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

+ **W.P.(C) 3557/2025 and CM APPL. 16611/2025**

SHRI CHAND GAUTAM & ANR.

.....Petitioners

Through: Mr. Pritish Sabharwal, Advocate
along with petitioner in person.

versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Raj Kumar Yadav, Ms. Preeti
Gothwal, Advocates for R1.
Mr. Sacchin Puri (Sr. Adv) along with
Ms. Mehak Ghaloth, Mr. Akash
Gahlot and Mr. Dhan Singh,
Advocates for R-2 and 3.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% 12.01.2026

1. The instant petition has arisen out of the order dated 10.01.2025 passed by the Appellate Authority i.e. Divisional Commissioner under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (the Act of 2007). The impugned order upholds and affirms the view taken by the District Magistrate in order dated 15.04.2024. It is, thus, seen that there are concurrent findings of fact by two authorities.

2. The petitioners claim to be senior citizens and the owners of property bearing No.D-14, Ground Floor, Pamposh Enclave, New Delhi-110048 (hereinafter referred to as the property in question). Respondent nos. 2 and 3



herein are the son and daughter-in-law of the petitioners. The case of the petitioners is that they were harassed, threatened and physically assaulted to force them to give their properties to respondent nos. 2 and 3.

3. Mr. Pritish Sabharwal, learned counsel who appears on behalf of the petitioners, has made various submissions. He submits that the orders passed by both the authorities i.e. by the District Magistrate and the Divisional Commissioner are wholly perverse. According to him, there are sufficient instances, including the medico legal case of dated 23.01.2024 (Annexure P-4) in respect of petitioner no. 1 and the filing of false cases, to indicate harassment of the petitioners by respondents no. 2 and 3. He, therefore, contends that if the aforesaid document and material are appreciated in right perspective, it would indicate that a cause has arisen for protection against the said respondents and directions in favour of the petitioners to continue to reside in the property in question.

4. The aforesaid submissions are vehemently opposed by Mr. Sacchin Puri, learned senior counsel who appears on behalf of respondent nos.2 and 3. According to him, the concerned authorities have considered all the material placed on record and have rightly dismissed the petitioners' application. He has clarified that the Annexure P-4 relates to some eye surgery of petitioner no. 1 and has nothing to do with the alleged allegation of beating him. He unequivocally submits that there has been no instance of any cruelty being meted out to the petitioners. According to Mr. Puri, even a suit has been filed by respondent nos.2 and 3 claiming right over the property in question.

5. I have considered the submissions made by learned counsel for the parties and also perused the record.



6. The Supreme Court in the case of **S. Vanitha v. The Deputy Commissioner, Bengaluru Urban District & Ors.**¹ has held that undoubtedly, the authorities have a power to evict the son and daughter-in-law in favour of the senior citizens under the Act of 2007, however, such power cannot be exercised mechanically or solely on the basis of ownership. The provisions of Protection of Women from Domestic Violence Act, 2005 confer certain rights on women, including of residence in a shared household. The Court has held that the provisions of both the aforementioned beneficial legislations are to be harmonised so that the rights of the contesting parties are balanced on a case-to-case basis. The relevant portion of the said decision is extracted below, for reference:

“22 This Court is cognizant that the Senior Citizens Act 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the Civil Courts, under Section 8. The jurisdiction of the Civil Courts has been explicitly barred under Section 27 of the Senior Citizens Act 2007. However, the over-riding effect for remedies sought by the applicants under the Senior Citizens Act 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act 2005. The PWDV Act 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. In deference to the dominant purpose of both the legislations, it would be appropriate for a Tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under S.2(b) of the Senior Citizens Act 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act 2005. Section 2627 of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act 2007 to appropriately mould reliefs, after noticing the

¹ 2021 (15) SCC 730



competing claims of the parties claiming under the PWDV Act 2005 and Senior Citizens Act 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride and nullify other protections in law, particularly that of a woman's right to a „shared household“ under Section 17 of the PWDV Act 2005. In the event that the “aggrieved woman” obtains a relief from a Tribunal constituted under the Senior Citizens Act 2007, she shall duty-bound to inform the Magistrate under the PWDV Act 2005, as per Sub-section (3) of Section 26 of the PWDV Act 2005. This course of action would ensure that the common intent of the Senior Citizens Act 2007 and the PWDV Act 2005- of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realized. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realization.”

7. It is thus seen that in proceedings under the Act of 2007, orders for eviction must not be resorted to, as a matter of routine and the rights of the parties are to be balanced as and when required.

8. In the instant case, in paragraph No. 7 of the order dated 15.04.2024, it is clearly recorded that as per the inquiry report and subsequent hearings no evidence of harassment of the petitioners was brought on record. The respondents' submission that they were willing to live peacefully with the petitioners and are ready to take care of them was also taken on record.

