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

\# **CNR No. DLHC010379032026**

\+ W.P.(CRL) 2480/2026

NEERU BHALLA .....Petitioner

Through: Ms. Amita Gupta, Mr. Sandeep Bhardwaj, Mr. Aayush Gupta and Mr. Sumit Kumar Verma, Advocates.

versus

SUB-DIVISIONAL MAGISTRATE AND OTHERS .....Respondents

Through: Ms. Rupali Bandhopadhya, ASC.
SI Suraj, P.S. Hauz Khas.
Mr. Shantwanu Singh, Ms. Pragya Singh and Mr. Akshay Singh, Advocates for R-3 to 5.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 28.10.2026

1. The Petitioner, a senior citizen residing on the Second Floor of property bearing No. 45, Udai Park, New Delhi, has filed this petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"], seeking protection of her life and property, access to the terrace and common areas for necessary repairs, and compensation for the damage allegedly caused by prolonged water seepage.

2. On the Petitioner's complaint dated 4th August, 2025, under Section 152 BNSS, the Sub-Divisional Magistrate ["SDM"] sought reports from the police and the Municipal Corporation of Delhi ["MCD"]. The police reported water seepage, dampness and deterioration of the roof, posing a risk to safety. The MCD, in its report dated 26th September, 2025, recorded

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significant dampness in the Second Floor premises, cracks and damaged portions of the terrace requiring urgent repairs, and the possibility of electrical hazards. The SDM subsequently issued notices dated 20th November, 2025 and 1st January, 2026. The proceedings remain pending.

3. Respondents No. 3 to 5, in their Counter Affidavit, contend that seepage from the Petitioner's premises has also damaged the floors below. Mr. Shantwanu Singh, counsel for Respondents No. 3 to 5, states, on instructions, that they have no objection to the Petitioner being granted supervised access to the terrace for carrying out necessary repairs, provided they are afforded reciprocal access to the Second Floor premises to undertake repairs which, according to them, are necessary to address the seepage affecting the floors below. His statement is taken on record. Let a copy of the Counter Affidavit be supplied to Ms. Amita Gupta, counsel for the Petitioner, during the course of the day.

4. The parties' rights concerning access to the common portions of the property have previously been the subject of adjudication. The decree dated 5th September, 2006, passed in CS(OS) No. 1062/2005, was modified by the Division Bench of this Court *vide* order dated 29th March, 2012, in RFA(OS) Nos. 113-114/2006. Under the modified decree, the Petitioner was entitled to reasonable access to the existing or reconstructed servant quarter without hindrance. It also provided for access to the rear side of the ground floor, where the underground water tank was situated, through a gate, with a duplicate key to be provided to the plaintiffs (the Petitioner herein) and subject to reasonable advance intimation. The parties remain governed by the modified decree, and any grievance concerning its enforcement must be pursued in appropriate proceedings.

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5. The proceedings before the SDM under Section 152 BNSS have a limited statutory purpose. They cannot become a forum for deciding the parties' competing claims concerning ownership or rights of access to private portions of the property. Whether the facts disclosed warrant action under Section 152 BNSS is for the SDM to determine in accordance with law. The reports concerning possible structural and electrical hazards, however, call for prompt consideration.

6. Accordingly, the SDM shall take up the pending proceedings expeditiously and consider, preferably within four weeks of receipt of this order, whether any further inspection or immediate precautionary measures are warranted in exercise of his statutory powers. The statement made on behalf of Respondents No. 3 to 5, recorded above, may also be brought to his notice. The parties are free to work out mutually acceptable arrangements for carrying out the necessary repairs. The SDM shall endeavour to conclude the proceedings within three months, after affording the concerned parties an opportunity of being heard.

7. Although the Petitioner has invoked Rule 21 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, the responsibility for ensuring protection of the life and property of senior citizens under that provision rests with the Deputy Commissioner. The Petitioner has not placed on record any material to show that she approached the said authority seeking relief under this Rule. She shall, therefore, be at liberty to approach the concerned Deputy Commissioner, who shall consider her grievance in accordance with law. Any complaint concerning threats or intimidation shall be dealt with by the local police in accordance with law, including Rule 22 of the said Rules. The parties shall also remain free to

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pursue their other remedies, including enforcement of the existing decree and claims for compensation.

8. With these directions, the petition stands disposed of.

9. No opinion is expressed on the merits of the rival allegations or the responsibility for the alleged damage.

10. Copy of the order be sent to the concerned SDM for necessary information and compliance.

SANJEEV NARULA, J

OCTOBER 28, 2026
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