



2026:DHC:2217



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 15532/2023**Date of decision: **10.03.2026****IN THE MATTER OF:**

MAYA JAIN
WO SH. NARENDER JAIN
R/O J-1/1, FIRST FLOOR,
KRISHNA NAGAR,
DELHI-110051

.....PETITIONER

(Through: Mr. Deepak Bashta, Advocate.)

Versus

1. DIMPLE JAIN
W/O SH. ROHIT JAIN
R/O H. NO. 225, GALI NO. 4,
FIRST FLOOR, RAM NAGAR,
KRISHNA NAGAR,
DELHI-110051

2. ROHIT JAIN
S/O SH. NARENDER JAIN
R/O 1307, GAUR HEIGHTS,
SECTOR-4, VAISHALI,
GHAZIABAD -201019

.....RESPONDENTS

*(Through: Mr. Vineet Nagar, Advocate for R-1.
Ms Shagun Matta, Advocate for R-2.)*

CORAM:**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

The instant petition seeks to quash the order dated 31.08.2023, passed by the Divisional Commissioner, and consequently to direct the Respondent

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No. 1 to vacate the property bearing 225, First Floor, Gali No.4, Ram Nagar, Krishna Nagar, Delhi-110051.

2. The petitioner herein is a senior citizen and the absolute owner of property bearing no. 225, First Floor, Gali No. 4, Ram Nagar, Krishna Nagar, Delhi (hereinafter “**subject property**”) and respondent No. 2 is her son. Respondent No. 1 is the daughter-in-law of the petitioner who had been residing in the subject property along with her two daughters. Owing to matrimonial disputes between respondent Nos. 1 and 2, respondent No. 1 instituted proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 (hereinafter “**Act of 2005**”) pursuant to which the Mahila Court had passed an order restraining the petitioner and other family members from dispossessing respondent No. 1 from the subject property without taking recourse of law.

3. On account of the continued occupation of half of the subject property by respondent No. 1 and the strained relations between the parties, the petitioner approached the District Magistrate (East), Delhi, by filing an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter “**Act of 2007**”) and the Rules framed thereunder. The petitioner sought the eviction of respondent No.1 from the subject property.

4. The District Magistrate, *vide* order dated 24.01.2023, dismissed the application. The primary reason for rejection of the application was that there subsists a protection order in favour of the respondent passed by the Mahila Court under the Act of 2005. Aggrieved by the said order, the

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petitioner preferred an appeal before the Divisional Commissioner.

5. *Vide* order dated 31.08.2023, the Divisional Commissioner emphasised upon the need to provide alternate accommodation to respondent No. 1 while simultaneously affirming the petitioner's right to occupy the subject property. Accordingly, it was directed that respondent No. 1 and her children would be entitled either to allotment of alternate accommodation from one of the other properties owned by the petitioner or to reasonable rental accommodation in the same area/locality. While arriving at this conclusion, reliance was placed upon the decision of the Supreme Court in the case of *S. Vanitha v. Deputy Commissioner*¹ and *Vinay Varma v. Kanika Pasricha*².

6. Aggrieved by the aforesaid order passed by the Divisional Commissioner, the petitioner has knocked on the doors of this Court.

7. Mr. Deepak Bashta, learned counsel appearing on behalf of the petitioner, has made various submissions and has also argued that with respect to the reasonable rentals, the Court *vide* order dated 07.01.2026 has already directed him to pay a sum of Rs. 15,000/- per month. However, according to him, the petitioner does not own any other property which can be offered to respondent no.1. He, therefore, submits that to that extent, the impugned order deserves to be set aside.

8. With respect to the argument made by respondent no.1 that there is no finding of the ill treatment, he relies on the judgment passed by this Court in

¹ 2020 SCC OnLine SC 1023

² AIR ONLINE 2019 DEL 1878



the case of *Santosh Tyagi vs. Government of NCT of Delhi and Others*³ and contends that such a finding of ill treatment is not necessary to protect the rights of the senior citizens under the provisions of the Act of 2007. Moreover, Mr. Bashta submits that respondent No. 1 is already in possession of alternate accommodation and is operating an academy in the name and style of *Dimple Academy* for Nursery to Class V at F-65B, West Jawahar Park, Block-F, Laxmi Nagar, Delhi-110092.

9. Submissions made by learned counsel for the petitioner are vehemently opposed by Mr. Vineet Nagar, learned counsel for respondent no.1.

10. According to him, there are two concurring orders in his favour which recognise the right of respondent no.1 of a shared household. He has also submitted that there are no findings of ill treatment by the concerned authorities. He seeks to justify the impugned orders and submits that the same do not call for any interference.

11. I have heard learned counsel appearing on behalf of the parties and also perused the record.

12. At the outset, it be noted that in order to secure the rights of both parties, the Court *vide* order dated 07.01.2026, issued certain directions, *inter alia*, granting liberty to the respondent No. 1 to identify appropriate alternate accommodation, subject to the petitioner paying rent in the sum of ₹15,000/- per month.

