provisions of the Senior Citizen Act, 2007 and amended Rules framed thereunder time to time as noted above the Parents/ Senior Citizens can evict their legal heirs from any kind of property including the one in which they have interest only. Therefore the respondent has the right to*



file eviction application qua 2nd Floor of the property in question as he is clearly having interest in the same. This appellate authority can not go into that controversy as it is beyond the jurisdiction of this appellate authority. But in order to evict the legal heirs under the Senior Citizen Act, 2007, it is to show either the ill-treatment or non-maintenance to the Parents/ Senior Citizen due to which they unable to live peacefully.

15. The present case/complaint of the respondent does not seem to be fit for evicting the appellants from the 2nd floor of the property in question under the Senior Citizen Act, 2007 as respondent failed to show any ill-treatment to him or to his wife. The present case is more of a municipal issue /civil nature, the jurisdiction of which lies with the Civil Court/ local body (MCD). It is the case of the respondent himself that he has entered into rent agreement with the appellants and further he has allowed the appellants to reside in the property in question i.e in the original allotment/first floor, in the year 1988 after their marriage because he along with his family was residing in a Government Accommodation and shifted to the property in question i.e the original allotment/first floor in the year 2004. The respondent himself stated that the appellants are permissive licensee. It is also relevant to note herein that the respondent alleges that the appellants in the year 2014 got his signature forcibly on the documents like GPA, Gift Deed, Will etc. and transferred the title in their name. It begs a question as to why since 2014 till filing the complaint under Senior Citizen Act, 2007, the respondent did not take up the matter with police or any authority regarding such alleged execution of documents. Also the respondent submitted that he was tortured but he didn't file any complaint against appellants before filing of eviction application under Senior Citizen Act, 2007. It is hard to believe the submission of the respondent. The respondent has not approached with clean hands. The argument submitted by the appellants have force. The appellants have placed before the SDM the residential proof of 1988 and construction documents. The electricity bill is also in the name of appellants which has not been objected by the respondent till date.

16. It is the specific case of the appellants that there is no ill-treatment and harassment to the respondent or to his wife and the entire dispute between them arose due to the fact that her daughter Smt. Misba married a Christian boy and the respondent threatened that either she should divorce her husband or the appellants have to vacate the property in question. The appellants also pointed out that the respondent in his eviction application stated that he wants his sons should come and live with him in the property in question and above floors so that they can take care of him and his wife. But this is a false submission as from the documents relied upon by the respondent himself show that the



respondent has disowned his sons way back due to ill-treatment and harassment. The respondent even filed court cases against his sons so as to evict them. The appellants also alleged that proper field verification was not done and simply verbatim complaint was reiterated and there is no independent enquiry. This has merit. The bare perusal of field inquiry shows that no independent enquiry was done to ascertain the actual facts regarding the ill-treatment and harassment to the respondent. The respondent accordingly failed to show how he and his wife are being ill-treated and harassed by the appellants when it is an admitted fact that the appellants are residing separately at different floors. In fact from the facts and circumstances of the case it is clearly evident that it is a purely civil dispute, the jurisdiction of which lies with the Civil Court.

17. On the issue of non-maintenance, the respondent has not taken any plea regarding non-maintenance by the appellants. In fact he submitted that he is a pensioner and taking care of himself and his wife. Also the third floor is in possession of respondent who can use it for earning rent. No doubt the objective of the Act is to see the comfortable living of the senior citizens/parents in their house but it is also the duty of the District Magistrate to see that the provisions are not misused to settle property disputes. It is also relevant to note that the Hon'ble Delhi High Court while granting stay to the appellants against the impugned order observed that "it is not disputed that the senior citizens as well as the petitioners are occupying the premises albeit on different floors and portions thereof. It is therefore not a case where the petitioners were not residing in the premises in questions.". The respondent's counsel also in Contempt petition before Hon'ble High Court assured "that respondent shall not put any lock on the staircase in future and he shall ensure that the staircase is not locked by any person as well without providing a duplicate key of the lock to the petitioner."

18. Keeping in view the facts and circumstances, the impugned order is hereby set-aside. The judgments relied upon by the respondent are not relevant with respect to the facts of the present case. Appeal is allowed accordingly. It is made clear that this order shall not come in the way of local body in taking action against unauthorized construction, admitted by parties in this case, as per law. Copy of this order be provided to both the parties. Record of the Proceedings before DM (West) be also sent back to the DM (West) with the copy of this order."

13. In the said background, the petitioner filed the present petition seeking to quash/set-aside the order dated 28.08.2023 passed in PA/Appeal No. 472/2022/6069-6072 by the Appellate Authority of Divisional



Commissioner, office of the Pr. Secretary-cum-Divisional Commissioner,
Department of Revenue, Government of NCT of Delhi.

SUBMISSIONS ON BEHALF OF THE PETITIONER

14. The learned counsel on behalf of the petitioner submitted that the impugned order proceeds to set aside the Eviction order dated 24.03.2022 primarily on the premise that (i) there was no ill- treatment or harassment (ii) the disputes between the parties are civil in nature, and thus beyond the scope of adjudication under the Senior Citizen Act. However, the said views are untenable and misplaced inasmuch as in a catena of judgments¹, the Courts have observed that a senior citizen need not prove ill- treatment at the hands of his/her children, as a pre-condition for seeking their eviction under Rule 22(3)(1) of the Senior Citizen Rules, in cases where the children have no right or interest over the property in question.

15. It is further submitted that even otherwise, the Appellate Tribunal erred in observing that the petitioner failed to prove that any ill-treatment or harassment has been meted out against him by the respondent nos. 2 to 7 as the same was evident from the following facts: -

- i. That petitioner published a notice dated 07.02.2021 in a local newspaper whereby the petitioner categorically disowned respondent no.2 from all his moveable and immovable properties.
- ii. A complaint was filed on 07.06.2021 before the Police Commissioner Delhi and District Magistrate, Raja Garden Delhi seeking protection

¹ *Sandeep Gulati vs Divisional Commissioner*, 2020 SCC OnLine Del 2517; *Arshiya Gulati (through: next friend Mrs. Divya Gulati) & Ors. vs Govt. of NCT of Delhi & Ors.*, 261 (2019) DLT 373; *Justice Shanti Sarup Dewan, Chief Justice (Retd.) and Anr. Vs Union Territory, Chandigarh* in LPA No.1007 of 2013 (the Punjab and Haryana High Court)



against the ill-treatment and harassment faced by the petitioner and his wife at the hands of respondent nos. 2 to 7.

