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

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Reserved on: 08.01.2024
Pronounced on: 12.03.2024

+ **W.P.(CRL) 2788/2023**

SHAKUNTLA DEVI & ANR. Petitioner

Through: Mr. Rakesh Dhingra, Advocate

versus

STATE THROUGH COMMISSIONER OF DELHI POLICE
& ORS. Respondent

Through: Mr. Rahul Tyagi, ASC for the
State with Mr. Sangeet Sibou,
Mr. Jatin and Mr. Aashish
Chojar, Advocates and SI
Deepak Kumar, P.S. Burari.
Ms. Sunita Arora, Advocate
(DHCLSC) for R-2 along with
R-2.
Mr. Harshit Jain, Advocate
(DHCLSC) and Mr. Shoaib
Ansari, Advocate for R-3

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

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SWARANA KANTA SHARMA, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India on behalf of petitioners seeking issuance of writ in the nature of mandamus directing respondent no. 1 to provide adequate security to the petitioners and to also take appropriate action against the respondent no. 2 and 3, and to direct respondent no. 2 and 3 to vacate the house of the petitioners.

FACTS OF THE CASE

2. Briefly stated, the petitioners in the present case are senior citizens, aged about 73 years and 69 years and it is their grievance that respondent no. 2, i.e., Smt. Santosh, daughter-in-law and respondent no. 3 Mr. Deepak, son of petitioner have beaten, abused,

threatened and thrown them out of their house i.e., Khasra No. 21/12/3/6 & 21/11/3, Gali No. 11 A, Block B, Village Kamal Pur Majra Himgiri Enclave, Burari, North Delhi which is owned by petitioner no. 2 and that the said property had been purchased on 30.07.2018 by petitioner no.2. It is further stated that the petitioners had filed a complaint to the SHO, Police Station Burari, Delhi against the respondent no. 2 and her cousins for abusing and threatening the petitioners to throw them out of their house. After that, in September 2020, another complaint was made to the SHO, Police Station Burari, Delhi against respondent no. 2 for throwing the petitioners out of their own house. It is alleged that the petitioners had published a public notice in Financial Express newspaper on 09.07.2021, disowning their son, respondent no. 3 and his other family members. Further request was made on 22.07.2021 to respondent no.1 to provide safety to the petitioners from respondent no 2 and 3. The petitioners had further filed a complaint on 05.10.2021 to the District Magistrate, Darya Ganj, New Delhi under Rule 22(3) of the Delhi Maintenance and Welfare of Senior Citizens Act. However, till date no action has been taken.

3. Aggrieved by the same, the petitioners have preferred the present writ petition.

ARGUMENTS ADDRESSED ON BEHALF OF PETITIONER

4. Learned counsel for the petitioner argues that the petitioners in the present case are both senior citizens and their son and his wife have thrown them out of their house. Despite numerous complaints

being filed by the petitioner no criminal action has been taken by the police officials. It is further stated that the petitioners on 05.10.2021 had filed a complaint against respondent no. 2 and 3 before the District Magistrate, Darya Ganj, New Delhi under Rule 22(3) of the Delhi, Eviction and Welfare of Parents and Senior Citizens Act 2009, whereby it has been prayed that respondent no. 2 and 3 return the possession of the said house to the rightful owners i.e., the petitioners. Learned Counsel for the petitioner further submits that an application dated 08.06.2023 was filed before the District Magistrate in relation to the complaint dated 05.10.2021 but, even till date no action has been taken and the petitioners have to stay with their daughter at some other place due to which the petitioners are facing mental harassment and, in these circumstances, it is prayed that security be provided to the petitioners from respondent no.2 and 3 and directions be given to respondent no. 2 and 3 to vacate the house of petitioner no. 2.

ARGUMENTS ADDRESSED ON BEHALF OF THE STATE

5. Learned ASC appearing on behalf of the State, on the other hand, opposes the present writ petition and submits that the present writ petition is not maintainable as a similar relief has been sought by the petitioners from the District Magistrate *vide* complaint dated 05.10.2021 and the same is yet to be decided. It is further submitted that as far as security of the petitioners is concerned, they have been provided with local areas SHO's and Beat Constable's mobile

numbers and in case of emergency they can contact the said persons for assistance. Thus, the present writ petition be dismissed.