³ 2024 SCC OnLine Del 5947



13. The aforesaid order was assailed by respondent No. 1 by way of LPA No. 100/2026. The Division Bench, *vide* order dated 27.02.2026, dismissed the appeal and has made the following observations:-

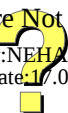
“3. In our considered opinion, the appeal would not be maintainable for two reasons, firstly, that the order under challenge herein is an interlocutory order in nature and, secondly, the Court has only granted liberty to the appellant to find out appropriate alternative accommodation. Such an order, in our opinion, only provides for an interim arrangement which shall however, be subject to the final outcome of the writ petition.”

4. In view of the aforesaid, we are not inclined to interfere with the interlocutory order dated 07.01.2026, which is hereby dismissed. We, however, request the learned Single Judge to expedite the proceedings of the W.P.(C.) No. 15532/2023 and complete the same as early as possible. We also provide that in the proceedings of the writ petition, no unnecessary adjournments on behalf of either of the parties shall be permitted.”

14. In view thereof, the present petition requires adjudication on its merits.

15. It is no longer *res integra* that while a senior citizen is entitled to seek eviction from his or her self-acquired property under the Act of 2007, such right cannot be exercised in a manner that completely defeats the statutory safeguards available to an aggrieved woman under the Act of 2005. In cases involving competing claims under these two enactments, the Court is required to balance the rights of the parties and mould the relief appropriately by directing reasonable alternative provisions, so as to protect the proprietary rights of the senior citizen while safeguarding the residential rights of the daughter-in-law.

16. In the aforesaid context, it is seen that the Supreme Court, in the case





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of *S. Vanitha*, has emphasised the necessity of striking a careful balance between the rights of senior citizens under the Act of 2007 and the residential rights of a daughter-in-law under the Act of 2005. The Court underscored that while the Act of 2007 was enacted to provide a speedy and inexpensive remedy to protect senior citizens from neglect and harassment, the remedies available under the said Act cannot be interpreted in a manner that completely nullifies or overrides the statutory protections available to an aggrieved woman under the Act of 2005. The Supreme Court has further observed that both legislations are special statutes enacted to protect vulnerable sections of society and, therefore, in cases where competing claims arise, such as the instant dispute relating to possession of a residential property, the concerned tribunal or Court must grant a relief in a way that recognises and balances the rights flowing from both enactments.

17. Similarly, in the decision in *Santosh Tyagi*, which has been relied upon by the petitioner, this Court copiously emphasised that while a senior citizen is entitled to seek eviction from his or her self-acquired property, the rights of the daughter-in-law to secure reasonable alternate accommodation cannot be ignored. The Court reiterated that in situations where disputes arise between a senior citizen asserting ownership rights over a property and a daughter-in-law asserting residential rights in the nature of a shared household, the appropriate course would be to balance the competing interests of the parties and mould relief accordingly. In the case therein, the Court directed that financial assistance be provided so as to enable the daughter-in-law to secure alternate accommodation, thereby ensuring that the senior citizen's proprietary rights are respected while at the same time



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safeguarding the statutory residential protections available to the aggrieved woman.

18. Examined on the anvil of the aforesaid legal position, a perusal of the impugned order indicates that the Divisional Commissioner took note of the strained relationship between the petitioner and respondent No. 1 and emphasised the necessity of striking a balance between the rights of the senior citizen and those of the daughter-in-law. In this backdrop, a direction was issued that the petitioner shall provide alternate accommodation to respondent No. 1, firstly by offering one of the properties belonging to the petitioner and, in the alternative, by arranging rental accommodation in the event the former is not feasible.

19. At the outset, it may be noted that the limited controversy agitated in the present petition pertains to the direction requiring the petitioner to offer one of her own properties to respondent No. 1 for the purpose of alternate accommodation. The impugned order, in essence, upholds the need to strike a balance between the competing rights arising under the relevant statutory framework governing the rights of senior citizens and the protection available to a daughter-in-law in a shared household. In that view of the matter, the approach adopted by the Divisional Commissioner does not suffer from any illegality warranting interference by this Court.

20. However, it is also pertinent to note that the petitioner, in her rejoinder, has taken a categorical stand that she does not own any property other than the property in dispute. The said assertion has not been controverted on behalf of the respondents.

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21. In view thereof, it becomes apparent that the question of offering any property belonging to the petitioner to respondent No. 1 does not arise. The only feasible option available for securing alternate accommodation for respondent No. 1 would, therefore, be by way of payment of rent. To that limited extent, the order of the Divisional Commissioner is liable to be modified.

22. The remaining findings recorded by the Divisional Commissioner, particularly with regard to the need to balance the rights of the parties and the entitlement of respondent No. 1 to alternate accommodation, do not call for interference.

23. Accordingly, the present petition is disposed of by affirming the order passed by the Divisional Commissioner, with the aforementioned modification.

24. Respondent No. 1 shall vacate the property in question within a period of two months from today. It is further directed that the petitioner shall pay a monthly rental amount of ₹15,000/- to respondent No. 1 from the date respondent No. 1 vacates the property in question, so as to enable her to secure alternate accommodation.

25. With the aforesaid observations and directions, the present petition stands disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MARCH 10, 2026
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