- iii. Due to the persistent abuse and conduct of the respondent nos. 2 to 7, one of petitioner's daughter was constrained to file an FIR bearing no. 0374 dated 17.05.2023 at Police Station Ranjeet Nagar, Delhi under Sections 323, 341 and 34 of the Indian Penal Code, 1860.
- iv. The respondent nos. 2 to 7 with a malafide intention, tried to coerce and force the petitioner to sign a General Power of Attorney, Gift Deed and Will dated 25.01.2016. Although, the petitioner did not budge to the threats and refused to sign the same, he and his wife were constantly harassed and ill-treated thereafter.
- v. Video evidences on record prove the ill-treatment and harassment meted out on the petitioners at the hands of respondent nos. 2 to 7.

16. It is further submitted that the impugned order failed to take into account the fact that the eviction of respondent nos. 2 to 7 was an absolute necessity for ensuring the well being and safety of petitioner and his wife. Reliance in this regard is placed upon observations rendered by a coordinate Bench of this Court in W.P(C) 14149/2022 titled as ***Virender Singh Vs. Pr Secretary Cum Divisional Commissioner & Ors*** vide order dated 06.10.2022.²

17. It is contended that the impugned order ought to have considered the fact that the respondent nos. 2 to 7 are mere Licensees without any ownership right over the subject property.³

² "4. The Court notes that at that stage the authorities administering the provisions of the 2007 Act are to primarily weigh in consideration the imperatives of securing the physical and mental well-being of the senior citizens and their security bearing in mind the predominant objective and purpose of the 2007 Act.."

³ ***Bansraj Lalitprasad Mishra v. Stanley Parker Jones***, AIR 2006 SC 3569, and ***Manmohan***



18. It is further submitted that by placing reliance upon a list of documents which records the subject property as address of the respondent nos. 2 to 7, the said respondents claim to be residing in the subject property for more than 3 decades. However, the said claim is false and frivolous inasmuch as the petitioner out of love and affection and for the sake of convenience allowed all his children to record the subject property as their permanent address in official documents. Further, on the said premises between 2003 and 2007 sons of petitioners resided. After they vacated the said premises, the property was rented out for a period between 2007 to 2014 to various tenants. It was only in the year 2014, considering that respondent nos. 2 and her family were facing issue in renting flats in the same vicinity, out of love and affection, the petitioner allowed them to stay on the second floor of the subject property temporarily as a permissible licensee. However, upon willingness of the respondent nos. 2 and 3 to pay rent for the said premises, the petitioner agreed and executed a rent agreement dated 20.11.2014 for a period of 11 months. Prior to 2014, the respondent nos. 2 and her family resided in various rented accommodations in the same vicinity.

19. It is further submitted that the claim of ownership of the respondent nos. 2 to 7 viz. on the second floor of the subject-property purportedly on account of bearing the cost of construction of the second and third floor cannot be sustained inasmuch as:-

- i. undisputedly, by virtue of Possession Slip no. 3321 dated 23.12.1976 issued by the Delhi Development Authority (J.J Cell), the petitioner is the original allottee of the subject property. The petitioner in the year

Singh v. UT Chandigarh, LPA 769/2013



2003, from his hard-earned money constructed up to three storeys at the allocated subject property with an intention to reside on the first floor and to rent out the second and third floor thereof for a steady post-retirement income;

- ii. a similar plea was also raised by one of the sons of the petitioner *qua* the third floor of the subject property before the Court of Civil Judge (West), Tis Hazari Courts, Delhi in CS SCJ No. 613016/16. However, *vide* judgment dated 06.10.2018, the Court decreed the Suit in favour of the petitioner by *inter-alia* observing as under:-

“28. Another material aspect which needs to be looked into is that, on the one hand it is averred by defendant No. 1, in his evidence as well as written statement that 2nd and 3rd floor of the suit property were constructed by him in the year 2005 and 2011, respectively but on the other hand, it is categorically admitted by DW-1 in his cross-examination that, all the three floors of the suit property were got constructed by his father i.e., the plaintiff, the relevant extracts of cross examination of DW1 to this effect are, “It is correct that the house bearing No. Y-21A, DDA Flat, New Ranjit Nagar, New Delhi (comprising of all the floors) was constructed by my father.” Thus, on the basis of the categorical admission made by the defendant with respect to the construction of the three floors by his father i.e. plaintiff in the present case, the entire defence of the defendant has been demolished.

29. Thus, on the observations and findings made as above, a logical corollary can be culled out that, defendant has miserably failed to prove that the second and third floor of the suit property was got constructed by him with his own money and at his own expenses.”

SUBMISSIONS ON BEHALF OF THE RESPONDENT Nos. 2 to 7

20. Learned counsel on behalf of the respondents submitted that the present petition is not maintainable on the ground that the disputes between the parties are civil in nature and primarily premised upon disputed questions of facts/ownership.



21. It is submitted that although the Senior Citizen Act has been passed for protection of senior citizens, however, where invocation of a provision is subject to the same qualifying certain conditions stipulated therein, until the said conditions are not established, relief cannot be granted to a senior citizen.

22. It is further submitted that the petitioner was allotted first floor of the subject property in the year 1976 in exchange of ancestral house bearing no. 4030/XI, Gali Khankhana, Old Delhi pursuant to a rehabilitation scheme by the Slum and J.J. Department, Delhi Development Authority. Thus, considering that the subject property was allotted to the petitioner in lieu of an ancestral property, right in the subject property by way of inheritance devolves up on each and every legal heir of the petitioner including the respondent no.2.

23. It is contended that the right of the petitioner in the subject property is limited to the first floor wherein he is already residing peacefully with his wife. The remaining two floors (second and third floor) are mere illegal/encroached structures built over the roof of the first floor (allotted to the petitioner) by the respondent nos.2 and 3 with their own funds (wherein they have been residing for more than 3 decades). It is further contended that the same can be corroborated from (i) the SDM report which observes that *“Later on, two floors were constructed on the roof of this flat by the occupiers. The first floor is in name of complainant/petitioner herein, and he is residing along with his wife on this floor”* (ii) affidavits of people from whom the respondent nos. 2 and 3 took loan and services for undertaking the aforementioned construction submitted before the SDM and DM and (ii) documents of residence proof.



24. It is submitted that a tribunal under the Senior Citizen Act and Rules framed thereunder is empowered to evict children/legal heir of a senior citizen only if twin conditions i.e., (i) rights, title and ownership in the concerned property is vested with the senior citizen (ii) District magistrate after an examination is satisfied that ill-treatment/ harassment is meted out against a senior citizen at the hands of his/her children, are jointly satisfied. It is contended that if the SDM during an inquiry does not find a senior citizen owner of the property in question, it shall not proceed to inquire into the allegations of ill-treatment/harassment and the concerned District Magistrate ought to in such circumstances dismiss the application/ complaint filed by a senior citizen.