6. This Court has heard arguments on behalf of learned counsel for the petitioner and learned ASC for the State, and has perused material on record.

PRAYER FOR PROTECTION & REGISTRATION OF FIR

7. The petitioners herein has prayed for protection from respondent no.2 and 3, i.e. their daughter in law and son. In this regard, it is noted that the learned ASC appearing on behalf of the State has placed reliance on Status Report dated 07.11.2023, wherein it has been stated that protection has already been provided to the petitioners, as prayed for. The relevant portion of the same is reproduced as under:

“ Further the Beat Officers No. (Ct. Karamvir .***442, Ct Ravi. ***904) and Station House Number.***622 (Police Station Laxmi Nagar) were provided to the petitioner for the security purpose. However, the present address of the petitioner is not falls in the jurisdiction of the Police Station Burari but the division Officer No. (SI Deepak Kumar ***157) and Station House Officer No. (***) were also provided to the petitioner.”

8. Thus, in respect of the prayer of protection, it is noted that the necessary steps have already been taken by the State, and the numbers of the beat constables and the SHO of the concerned Police Station have already been shared with the petitioners and thus, the Prayer (e) stands satisfied.

9. As regards prayer (a) i.e. for issuing direction for registration of FIR against respondent no. 2 and 3 under appropriate sections of IPC for beating and harassment of petitioner, this Court directs that in case the petitioners file any complaint with the SHO of concerned Police Station and if commission of cognizable offence is revealed, the concerned SHO will register an FIR, under appropriate provisions, as per law.

PRAYER FOR EVICTION

10. The allegations leveled by the present petitioners are that the respondent no. 2 and 3, who are their daughter-in-law and son had beaten, abused, threatened and thrown the petitioners out of their house, which was a self- acquired property of petitioner no. 2.

11. This Court notes that one of the prayers made before this Court by the petitioners is that the respondent no. 2 and 3, i.e. their daughter-in-law and son be directed to vacate the house owned by the petitioners.

12. In this regard, it is noted that Rule 22(3) of Delhi Maintenance and Welfare of Parents and Senior Citizens Rules (Amendment) Rules, 2016 deals with procedure for eviction from property/residential building of Senior Citizens in context of law laid down under these Rules.

13. This Court, while adjudicating the grievance of the petitioner, would first deem it fit to understand the relevant provisions as well as the aim and purpose of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, Delhi Maintenance and Welfare of Parents

and Senior Citizens Rules, 2009, and Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016.

Understanding the procedure of Eviction under Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Rules, 2016

Maintenance and Welfare of Parents and Senior Citizens Act, 2007

14. The purpose of the Senior Citizens Act, 2007, is to establish measures to safeguard the well-being and welfare of elderly individuals who lack adequate support, whether financial or otherwise. As a social legislation, it should be interpreted broadly, with its provisions applied in alignment with the overarching goals of the Act. The Act serves as a mechanism to ensure that elderly individuals are not left destitute or neglected, especially in situations where they lack the means to support themselves. This includes provisions for securing maintenance, access to healthcare, and protection of their property rights.

Delhi Rules of 2009

15. The Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, were legislated in exercise of powers granted under Section 32 read with Section 2(i) of the Senior Citizens Act, 2007.

Amended Rules of 2016

16. Subsequently, an amendment was brought to the Rules in 2016, which added Rule 22(3) to the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.

17. It is noted that Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rule, 2016 establishes an action plan aimed at safeguarding the lives and properties of senior citizens. Within Rule 22(3)(1), a provision is delineated wherein a senior citizen is granted the right to submit an application for the eviction of their son, daughter, or legal heirs from properties that the senior citizen has either acquired personally or through ancestral lineage. This application is to be filed directly before the District Magistrate. Rules 22(3)(1) and 22(3)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rule, 2016, are relevant and have been reproduced herein:

“22. Action plan for the protection of life and property of senior citizens. –

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

(i) A senior citizen may make an application before the Dy. Commissioner/District Magistrate (DM) of his district for eviction of his son and daughter or legal heir from his self acquired 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 days from the date of receipt of the complaint/application.