9. Paragraph nos. 7 to 9 of the order dated 15.04.2024 passed by the District Magistrate, are extracted below, for reference:-

“7. During the course of hearing the following things transpired

- That the petitioner is the owner of the subject property.*
- As per the inquiry report and subsequent hearing no evidence of harassment given by the petitioners.*
- That the respondents are willing to live peacefully with their parents and ready to take care of them.*
- However, it appears that the petitioner is trying to misuse the forum to evict the son, daughter-in-law on flimsy grounds.*

8. Further, on perusal of SDM's enquiry report and verbal submissions of the parties, it is observed that there is no concrete evidence of harassment and it's a property dispute and senior citizen is trying to misuse I he provisions of the Senior Citizens Act.



9. In view of above, I am of the considered opinion that present case is not a fit case under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 Accordingly, the application filed by the complainant is hereby rejected.”

10. The order passed by the Divisional Commissioner i.e. the Appellate Authority would indicate that upon due consideration of the material on record, the Appellate Authority has found that the behaviour of the petitioner no.2 was not of a prudent man. Even the video which was shown to the Appellate Authority indicated that petitioner no.2 is short tempered. The concluding paragraph of the said order is extracted below, for reference:-

“Conclusion:-

The arguments and case records, including DM's case records have been carefully considered. The SDM in its field verification report submitted that "the complaint of harassment of Senior Citizen prima facie does not appear genuine as no substantial evidence produced by the petitioner". Both the sides have filed video recordings to support their contentions. From the video footage It does not seem to be the fit case for evicting the respondents. In fact the respondents seem to be the victim. Mere allegations and owning the property is not enough to invoke the provisions of the Senior Citizen Act. The appellants have neither denied that they do not have the above properties nor they denied the submissions of the respondents qua the daughters. There are various complaints and FIRs against the appellants especially against the appellant no. 2 and he has also undergone imprisonment, these facts are sufficient to conclude that the behaviour of appellant no. 2 is not of a prudent man. Also the video shows that appellant no. 2 is a short tempered and angry person. The district Magistrate has rightly dismissed the eviction application/ complaint of the appellants. In fact the Hon'ble Delhi High Court had dismissed twice the petition of the appellants for quashing of the FIR which means High Court find substance in the FIR.

Also there is a protection order from the Hon'ble Court of CMM, Saket Courts and the appellants have failed to show vacation of stay and protection order passed in favour of respondent no. 2. The respondents having responsibility of their minor children and there is no reason to evict them as there is no ill treatment or harassment at the hands of the respondents. The appellants have various properties. This court finds no



reason to interfere in the order of District Magistrate (South). Accordingly, the appeal is hereby dismissed being devoid of merits. Appeal stands disposed of. Copy of this order be provided to both the parties. Record of the proceedings before DM (South) be also returned with the copy of this order.”

11. The submission of Mr. Sabharwal, referring to certain petitions filed by the petitioners before this Court, that the Appellate Authority, in the impugned order has misconstrued the same, as if, they were dismissed *vide* orders dated 11.09.2024 (Annexure P-11) and 28.11.2024 (Annexure P-12), cannot be of much significance. The content of the aforesaid orders may have been wrongly construed by the Appellate Authority, however, the same is not the sole reason for the dismissal of the petitioners’ appeal.

12. Having considered the overall facts and circumstances of the instant case, the Court finds that under its limited jurisdiction under Article 226 and 227 of the Constitution of India, there is no reason to re-appreciate the entire material and to draw a fresh conclusion. Reference can be made to the decision of the Supreme Court in **Rajendra Diwan v. Pradeep Kumar Ranibala**.² The relevant portion of the said judgment is extracted below, for reference:

“86. In exercise of its extraordinary power of superintendence and/or judicial review under Articles 226 and 227 of the Constitution of India, the High Courts restrict interference to cases of patent error of law which go to the root of the decision; perversity; arbitrariness and/or unreasonableness; violation of principles of natural justice, lack of jurisdiction and usurpation of powers. The High Court does not re-assess or re-analyse the evidence and/or materials on record. Whether the High Court would exercise its writ jurisdiction to test a decision of the Rent Control Tribunal would depend on the facts and circumstances of the case. The writ jurisdiction of the High Court cannot be converted into an alternative appellate forum, just because there is no other provision of appeal in the eye of the law.”

² (2019) 20 SCC 143



13. A perusal of the impugned orders indicates that the authorities have neither exceeded their jurisdiction nor acted perversely, unreasonably, or arbitrarily. The conclusion drawn in the impugned orders is sufficiently reasoned and hence, the Court reaffirms the same.

14. Accordingly, the instant writ petition stands dismissed.

PURUSHAINdra KUMAR KAURAV, J

JANUARY 12, 2026

Nc/amg