25. It is further submitted that the facts of the present case are different from the judgments relied upon by the learned counsel on behalf of the petitioner inasmuch as in the judgments relied upon, the senior citizen therein purchased the subject property from his/her own money unlike in the present case where the floor in question has been constructed by the respondents from their own funds.

26. It is further submitted that the financial crisis portrayed by the petitioner is false and frivolous inasmuch as he is a pensioner and in case, he requires additional income, the third floor of the subject property which lies vacant pursuant to same being vacated by one his son/s can be put up for rent by the petitioner.

27. It is further contended that decree of ownership viz. the floors of the subject property granted in favour of the petitioner *vide* judgment dated 06.10.2018 passed in CS SCJ No. 613016/2016 is not binding upon the respondents inasmuch as in the said suit the respondents were never made a



party and the same was instituted only between the petitioner and one of his sons.

28. It is further submitted that the respondents have neither ill-treated nor harassed the petitioner and his wife. On the contrary, despite this Court in W.P(C) 12063/2022 *vide* an order dated 22.08.2022, directing to maintain *status quo qua* the subject property (in favour of the respondents) till the adjudication of appeal by the Appellate Tribunal, the petitioner locked the staircase leading to the second and third floor of the subject property to harass the respondents. Although, in regards to the aforesaid conduct of the petitioner, pursuant to certain undertaking/s made by the petitioner before this Court in CONT. CAS(C) No. 925/2022, the respondents were given access to the second floor of the subject property, however, the petitioner continued to block respondents access to the staircase leading to the third floor, in contravention of the directions of the Court to maintain *status quo*.

REASONING AND FINDINGS

29. Respective counsel for the parties have been heard.

30. At the outset, reference is apposite to the statutory framework within the ambit of which the petitioner has sought eviction of respondent nos.2 to 7 from the subject property. Rule 22(3)(1) of the Senior Citizen Rules, 2009 reads as under: -

“Rule 22-

.....

(3)(1) *Procedure for eviction from property/residential building of Senior Citizen/Parents,-*

(i) *A senior citizen / parents may make an application before the Deputy Commissioner / District Magistrate of his district for eviction of his son and daughter or legal heir from his property of any kind whether movable or immovable, ancestral or self acquired, tangible or intangible*



and include rights or interests in such property on account of his non-maintenance and ill-treatment.

(ii) The Deputy Commissioner / DM shall immediately forward such application to the concerned Sub Divisional Magistrates for verification of the title of the property and facts of the case within 15 days from the date of receipt of such application.

(iii) The Sub-Divisional Magistrate shall immediately submit its report to the Deputy Commissioner / DM for final orders within 21 final orders within 21 days from the date of receipt of the complaint / application.

(iv) The Deputy Commissioner / District Magistrate during summary proceedings from the protection of senior citizens parents, shall consider all the relevant provisions of the said Act. if the Deputy Commissioner / District Magistrate is of opinion that any son or daughter or legal heir of a senior citizen / parents is not maintaining the senior citizen and ill treating him and yet is occupying the property of any kind whether movable or immovable, ancestral or self acquired, tangible or intangible and include rights or interests in such property of the senior citizen, and that they should be evicted. The Deputy Commissioner / District Magistrate shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause as to why an order of eviction should not be issued against them / him / her.

...

(4) Appeal –

(i) The appeal against the order of Dy. Commissioner / DM shall lie before Divisional Commissioner, Delhi.

(ii) Provisions regarding disposal of appeal before Appellate Tribunal shall apply mutatis mutandis to the appeals before the Divisional Commissioner, Delhi.”

31. In the present case, a perusal of the impugned order reveals that the eviction order dated 24.03.2022 passed by the District Magistrate, West, Government of NCT of Delhi has been set aside primarily on the premise that ill-treatment or non-maintenance by the legal heirs/children is a pre-requisite for evicting legal heirs/children from the property of a senior citizen under the Senior Citizen Act. This very premise is misconceived, as held in a catena of judgments. Besides, in the factual conspectus of the present case, it is apparent that the petitioner has been suffering on account of the ill-treatment meted out to him and his wife at the hands of the



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respondent nos.2 to 7. The petitioner, who has appeared in person with his counsel, has pointed out that at this age, he is constantly subject to a barrage of abuses by the respondent/s (his own children). The petition also avers that a complaint was filed on 07.06.2021 before the Police Commissioner and District Magistrate, Raja Garden, Delhi seeking protection on account of the ill-treatment and harassment stated to have been faced by the petitioner and his wife at the hands of the respondent nos.2 to 7.

32. The petitioner is also stated to have published a notice dated 07.02.2021 in a local newspaper whereby the petitioner categorically disowned respondent no.2. Further, one of the petitioner's daughters also filed an FIR bearing no.0374 dated 17.05.2023 against the respondent no.2 at Police Station Ranjeet Nagar, Delhi under Section 323/341/34 of the Indian Penal Code (IPC), 1860.

33. Notably, the impugned order seeks to place significant reliance upon the fact that since 2014, till the date of filing of the complaint under the Senior Citizens Act, 2007, no action was taken by the petitioner in terms of approaching the police or any authority, even after the respondents allegedly sought to force the petitioner to execute documents such as GPA, Gift Deed, Will etc.

34. Contrary to the approach taken by the appellate authority, it is trite that in the context of a beneficial legislation such as the Senior Citizens Act, 2007, even in a situation where a senior citizen does not rush/act with alacrity in filing complaint/s in terms of the prescribed statutory mechanism, the same is not a ground to deny to the senior citizen/s the rights flowing from the said enactment. It may be that in a particular case, a senior citizen continues to face harassment at the hands of his or her children and



approaches the concerned authority only after a gap of some time in the hope that the children/legal heir/s shall mend their conduct, and the situation shall resolve itself. It may also happen that attempts are made by the senior citizen to reconcile with his or her children instead of taking precipitative steps. However, that by itself is no ground to deny to a senior citizen the rights conferred under the Senior Citizens Act, 2007 and the Rules thereunder.

35. It has been held repeatedly that the beneficent nature of the legislation must guide its interpretation and application. In ***Tajinder Singh Bakshi and Anr. Vs Daljit Kaur and Ors.***, 2025: DHC:6879,⁴ it has been held by this Court as under:-

“31. At the outset, it is necessary to consider the scope, purport and import of Section 23 of the Senior Citizens Act. Time and again it has been emphasized that the beneficial nature of a legislation must guide the interpretation and application of the statutory provisions therein.