(iv) The Deputy Commissioner/DM during summary proceedings for the protection of senior citizen parents shall consider all the relevant provisions of the said Act 2007. If the Deputy Commissioner/DM 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 self acquired property of the senior citizen, and that they should be evicted, the Deputy Commissioner/DM 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 .

(v) The notice shall–

(a) specify the grounds on which the order of eviction is proposed to be made ; and

(b) require all persons concerned, that is to say, all persons who are , or may be, in occupation of, or claim interest in, the property/premises, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) Appeal

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

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

18. According to the aforementioned Rules, senior citizens have the right to approach the Deputy Commissioner or District Magistrate (DM) for the eviction of their son, daughter, or any other legal heir from their self-acquired property and ancestral property due to non-maintenance and ill-treatment.

19. It is noted that for the purpose of the eviction, under the said rules, the **appropriate forum** would be the District Commissioner or District Magistrate, and the **appellate forum** would be Divisional Commissioner.

Aims and Objectives of the Act

20. **The saying that one should not forget the hands that raised them is not always respected by many.** In modern society, the fast-paced nature of life often leads to the neglect or marginalization of senior citizens. Their needs, concerns, and contributions are sometimes overlooked or dismissed by their own near and dear ones including their children, leading to feelings of isolation, loneliness, and neglect.

21. **Senior citizens serve as pillars of strength, providing guidance, wisdom, and support to younger generations. Yet, the value they bring to the fabric of society is not always fully recognized or appreciated.**

22. There is no dearth of cases where parents are overwhelmed with feelings of having lost respect and dignity in their lives due to ill-treatment by their own children, leading to loss of will to live or a significant decline in quality of life.

23. The Maintenance and Welfare of Parents and Senior Citizens Act was, thus, enacted in 2007 to **ensure that the golden generation of the country, who are in the twilight years of their lives, are accorded the dignity and respect they deserve.**

24. **This Court is hesitant to refer to ‘old age’ which is just years in numbers as the "sunset years" but rather as a new beginning, a new chapter in their lives.** They should not be left to navigate from one authority to another in search of justice in case a need so arises. This generation has contributed significantly to society and **should never be forgotten or disrespected, especially when they find themselves abandoned by their own children.**

25. Society as a whole and the adjudicating authorities have a duty to uphold the dignity and sustain the hope of senior citizens in their future lives. **The tribunals established under the Act serve as a beacon of hope for these valuable members of our society.** However, time and time again, this Court and others are faced with cases characterized by delays, negligence, and a lack of sensitivity from the authorities responsible for adjudicating these matters.

26. This Court reiterates that this **generation now labelled ‘elderly’ or ‘senior citizens’ have contributed to the society, who under no circumstances should be allowed to be forgotten, ill treated or their cause be not respected and diligently attended to by the concerned authorities,** whenever they find themselves in a situation where their own children have given up on them. **The society at large and the adjudicating authorities are duty bound not to give them up or their hope in their future lives.**

27. The tribunals constituted under the Act are one such ray of hope for such **elderly assets of this country.** Case after case this Court and many other Courts are confronted with cases of delays, laches, insensitivity, indifference of the authorities concerned to

adjudicate the matters expeditiously under the Senior Citizens Act, considering the age and agony of this generation.

The Essence of the Act & the Rules Lies in Timely Adjudication of Applications

28. It is a firmly established principle of interpretation of statutes that Courts must consider the **underlying objectives** and intentions behind the enactment of a statute. In the case at hand, it is evident that the Senior Citizens Act, 2007, along with its rules and subsequent amendments, were promulgated with the primary aim of safeguarding the interests of senior citizens.

29. **Rule 22(3)(1) of the Delhi Senior Citizens Rules** outlines a detailed procedure for the eviction of individuals from the properties of senior citizens residing in Delhi. Sub-rule (iv) of Rule 22(3)(1) specifies that upon receipt of a complaint for eviction, the relevant authority is empowered to initiate summary proceedings and conduct inquiries to ensure a thorough examination of the circumstances and facts of the case.

30. **Central to the efficacy** of these rules is the **timely disposal** of applications filed under Rule 22(3)(1) of the Rules. Failure to promptly address these matters undermines the fundamental aim of both the Act and the Rules, which is to protect the rights and well-being of senior citizens. Ensuring swift resolution of applications is essential to ensure the effectiveness of the legislative framework designed to safeguard the interests of senior citizens.

