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

+ W.P.(C) 14039/2021 & CM APPL. 44325/2021-Ex.  
CM APPL. 44326/2021-Stay

SWATI GHAI & ANR. .... Petitioners  
Through Mr. Siddharth Aggarwal, Sr. Adv.  
with Ms. Mansi Sharma and Mr.  
Abhinav Sekri, Adv.

versus

GOVT OF NCT OF DELHI & ORS. .... Respondents  
Through Ms. Shobhana Takiar, Adv. for R-1

**CORAM:**  
**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**  
**09.12.2021**

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**CM APPL. 44325/2021 (Exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

**W.P.(C) 14039/2021 & CM APPL. 44326/2021 (Stay)**

3. The petitioner no.1 who is the respondent in Eviction Case no. 42/DW/2017 preferred by respondent nos. 2 & 3, in the present petition, has approached this Court being aggrieved by the order dated 11.11.2021 directing dispossession from the subject premises passed by the learned District Magistrate.
4. Learned counsel for the petitioner submits that the impugned order

is wholly perverse and has been passed without considering the ratio of various decisions of the Apex Court and this Court on the issue. Moreover, the impugned decision is being sought to be forcibly implemented by respondent no.1 without appreciating the fact that her statutory appeal, assailing the said decision, has already been filed within the prescribed period but is yet to be listed for consideration before the Divisional Commissioner. She therefore contends that the petitioner cannot be penalized for non-listing of her appeal and therefore prays that the operation of the impugned order be stayed till her appeal is taken up for consideration.

5. Issue notice. Ms. Takiar accepts notice on behalf of respondent no. 1 and while praying for time to file a counter affidavit, is not in a position to deny that under the Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, the petitioner is entitled to file an appeal against the eviction order passed by the District Magistrate within sixty days, which period is yet to expire.
6. Upon the petitioner taking steps, issue notice to the respondent nos. 2 & 3 through all permissible modes, returnable on 23.02.2022. Counter affidavit be filed within a period of 4 weeks. Rejoinder thereto within 4 weeks thereafter.
7. In the light of the aforesaid, it is evident that the respondents are proceeding to take steps in furtherance of the impugned order even before the petitioner's statutory appeal is listed for consideration before the appellate authority. Grave and irreparable prejudice will be caused to the petitioner if she alongwith her children is forcibly dispossessed from the subject premises, even before her appeal

being taken up for consideration. It is therefore directed that till the next date the operation of the impugned order dated 11.11.2021 will remain stayed. This interim order will, however, not preclude the Divisional Commissioner from proceeding with the petitioner's appeal, as per law.

8. Since this Court is regularly coming across a number of cases where eviction orders passed in similar circumstances under the Maintenance and Welfare of Parents and Senior Citizens Rules, 2009, are sought to be executed even before the expiry of the limitation period prescribed for the appellate remedy, it is directed that a copy of this order be sent to the Principal Secretary (Revenue) to enable him to issue appropriate directions in this regard.

**REKHA PALLI, J**

**DECEMBER 9, 2021**

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