32. The Supreme Court in Urmila Dixit (supra), while construing the provisions of the Senior Citizens Act referred to the judgment of K. H. Nazar v. Mathew K. Jacob, (2020) 14 SCC 126, in which it has been held as under:-

“11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the Court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation. [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335]

⁴ Upheld by the Division Bench of this Court vide judgment dated 26.09.2025 passed in LPA No. 587/2025.



13. While interpreting a statute, the problem or mischief that the statute was designed to remedy should first be identified, and then a construction that suppresses the problem and advances the remedy should be adopted. [Indian Performing Rights Society Ltd. v. Sanjay Dalia, (2015) 10 SCC 161 : (2016) 1 SCC (Civ) 55] It is settled law that exemption clauses in beneficial or social welfare legislations should be given strict construction. [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] It was observed in Shivram A. Shiroor v. Radhabai Shantram Kowshik [Shivram A. Shiroor v. Radhabai Shantram Kowshik, (1984) 1 SCC 588] that the exclusionary provisions in a beneficial legislation should be construed strictly so as to give a wide amplitude to the principal object of the legislation and to prevent its evasion on deceptive grounds. Similarly, in Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council [Minister Administering the Crown Lands Act v. NSW Aboriginal Land Council, 2008 HCA 48 : (2008) 237 CLR 285] , Kirby, J. held that the principle of providing purposive construction to beneficial legislations mandates that exceptions in such legislations should be construed narrowly.”

33. Taking note of the dicta laid down in **K. H. Nazar** (supra) and the Statement of Objects and Reasons of the Senior Citizens Act, the Supreme Court in **Urmila Dixit** (supra) held as under: -

“14. Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be interpreted and a construction that advances the remedies of the Act must be adopted.

15. Before advertng to the provisions of the Act, we must be cognizant of the larger issue that this case presents i.e. the care of senior citizens in our society. This Court in Vijaya Manohar Arbat v. Kashirao Rajaram Sawai [Vijaya Manohar Arbat v. Kashirao Rajaram Sawai, (1987) 2 SCC 278 : 1987 SCC (Cri) 354] highlighted that it is a social obligation for both sons and daughters to maintain their parents when they are unable to do so.

16. In Badshah v. Urmila Badshah Godse [Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188 : (2014) 1 SCC (Civ) 51] , this Court observed that when a case pertaining to maintenance of parents or wife is being considered, the Court is bound to advance the cause of social justice of such marginalised groups, in furtherance of the constitutional vision enshrined in the Preamble. Recently, this exposition came to be reiterated in Rajnesh v. Neha [Rajnesh v. Neha, (2021) 2 SCC 324 : (2021) 2 SCC (Civ) 220 :



(2021) 1 SCC (Cri) 749].

34. Further, in **Urmila Dixit** (*supra*), the Supreme Court also referred with approval, the observations laid down in **Ashwani Kumar v. Union of India**, (2019) 2 SCC 636, wherein it has been observed as under:-

“3. The rights of elderly persons is one such emerging situation that was perhaps not fully foreseen by our Constitution-framers. Therefore, while there is a reference to the health and strength of workers, men and women, and the tender age of children in Article 39 of the Constitution and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want in Article 41 of the Constitution, there is no specific reference to the health of the elderly or to their shelter in times of want and indeed to their dignity and sustenance due to their age.

4. Eventually, age catches up with everybody and on occasion, it renders some people completely helpless and dependent on others, either physically or mentally or both. Fortunately, our Constitution is organic and this Court is forward looking. This combination has resulted in path-breaking developments in law, particularly in the sphere of social justice, which has been given tremendous importance and significance in a variety of decisions rendered by this Court over the years. The present petition is one such opportunity presented before this Court to recognise and enforce the rights of elderly persons—rights that are recognised by Article 21 of the Constitution as understood and interpreted by this Court in a series of decisions over a period of several decades, and rights that have gained recognition over the years due to emerging situations.”

35. In **Sudesh Chhikara** (*supra*), a judgment strongly relied upon by the petitioner, it has also been acknowledged that the Senior Citizens Act “has been enacted for the purpose of making effective provisions for the maintenance and welfare of parents and senior citizens”.

36. Also, the legal premise of the impugned order viz. that it is mandatory and necessary pre-requisite for a senior citizen to establish ill-treatment or non-maintenance by his or her legal heirs / children for being entitled to the relief of eviction and / or other beneficent provisions of the Senior Citizens Act, is legally misconceived and contrary to settled law.

37. The legal position is well settled that the beneficent dispensation



created under Rule 22(3)(1) of the Senior Citizen Rules does not require, as a pre-condition or invocation / application thereof, that the senior citizen has suffered ill-treatment and / or non-maintenance at the hands of his or her children. In this regard, this Court in ***Pritam Singh vs Government of NCT of Delhi and Ors***⁵, 2025 SCC OnLine Del 4406, relying upon ***Urmila Dixit v. Sunil Sharan Dixit*** 2025 SCC OnLine SC 2; ***Sandeep Gulati v. Divisional Commissioner*** 2020 SCC OnLine Del 2517; ***Smt. Darshana v. Government of NCT Delhi and Others*** 2018 SCC OnLine Del 10535 and ***Sachin & Anr. v. Jhabbu Lal and Anr.*** RSA 136/2016, has held as under: -

*“20. The scope and import of the statutory prescription under Rule 22(3)(1) of the Senior Citizen Rules has been the subject matter of various judicial pronouncements. It has been noticed therein that the Senior Citizen Rules have been framed in furtherance of formulating an ‘action plan’ for protection of life and property of senior citizens pursuant to Section 22 of the Senior Citizen Act. In view of the Senior Citizen Act being a welfare legislation, it has been held that the same shall also be interpreted liberally in a manner which furthers the object and purpose of the statute. The Supreme Court in ***Urmila Dixit v. Sunil Sharan Dixit*** 2025 SCC OnLine SC 2, while considering the overarching theme of the Senior Citizen Act, has observed as under:-*

*“12. It is in the above background that we must proceed to examine the Act. The statement of object and reasons of the Act indicates the purpose behind the enactment, as relied upon by this Court in ***S. Vanitha v. Deputy Commissioner, Bengaluru Urban District***, is:*

“Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a

⁵ The judgment rendered by this Court in ***Pritam Singh*** (supra) has been upheld by the Division Bench of this Court vide an order dated 30.05.2025 in LPA 384/2025 and the Supreme Court in SLP (C) 16454/2025 vide an order dated 15.10.2025



need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Criminal Procedure Code, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.”