31. **Delays in addressing** these matters poses a significant threat to the fundamental objectives of the Act and Rules thereunder, which are primarily aimed at mitigating potential risks, providing timely assistance, and safeguarding the rights and well-being of senior citizens.

32. **This particular case** serves as a crucial example which calls for issuance of a reminder to the concerned authorities on many aspects. An application was filed in 2021 by the elderly couple who are petitioners in the present case, and despite subsequent reminders to expedite proceedings, the wheels of justice continue to turn agonizingly at a slow pace.

Ongoing Eviction Proceeding in the present case under the Act

33. With regard to the present case, it is noted that the present petitioners had filed an application before the **District Magistrate, Darya Ganj, New Delhi on 05.10.2021** under Rule 22(3)(4) Delhi Maintenance and Welfare of Parents and Senior Citizens Rule, which is pending adjudication.

34. It is further noted that the present petitioner had also written a **letter dated 08.06.2023 to the District Magistrate for early directions on the said pending Application.** This Court is constrained to note that **the said application has still not been decided,** and thus, the petitioners herein were constrained to approach this Court by way of present petition.

35. **It is unacceptable** that in the year 2024, the present petitioners are still awaiting resolution of their problems. Such delays only

exacerbate the already profound sense of anguish and uncertainty experienced by senior citizens, highlighting the urgent need for reform and a renewed commitment to prioritizing the well-being and rights of our elderly citizens.

36. The very word senior citizens should not refer to only the age beyond 60 years but should invite everyone's attention to the literal meaning of 'senior' also which as per Oxford dictionary refers to the word 'senior' as 'equivalent to having a high or higher position in a company, organization, etc' and thus, in the society *qua* the younger generation.

CONCLUSION

37. The discussion above reveals a reality concerning the predicament of senior citizens where they are aggrieved by delayed adjudication of their cases. In such scenario, **elderly people find themselves in a position where they are aggrieved by their own children, kith or kin. When these senior citizens muster the courage to seek recourse to their grievances by approaching the relevant authorities a delayed response by them further adds to their agony.**

38. **The tribunals established to protect the rights and interests of the elderly population are therefore expected to expeditiously adjudicate their matters thereby providing them support and redressal.**

39. Time and again, Courts are inundated with petitions that shed light not only on the hardships faced by such elderly parents but also

to the delayed adjudicating process by the adjudicating authorities. **In many instances, intervention from the courts has been required to expedite the resolution of cases as mandated by law. It's necessary for them to recognize the delicate circumstances of many elderly individuals who seek justice, lest their hopes and wishes remain unfulfilled in their lifetimes.**

40. **The tribunals bear the weighty responsibility of swiftly dispensing justice to those who seek redressal through these tribunals.** The right to speedy trial by any adjudicatory authority is a fundamental right. This issue is particularly acute in cases involving senior citizens, where time is of the essence due to their advancing age.

41. **Specific amendments to existing laws are necessary to ensure the timely resolution of cases involving senior citizens.** These amendments should prioritize the expeditious handling of such cases, recognizing the unique vulnerabilities and needs of elderly individuals.

THE DECISION

42. To encapsulate, the petitioners herein had submitted an application before the Tribunal, i.e. District Magistrate in the present case on 05.10.2021. Thereafter, on 08.06.2023, another application was filed by the petitioners, urging for the expeditious resolution of their matter. Regrettably, no action has been taken by the Tribunal in response to these pleas for urgency.

43. It is noted that the **fundamental purpose behind the enactment of the Senior Citizens Act**, which was designed to address the prevalent social issue of elderly parents being neglected or abandoned by their children. This legislation aims to establish a mechanism for promptly assisting elderly individuals, ensuring their protection and the safeguarding of their assets. The goal is to provide senior citizens with the care and support they require, without any delay. Needless to say, the delay in deciding such applications can lead to defeating the very purpose of the enactment itself.

44. Thus, in view of the aforesaid discussion, this Court directs the Tribunal in question to expeditiously resolve the complaint of the petitioners within a period of one month. Furthermore, the outcome of the tribunal's decision shall be promptly communicated to the petitioners.

45. Accordingly, the present writ petition is disposed of in above terms.

46. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH, 12 2024/ns