



2026:DHC:4297



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5857/2024, CM APPL. 24213/2024 & CM APPL. 24215/2024**

Date of Decision: **11.05.2026****IN THE MATTER OF:****PRAKASH RANI**

.....Petitioner

Through: Ms. Aditi Gupta, Mr. Amandeep Joshi, Ms. Lavanya Bhardwaj and Mr. Akash Deep, Advs.

versus

MRS. POONAM SETHI & ANR.

.....Respondents

Through: Mr. Kotla Harshavardhan, Ms. Gayatri Gupta (Through the Delhi High Court Legal Aid Service Committe), Advs.

CORAM:**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****JUDGEMENT****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The petition is for setting aside the order dated 29.01.2024 passed by the Appellate Authority under Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (**Rules**) framed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (**Act**).
2. The impugned order arises out of the petitioner's application under

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Rule 22(3) of the Rules, for eviction of the respondents from house bearing No. B-36A, Indira Niketan, North Chajjupur, Sahadara, Delhi-110094 (**property in question**). The petitioner is a senior citizen, and respondent no. 2 is her son. Respondent no. 1 is the wife of respondent no. 2.

3. The petitioner had alleged that the respondents lived on the second floor of the property in question, whereas she lived on the ground floor, and that she was facing persistent physical and mental harassment by them. The District Magistrate, thereafter, on 04.05.2023, allowed the petitioner's application, considering that the respondents had not appeared to put forth their case and after finding that the allegations of ill-treatment were substantiated by the report of the concerned Sub Divisional Magistrate. The respondents were directed to vacate the property in question within sixty days from the date of the order.

4. Aggrieved by the aforesaid order, respondent no. 1 had filed an appeal before the Appellate Authority, contending that the property in question was her matrimonial home, where she had been staying ever since she got married to respondent no. 2 in the year 2004. Her case was that there existed matrimonial discord with her estranged husband, who had deserted even their minor daughters. According to her, the petitioner's application was collusive and filed only with a view to oust her with her minor daughters from the property in question.

5. The Appellate Authority, upon considering the material on record, has found that the petitioner's application was collusive. Further, he has taken note of the matrimonial discord between the respondents as evidenced by medical reports and police complaints and found that respondent no. 1 had even faced domestic violence.

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6. Further, in the impugned order, it is recorded that even as per the petitioner, she was facing harassment because of the matrimonial discord between the respondents. However, the Appellate Authority has found that there was no proof of ill treatment meted to the petitioner by respondent no. 1. In view thereof, and considering that only respondent no. 1 had appealed against the eviction order, the same was set aside *qua* her *vide* the impugned order.

7. Ms. Aditi Gupta, learned counsel appearing for the petitioner, has made the following submissions:

- i. The Appellate Authority has erroneously and without any evidentiary basis, concluded that the petitioner's application was filed in collusion with her son. Although there exists matrimonial discord between the respondents, *qua* the petitioner, there is no pending complaint of domestic violence.
 - ii. The petitioner, being a senior citizen and the owner of the property, is entitled to enjoy the fruits thereof. However, owing to the harassment she is facing, the petitioner is forced to live with her relatives in Punjab.
 - iii. The petitioner has no source of income, whereas, respondent no.2 is earning handsomely and respondent no.1 has a house in her name wherefrom, she gets good rental income.
8. Learned counsel has made reference to various incidents, to assert that due to acrimonious relationship between the parties, there is no possibility of their sharing a common residence. Therefore, eviction of the respondents is



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necessary and proper. She has placed reliance on various decisions,¹ in order to substantiate her submissions.

9. Mr. Kotla Harshavardhan, learned counsel appearing for respondent no.1, opposes the submissions and he contends that the impugned order is well reasoned and does not warrant any inference under Article 227 of the Constitution of India. The proceedings under the Act were, in fact, initiated by the petitioner in collusion with respondent no. 2, and no interference is called for.

10. I have heard learned counsel appearing for the parties and have perused the record.

11. The petitioner is, undisputedly, the owner of the property in question. However, it is also the matrimonial home of respondent no. 1 and she has been living there for more than two decades. As such, under Section 17 of the Protection of Women from Domestic Violence Act, 2005 (**DV Act**), she has a vested right to reside in the shared household, and the same has to be given due consideration in disputes as in the present case. The said provision is extracted below, for reference:

“17. Right to reside in a shared household.—

(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

¹ Sunny Paul v. State of NCT of Delhi and Ors, 2018 SCC OnLine Del 11640
Vinay Varma v. Kanika Pasricha and Ors., 2019 SCC OnLine Del 11530
Ravneet Kaur v. Prithpal Singh Dhillon, 2022 SCC OnLine Del 594,
Suchi Goel v. Shashi Goel and Ors., 2023:DHC:2533
Vinod Kumar Bali v. Ashish Bali and Ors., 2024:DHC:7842
Smt. Tabassum & Ors. v. Amna Begum & Ors., 2025:DHC:29
Pritam Singh v. Government of NCT of Delhi and Ors., 2025:DHC:3657



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(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.”

12. It also pertinent to note that the Appellate Authority has given a categorical finding that there did not exist any proof of ill-treatment meted to the petitioner by respondent no. 1. This Court, in exercise of its powers under Article 226 and 227 of the Constitution of India, generally, cannot interfere with findings of fact rendered by the authorities below. Reference may be made to the decision of the Supreme Court in ***Shamshad Ahmad v. Tilak Raj Bajaj***,² wherein it has held as under:

“38. Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law.”

13. The conclusion that the eviction proceedings were collusive, is further strengthened by the fact that respondent no. 2, who is present before the Court, upon being questioned, admits to be occupying a part of the ground floor of the property in question, despite the subsisting eviction order against him. If the petitioner’s case was indeed genuine, she ought not to have tolerated respondent no. 2’s continued occupation of the property in question.

14. In this factual context, if the decision of the Supreme Court in ***S.***

² (2008) 9 SCC 1



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Vanitha v. Deputy Commissioner, Bengaluru Urban District and Ors.,³ is perused, it becomes clear that respondent no. 1's right to reside in her matrimonial home cannot be permitted to be defeated by resorting to the provisions of the Act. The relevant portion of the said decision is extracted below, for reference:

“37. The above extract indicates that a significant object of the legislation is to provide for and recognise the rights of women to secure housing and to recognise the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act, 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act, 2005, would defeat the object and purpose which Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives. Equally, the purpose of the PWDV Act, 2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act, 2007.

38. 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....However, the overriding 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. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to override 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...”

(Emphasis supplied)

³ (2021) 15 SCC 730



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15. In cases, where, the grievance of both, the senior citizen and the daughter in law, are found to be genuine, Courts endeavor to balance equities and mould reliefs so as to protect the interests of all parties. However, on the facts involved herein, consideration of equities would militate against interference with the impugned order. Respondent no. 1 is residing in the property in question with her minor children. As such, her eviction from the property in question would be prejudicial to the interests of her and her children.

16. Insofar as the submission that respondent no. 1 owns other property is concerned, her rights under Section 17 of the DV Act, cannot be nullified merely because she owns separate property of her own, especially when the Appellate Authority has categorically found the eviction proceedings to be collusive in nature.

17. Therefore, in terms of the impugned order, let respondent no.2 to vacate the property in question within a period of 30 days from the date of receipt of a copy of the order passed today, failing which, the competent authority shall undertake the necessary exercise.

18. Let the petitioner to occupy the entire ground floor of the property in question and respondent no. 1 to occupy the first floor. It is needless to state that it is upto the the respondents to decide whether or not they want to live together elsewhere.

19. Accordingly, the petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

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