13. The preamble of the Act states that it is intended towards more effective provisions for maintenance and welfare of parents and senior citizens, guaranteed and recognised under the Constitution.

14. Therefore, it is apparent, that the Act is a beneficial piece of legislation, aimed at securing the rights of senior citizens, in view of the challenges faced by them. It is in this backdrop that the Act must be interpreted and a construction that advances the remedies of the Act must be adopted.”

(emphasis supplied)

21. It is notable that the beneficial dispensation created under Rule 22(3)(1) of the Senior Citizen Rules do not require, as a pre-condition of invocation/application thereof, that the senior citizen has suffered ill treatment and/or non-maintenance at the hands of his/her children where the children of the senior citizen have no right or interest over the property in question.

22. Various judgments of this Court have specifically held that it is not necessary for a senior citizen to prove any ill treatment at the hands of his or her children before seeking their eviction by taking recourse to Rule 22(3)(1) in cases where the children do not have any right or interest over the property in question.

*23. Reliance in this regard can be placed on the judgments of co-ordinate benches of this Court in **Sandeep Gulati v. Divisional Commissioner** 2020 SCC OnLine Del 2517 and **Smt. Darshana v. Government of NCT Delhi and Others** 2018 SCC OnLine Del 10535. As such, the impugned order passed by the Appellate Authority misdirects itself in holding to the contrary. The said order also omits to take notice of the very elaborate, cogent findings in the order passed by the District Magistrate, as regards ill treatment of the petitioner.*

*24. In **Smt. Darshana v. Government of NCT Delhi and Others** 2018 SCC OnLine Del 10535, which has been upheld by a division bench of this Court vide judgment dated 03.10.2018 passed in LPA 537/2018, it has been held as under –*

“3. Darshna has filed the present petition impugning an order



dated 08.06.2018 (hereafter 'the impugned order') passed by the District Magistrate, whereby she has been directed to vacate the first floor of House No. 2777/21, Beadonpura, Karol Bagh, New Delhi-110005 (hereafter 'the Premises') occupied by her and handover peaceful possession of the property to respondent no. 2 (Sh. Dhani Ram).

4. Darshna is the daughter-in-law of Dhani Ram and is currently residing in the Premises along with Sh. Dhani Ram and his wife. It is stated that she occupies only one room in the said premises.

xxx

29. It is also relevant to note that Darshna has no right, title and interest in the premises and, therefore, cannot insist on residing with Dhani Ram and his wife especially when the relationships between the said parties have deteriorated to the extent as indicated above

(emphasis supplied)

25. In *Sandeep Gulati v. Divisional Commissioner* 2020 SCC OnLine Del 2517 a coordinate bench of this Court, inter alia, relying on the aforesaid decision, has held as under:-

"14. The scope of the proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 as also the Rules is to grant protection to the parents, including with respect to their property. The scope of this Act is not to punish the children and therefore, once it is established that the children have no right over the property of the parents, the fact that the parents do not wish to have their children staying with them is enough for invoking the Act and the Rules.

15. In *Darshana* (supra), this Court, relying upon Section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, has held as under:

"19. It is also relevant to refer to section 22 of the Act which is set out below:—

"(2) The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens."

It is relevant to note that Section 22(2) of the Act expressly provides that State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens. The aforesaid Rules are an aid of the said provision. The Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016, entitling a senior citizen to seek eviction of his son, daughter or his legal heirs on account of ill-treatment were framed in aid of protecting the life and property of senior citizens and not in furtherance of Section 4 of the Act. Thus, the assumption that it is necessary for a senior citizen to claim maintenance for seeking the protection of the Act or the Rules made there under is erroneous.



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24. Rule 22(3)(1)(i) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 as subsequently amended in 2016 is a piece of welfare legislation. It must be read in meaningful and liberal manner so as to aid and further the object of the enactment and not in a manner as to restrict its width.

xxx

28. It is also relevant to note that Darshna has no right, title and interest in the premises and, therefore, cannot insist on residing with Dhani Ram and his wife especially when the relationships between the said parties have deteriorated to the extent as indicated above.”

16. The above judgment was upheld by the Division Bench of this Court vide its judgment dated 03.10.2018 passed in LPA 537/2018, Darshna v. Government of NCT of Delhi, observing as under:

“13. Keeping in view the objective of the Act and it is hightime that senior citizens/parents are allowed to live in peace and tranquility, the orders passed by the Maintenance Tribunal and the learned Single Judge cannot be faulted. The Appeal is dismissed.”

17. The Punjab & Haryana High Court, in its judgment dated 01.12.2015 passed in Gurpreet Singh v. State of Punjab, has also held as under:

“Section 22 falling in Chapter V of the Act enjoins a duty upon State Government to prescribe a comprehensive action plan for providing protection of life and property of senior citizens. Section 32 (2) (f) also empowers the State Government to frame Rules in respect of comprehensive action plan for providing protection of life and property of senior citizens. In terms of such provisions, the Rules have been framed which causes a duty on the District Magistrate to ensure that the life and property of senior citizens are protected and they are able to live with a sense of security and dignity. Apart from framing such Rules, the Action Plan for protection of life and property of the senior citizens has been published which inter alia provides for eviction of unauthorized occupants as reproduced above.

The petitioner is a licensee living in the premises on the basis of concession given by his father to live in the property owned by him. As a licensee, the petitioner is only permitted to enjoy the possession of the property licensed but without creating any interest in the property. A licence stands terminated the moment the licensor conveys a notice of termination of a licence. There is no vested right of any kind in the licensee to remain in possession of the property licensed. Admittedly, respondent No. 4 is the owner of the property in question. The petitioner is living in part of the property. Such property owned by respondent No. 4 is required to be protected as mandated by Section 22 of the Act read with Rule 23 of the Rules and para 1 of the Action Plan. There cannot be any effective protection of property of the



senior citizens unless the District Magistrate has the power to put the senior citizen into possession of the property and/or to restrain or eject the person who wishes to interfere in the possession of the property of the senior citizen. Protection of the property of a senior citizen includes all incidences, rights and obligations in respect of property in question. Once a senior citizen makes a complaint to District Magistrate against his son to vacate the premises of which the son is a licensee, such summary procedure will enure for the benefit of the senior citizen. The petitioner would have no right to resist his eviction only on the ground that the Act does not contemplate eviction of an occupant. Eviction is one part of the right to protect the property of a senior citizen which right could be exercised by a senior citizen in terms of provisions of the statute, Rules framed and the Action Plan notified.”

18. A reading of the above judgments would clearly show that a senior citizen is merely to show that his property needs protection and need not necessarily have to show that he/she needs maintenance or has been ill-treated by the son or other legal heir.

