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

+ W.P.(C) 1299/2025 and CM APPL.6462/2025

KIRAN YADAV

.....Petitioner

Through: Mr. Sushant Bali, Mr. Aditya Kashyap, Mr. Shubham Shukla, Advs. along with the Petitioner in Person Kiran Yadav

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.....Respondents

Through:

**CORAM:**

**HON'BLE MR. JUSTICE SACHIN DATTA**

**ORDER**

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**03.02.2025**

**CM APPL.6463/2025 (Exemption)**

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

**W.P.(C) 1299/2025**

3. The present petition has been filed by the petitioner assailing an order dated 30.12.2024 passed by the Appellate Authority of Divisional Commissioner, Office of the Principal Secretary-Cum-Divisional Commissioner, Department of Revenue, Government of NCT of Delhi under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
4. It is submitted by the learned counsel for the petitioner that the complaint filed by the respondent nos. 2 and 3 was dismissed by the concerned District Magistrate [DM] vide order dated 12.09.2023 rendering a categorical finding that the complaint had been filed by the said respondents in collusion with their son, i.e. the respondent no.4 herein, in order to evict the appellant. Further, the following findings of fact were rendered in the



aforementioned order:-

**“OBSERVATIONS/FINDINGS:-**

*On perusal of the facts and circumstances of the present case and after hearing the contentions of both the parties and considering the SDM report filed after due inspection of the suit property, it is observed that there is matrimonial dispute between respondents. The statement of respondent no.1 and complaint indicates that this complaint is filed in collusion with respondent no.1 in order to evict respondent no.2. There is no such evidence on record which shows any kind of ill treatment done at the hand of respondents, especially respondent no.2*

*I have gone through the facts and material on record and have heard both parties and have reached to the conclusion that there is no ill treatment proved against the complainants at the hand of respondents. Rather it seems to be a case of matrimonial dispute and on the basis of arguments heard from parties it appears that this forum is used for circumventing the due process for setting matrimonial disputes which can be settled in the court of appropriate jurisdiction. It is observed that the eviction of respondents is not warranted as wished by the Complainant.*

**ORDER**

*In view of above the present complaint filed by the complainant is dismissed as there is no factum of cruelty proved which is an essential condition for seeking eviction under the Rule 22(3).*

*“The present order would be appealable under Rule 22(3)(4) of The Delhi Maintenance and Welfare of Parents and Senior Citizens Rules 2009, as amended on 19<sup>th</sup> December 2016 before Divisional Commissioner, Delhi. The period of limitation for filing of appeal is 60 days.”*

5. In the order dated 30.12.2024, the appellate authority has recorded as under:-

*“It is also an admitted fact that the suit property is self acquired property of appellant no:-1. And both the respondents are government employees, they are financially capable of maintaining their livelihood outside the suit property. It is also evident from the MLC and photographs of appellant no:-2 that she had been physically assaulted.”*

6. Learned counsel for the appellant submits that no MLC/ Photographs



of appellant no.2 were filed in the appellate proceedings. As such, there is no basis whatsoever for the conclusion drawn in the aforesaid portion of the impugned order.

7. Furthermore, it is pointed out that the appellate order does not consider the aspect of collusion [ with regard to which a categorical finding of fact was rendered by the DM] , nor does it take note of the proceedings before the concerned Mahila Court where the appellant has levelled serious allegations against the respondents.

8. Issue notice to the respondents through all permissible modes, including electronically.

9. Let reply be filed within a period of four weeks from today and rejoinder thereto, if any, be filed within a period of four weeks thereafter.

10. Considering the aforesaid circumstances, till the next date of hearing, *status quo* shall be maintained as regards the possession of the concerned premises.

11. List on 15.07.2025.

**SACHIN DATTA, J**

**FEBRUARY 3, 2025/uk**