(emphasis supplied)

26. In *Sachin & Anr. v. Jhabbu Lal and Anr.* while disposing of RSA No. 136/2016 and CM No. 19123/2016, a coordinate bench of this Court observed as under:

“Where the house is self acquired house of the parents, son whether married or unmarried, has no legal right to live in that house and he can live in that house only at the mercy of his parents up to the time the parents allow. Merely because the parents have allowed him to live in the house so long as his relations with the parents were cordial, does not mean that the parents have to bear his burden throughout his life.”

27. Thus, a senior citizen is merely to show that his property needs protection and need not necessarily have to show that he/she needs maintenance or has been ill-treated by the son or other legal heir.

38. In the circumstances, the impugned order in the present case is in the teeth of the aforesaid legal position as affirmed time and again by this Court.

39. Further, the contention of the learned counsel for the respondent nos.2 to 7 that the right, title and ownership of the petitioner is limited/confined to the first floor of the subject property (where the petitioner is currently residing with his wife) and that the petitioner is therefore precluded from



seeking eviction of respondent nos. 2 to 7 from the remaining floors, is wholly misplaced. It is noticed that the said contention is premised on the assertion that the remaining two floors (second and third floor) of the subject property are unauthorised construction/encroachment built over the roof of the first floor of the subject property by the respondent no.2 and 3 from their own funds.

40. At the outset, it is noticed that the said contention was also taken by the respondent nos.2 and 3 before the Appellate Authority, and on this aspect, the impugned order renders a finding in favour of the petitioner. The relevant portion of the impugned order reads as under:-

*“14. The preliminary objection of the appellants is that the eviction application of the respondent is void-ab-initio and non-maintainable as the respondent is not the owner of the portion constructed above flat no. Y-21A, New Ranjit Nagar, New Delhi-110008, an allotment to the respondent, and the construction of extra floors is merely an unauthorized construction and no one is the owner of the 2nd and 3rd Floor. This appellate authority does not find merits in this argument of the appellants as this appellate authority is not the civil court to decide the ownership/title of the property in question. **Otherwise also as per the provisions of the Senior Citizen Act, 2007 and amended Rules framed thereunder time to time as noted above the Parents/ Senior Citizens can evict their legal heirs from any kind of property including the one in which they have interest only.....”***

41. No appeal has been filed by the respondents against the aforesaid finding/s rendered in the impugned order. Even otherwise, the contention of the respondent nos.2 to 7 (to the effect that the petitioner is precluded from invoking the statutory mechanism for want of any title in the first/second floor/roof of the property in question) is misconceived.

42. In the factual conspectus of the present case, it is undisputed that the induction of the respondent nos. 2 and her family into the subject property, is solely traceable to, and only on account of the right, title and interest of



the petitioner in the said property. As such, it is wholly untenable for the respondent/s to claim any independent title/interest in the property in question.

43. Even otherwise, this Court has time and again reiterated the legal position that a senior citizen can seek to evict his/her legal heirs/children from his/her property in which he/she has a “right or interest”. In this regard, relevant observations have been rendered by this Court in **Pritam Singh** (supra) as under: -

*“48.....Such a situation warrants application of the beneficial provision/s embodied in Rule 22(3)(1)(i) of the Senior Citizen Rules. The same entitles a senior citizen to file an application seeking eviction of his children from a property in which the senior citizen may have “rights or interests”. It has been held that such “rights or interests” in the property in question need not necessarily be construed to be only a ‘right of exclusive ownership’. In support of the abovesaid proposition, reliance is placed on a judgment of the division bench of this Court in **Pawan Kumar and Others v. Divisional Commissioner Department of Revenue Government of Delhi and Others** 2022 SCC OnLine Del 3354, wherein it has been held as under –*

“9. As rightly pointed out by the authorities below and by the learned Single Judge of this Court the exercise under the Senior Citizens Act is not to ascertain the title of the property in question. The enquiry is limited to see as to whether the senior citizen is being harassed by his children or not and if the senior citizen is harassed then for his/her welfare it is necessary that the children/legal heirs are asked to evict the property. The proceedings which are summary in nature are not to decide the title of the property. In view of the above, the principle contention of the Appellants herein that the Respondent No. 2 is not the owner of the property in question is insignificant. Any right which the Appellants want to establish has to be established under the Civil Code by filing a suit before the Civil Court.

10. This Court, at this moment, is not going into the question as to whether the Senior Citizens Act provides for over-riding a decree or a finding of the Civil Court regarding the title of the property. The Appellants have not been able to show any semblance of right, title or interest superior to that of Respondent No. 2 over the property in question and in absence of any such assertion, the Orders of the authorities below and the learned Single Judge of this Court cannot be found fault with.

*11. A Single Bench of this Court in its Order dated 08.07.2022 in **W.P.***



(C) 9757/2022 titled as Mr. Neeraj Bhasin v. Divisional Commissioner, Delhi, which was consequently upheld by a Division Bench of this Court vide Order dated 25.08.2022 in LPA 446/2022, has observed as under:

“9. From the recordal of submissions as noted above, it is manifest that the parties have raised various questions touching upon their respective civil rights claimed in relation to the property in question. However, those questions, in the considered opinion of this Court, at this stage if not irrelevant must be viewed as subservient and secondary to the principal consideration of proceedings under the Act, namely, the security and maintenance of a senior citizen. It would be apposite to extract the Statement of Object and Reasons of the Act which reads thus:—

“Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Criminal Procedure Code, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.

2. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting-up old age homes for providing maintenance to the indigent older persons.

The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.

3. The Bill, therefore, proposes to provide for:—

- (a) appropriate mechanism to be set-up to provide need-based maintenance to the parents and senior citizens;
- (b) providing better medical facilities to senior citizens;
- (c) for institutionalisation of a suitable mechanism for protection of life and property of older persons;
- (d) setting-up of old age homes in every district.

4. The Bill seeks to achieve the above objectives.”

10. The Court also bears in mind the following pertinent



observations as were entered in Arshiya Gulati (Through : Next Friend Mrs. Divya Gulati) v. Govt. of NCT of Delhi, [(2019) 261 DLT 373]:—

“60. Now the question is whether the State Government could have formulated a summary procedure for eviction. We must bear in mind the objective for which the Parliament has enacted the Act, that is because of withering of the joint family system, a large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support which clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection of the older persons. Though the parents can claim maintenance under the Criminal Procedure Code, 1973, the procedure is both time consuming as well as expensive. Hence, a need was felt to have simple, inexpensive and speedy mechanism for parents/senior citizens to claim maintenance. The Act also provide for protection of the life and property of the senior citizens/parents. The “protection of property” must be understood to mean where a senior citizen retains the property in his name and possession for his welfare and well being.

61. So, the objective of the Act being, to provide inexpensive and speedy procedure for the protection of life and property of the senior citizens from the children/legal heirs, who are expected to maintain parents/senior citizens by providing the basic amenities and physical needs but refuse or fail to maintain/provide basic amenities which conduct shall amount to ill-treatment and non-maintenance and shall be a ground for parents/senior citizens to seek eviction of children/legal heir from the property, which is the only way for them to seek protection of their property so that, they continue to have shelter over their head, and sustain themselves independently without interference from their children/legal heirs. Further, a senior citizen cannot knock the door of civil Court to fight a legal battle to obtain the possession of the property as the jurisdiction of the Civil Court is barred under Section 27 of the Act. In this regard, we may refer to the judgment of the Punjab and Haryana High Court in the case of Justice Shanti Sarup Dewan, Chief Justice (Retd.) and Anr. (supra) wherein in para 37 it is held as under:

“37. It cannot be said that in such a situation, where respondent No. 7 was at best living with the permission of his



parents, which permission stands long withdrawn, the appellants and more specifically appellant No. 1 should be compelled to knock the door of the civil court and fight a legal battle to obtain exclusive possession of the property. This would defeat the very purpose of the said Act which has an over-riding effect qua any other enactment in view of Section 3 of the said Act. In fact, the Civil Court has been precluded from entertaining any matter qua which jurisdiction is vested under the said Act and specifically bars granting any injunction. Respondent No. 7 is thus LPA No. 1007 of 2013 (O&M) required to move out of the premises to permit the appellants to live in peace and civil proceedings can be only qua a claim thereafter if respondent No. 7 so chooses to make in respect of the property at Chandigarh but without any interim injunction. It is not the other way round that respondent No. 7 with his family keeps staying in the house and asking the appellants to go to the Civil Court to establish their rights knowing fully well that the time consuming civil proceedings may not be finished during the life time of appellant No. 1. In fact, that is the very objective of respondent No. 7.”

*11. As is evident from the above, the principal objective of the Act is to make effective provisions for the maintenance and welfare of parents and senior citizens. These are senior citizens who are left to fend for themselves all alone in the dusk of their lives, have been exposed to years of emotional neglect and receive no financial or emotional support from their children and heirs. Therefore, Courts and authorities administering the provisions of the Act are obliged to confer paramount consideration on these issues. **Regard must also be had to the fact that the word “property” under the Act is defined to mean property of any kind whether moveable or immoveable, ancestral or self-acquired and includes rights or interests in such property. It would therefore clearly follow that a senior citizen may claim a right of exclusive residence even though he or she may be only able to establish a “right” or “interest” in such property even if such right or interest be lower than an exclusive ownership right. Ultimately, the authorities under the Act are obliged to take into consideration the mental and physical well-being and security of the senior citizens and pass appropriate orders of protection bearing in mind the predominant purpose of the Act.”***

(emphasis supplied)

12. In view of the above, this Court is not inclined to interfere with the findings of the learned Single Judge that for peaceful existence of the Respondent No. 2, who is fearing for his life, **it is necessary for**



the Appellants herein, who have not been able to prove any right superior to the right of the Respondent No. 2 on the property in question, to evict the premises. The findings arrived at by the learned Single Judge are in consonance with the Senior Citizens Act which has been brought for the welfare of the senior citizens. Going into the nature of right/title/interest of the parties in the property in question, at this juncture, would be counterproductive for the objectives of the Senior Citizens Act. Any right/title/interest in the property in question can be established by the Appellants herein only through proper proceedings and by adducing evidence in a Suit before the Civil Court.

13. Accordingly, the Appeal is dismissed along with the pending application(s), if any.”

(emphasis supplied)

49. *Thus, this Court has held that the proceedings under the Senior Citizen Act and the Rules framed thereunder, are summary in nature and are not for the purpose of deciding the title over the property in question. It has been conclusively held that a senior citizen is entitled to claim relief under the Senior Citizen Act and the Rules thereunder despite his/her rights in respect of the property in question, being lower than a right of exclusive residence. Ultimately, the authorities under the Senior Citizen Act are obliged to take into consideration the mental and physical well-being and security of the senior citizens and pass appropriate orders of protection bearing in mind the predominant purpose of the Act.*

50. *The rights or interests, as referred to above, and on the basis of which an application seeking eviction under Rule 22(3)(1) may be filed, includes even a mere right of residence or possession in the property in question. In this regard, reference is also apposite to a judgment of a Division Bench of this Court in **Sunny Paul v. State of NCT of Delhi and Others** 2018 SCC OnLine Del 11640 which has also been relied upon by another Division Bench of this Court in **Darshna v. Government of NCT** 2018 SCC OnLine Del 11641. The relevant portion of the judgment in **Sunny Paul** (supra), reads as under –*

“17. A reading of the Rules framed by the Government of NCT clearly reflect that a senior citizen can file an application seeking eviction of his son and daughter or legal heir from his self acquired or ancestral property on the ground of ill-treatment or non maintenance. The vires of these Rules has not been challenged by the appellant. The limited challenge is to the jurisdiction of the Maintenance Tribunal to order an eviction under the Act of 2007. So noting the limited challenge to the order passed by the Tribunal and keeping in view the fact that the enactment being a social legislation and the same requires to be given liberal interpretation to achieve the mandate of the Act of 2007 i.e for the welfare of the parents and senior citizens and for the protection of their life and property, there is no doubt that the Tribunal does have



the jurisdiction to direct vacation by the children of any property in which the senior citizen has a right of residence/possession. In this regard, we may refer to the judgment of the Supreme Court in Board of Muslim Wakfs, Rajasthan v. Radha Krishna (1979) 2 SCC 468 wherein it was held that the construction which tends to make any part of the Statute meaningless or ineffective must always be avoided and the construction which advances the remedy intended by the Statute should be accepted.”

(emphasis supplied)

51. Furthermore, the senior citizen is entitled to seek relief under this enactment even where the title of the property is disputed and the senior citizen only has a “modicum of right” in the subject property. In this regard, it is relevant to consider the decision in **Manju Tokas and Anr. v. GNCT Delhi through Divisional Commissioner and Others** 2024 SCC OnLine Del 3974, wherein a co-ordinate bench of this Court considered the question as regards cases where the title over the property in question is disputed, whether an application before the tribunal under the Senior Citizens Act would cease to be maintainable on account of the pending title dispute and that the same would only be maintainable once the title over the subject property is settled.

52. The factual conspectus in **Manju Tokas** (supra) is that the title over the property in question was earlier held by one Mr. Ajay Tokas. The dispute over title of the property in question in the aforesaid case arose upon the death of Mr. Ajay Tokas between the petitioner therein (wife of Mr. Ajay Tokas) and the respondent no.3 therein (mother of Mr. Ajay Tokas and the senior citizen). While the petitioner therein claimed that the title over the subject property had been bequeathed upon her by Mr. Ajay Tokas, the respondent no.3 therein claimed that she had acquired title over it by way of a sale deed executed in her favour by Mr. Ajay Tokas.

53. In light of these facts, the Court therein held that a senior citizen would be entitled to seek relief under the Senior Citizen Rules even if the senior citizen only has a “modicum of right” over the property in question. The relevant portion of the said judgment reads as under –

“7. The said Rules prescribes that even if there is a modicum of right on the senior citizen over a property then the senior citizen is entitled to file an application and would also be entitled for maintenance.”

54. The Court in Manju Tokas (Supra) also held that while the tribunal under the Senior Citizens Act is not empowered to decide a title dispute, a pending title dispute between the parties would not preclude the tribunal from protecting the interests of the senior citizen i.e. for the senior citizen to not be harassed and be able to live properly inasmuch as relief under the Senior Citizen Act and the Senior Citizen Rules is



not contingent on the senior citizen having a right and interest over the subject property which is superior to the persons against whom the relief of eviction is sought. Relevant portion of the judgment reads as under –

“11. Undisputedly, the question of title is under dispute but it does not mean that till it is not decided finally that Respondent No. 3 has more right and interest over the property in question she cannot approach the forum under the Senior Citizens Act for her rights under the Act and such an interpretation would defeat the very purpose and objective of the Senior Citizens Act.”

44. The view rendered by this Court in **Pritam Singh** (supra) has been upheld by a Division Bench of this Court in LPA 384/2025 vide an order dated 30.05.2025. The relevant portion of the said order reads as under:-

13....While the aforesaid facts have not been challenged by the appellants, much mileage was sought to be taken from the fact that after the matter was finally heard on 24.02.2025 by the learned Single Judge and the matter was reserved for judgment, he had moved an application bearing CM APPL. 15133/2025 on 04.03.2025 bringing to the fore that respondent No.1 had transferred his right, title or interest in the subject property in favour of his daughter Smt. Ranjeet Kaur by executing certain registered documents in her favour viz.,

“(i) General Power of Attorney executed by the Petitioner in favour of Smt. Ranjeet Kaur, vide Registration No. 18, Volume No. 11160, Book No. IV, From Pages 66 to 70, dated 01.01.2018;

(ii) Will executed by the Petitioner in favour of Smt. Ranjeet Kaur, vide Registration No. 148, Book No.3, Volume No. 3556 from page 150 to 154, dated 07.04.2018; and (iii) Will dated 15.11.2017 executed by the Petitioner in favour of Smt. Ranjeet Kaur, vide Registration No. 501, Volume No. 3551, Book No. 3 from page 133 to 137, dated 15.11.2017.”

14. It was sought to be canvassed that in view of the execution of such documents, the respondent No.1/petitioner is no longer the owner of the subject property, and the entire proceedings are being orchestrated at the behest of his sister.

15. We have no hesitation in holding that the plea advanced on this aspect is also unsustainable. First and foremost, even assuming that a Will has been executed, it is a testamentary disposition that would come into effect only after the demise of respondent No. 1/petitioner. As for the other two documents, they merely empower his daughter to look after the property, pursue legal remedies to preserve the subject property, and comply with statutory obligations in respect thereof.



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17. Lastly, it was argued that, to their knowledge, respondent No. 1/petitioner has already executed a registered Gift Deed, thereby relinquishing any right, title, or interest in the subject property. However, no details of the execution of such a Gift Deed are forthcoming. Even assuming that such a deed exists, executed by respondent No. 1/petitioner in favour of his daughter, Rule 22(3)(1) categorically provides that any right or interest is sufficient to seek protection. In this case, respondent No. 1/petitioner still retains the right and interest to permissive use from his daughter to reside in the subject property.

45. The aforesaid order dated 30.05.2025 has also been upheld by the Supreme Court in SLP (C) 16454/2025 vide an order dated 15.10.2025.

46. In the facts of the present case, as noticed, it was the petitioner who inducted the respondent no.2 and her family into the subject property; the same was pursuant to the right/title/ownership acquired by the petitioner therein. It may have been that the petitioner was staying on the first floor of the property in question and second/third floors were built subsequently thereupon. In the facts of the present case, it is unambiguously clear that the possession of the respondent nos.2 to 7 is referable to, and based only on the license initially granted by the petitioner. In such a situation, the jurisdiction under Rule 22(3)(1) of the Senior Citizens Rules, 2009 is to be exercised for the purpose of ensuring the senior citizen's safety, dignity and possession of the premises.

47. As such, the petitioner is not precluded from invoking the statutory mechanism under the Senior Citizens Act, 2007, with regard to all portions of the subject property. In **Pritam Singh** (supra), it has been noticed that in several judicial pronouncements, this Court has gone to the extent of holding that a senior citizen is entitled to seek relief under the Senior Citizens Act,



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2007, even where the title of the property is disputed and senior citizen only has a “*modicum of right*” in the subject property. In the present case, the right/title/interest/ownership of the petitioner stands on a far better footing.

48. In the circumstances, the impugned order dated 28.08.2023 passed in PA/Appeal No. 472/2022/6069-6072 by the Appellate Authority of Divisional Commissioner, Office of the Pr. Secretary-Cum-Divisional Commissioner, Department of Revenue, Government of NCT of Delhi is set aside and the eviction order dated 24.03.2022 passed in Eviction No. 505/DCW/2021 by the Court of District Magistrate (West), Government of NCT of Delhi is upheld.

49. The respondent nos. 2 to 7 are directed to vacate second floor of property bearing no. Y-21A DDA Flat, New Ranjeet Nagar, Delhi-110008 and peacefully handover the possession thereof, within a period of 4 weeks from today.

50. The concerned Deputy Commissioner of Police is directed to ensure compliance with this order in terms of Rule 22(3)(3)(ii) of the Senior Citizen Rules. Let a copy of this order be sent to the concerned Deputy Commissioner of Police to ensure compliance.

51. In the meantime, (till vacation of the property), the respondent no(s). 2 to 7 are restrained from indulging in abusive behaviour towards the petitioner and/or indulging in any harassment of the petitioner.

52. The petition is disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

NOVEMBER 21, 2025

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