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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 3283/2023, CM APPL. 12772/2023

SHRI JAGDISH PRASAD

..... Petitioner

Through: Mr. Vivek Kumar Tandon, Advocate
with Petitioner in person.

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Through: Ms. Hetu Arora Sethi ASC GNCTD
with Ms Kavita Nailwal, Advocate
for R-1 (M: 9873725564).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **16.03.2023**

1. This hearing has been done through hybrid mode.

CM APPL. 12771/2023 (for exemption)

2. Allowed subject to all just exceptions. Application is disposed of.

W.P.(C) 3283/2023 and CM APPL. 12772/2023

3. The present petition has been filed by the Petitioner challenging the order dated 17th February, 2023 passed by the Divisional Commissioner in ***Appeal No.500/2022*** titled ***Smt. Deepmala v. Sh. Jadish Prasad.***

4. The background of the matter is that the Petitioner- Sh. Jagdish Prasad filed an application under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 seeking eviction of his daughter in law- Smt. Deepmala and son-Manoj Kumar i.e., Respondent Nos.2 and 3 respectively from property bearing no. 10679, gali no. 9, Andha Mugal, Pratap Nagar, Delhi (*hereinafter 'Subject property'*).Vide order dated 28th April, 2022, District Magistrate allowed the application of the Petitioner and directed



Respondent Nos.2 and 3 to evict the subject property. An appeal was preferred by the said Respondents before the Divisional Commissioner. The appeal was disposed of by the Divisional Commissioner vide the impugned order in the following terms:

“7. Herein this case also it is an admitted fact that the relations are acrimonious among the parties and they may not be able to reside together in harmony in the house where the appellants reside on the second floor of the house. Considering the aforesaid rulings of Hon'ble Apex Court and Hon'ble Delhi High Court, the respondents are hereby directed to provide a similar accommodation i.e one room or Rs. 5,000/- in lieu of alternate accommodation. In case the respondents fails to comply with the aforesaid directions within 30 days of the receipt of this order, the appellants shall regain the possession of one room at the second floor which they have vacated and it will be presumed that the impugned order is set-aside via this order.”

8. Appeal stands disposed of accordingly. Copy of this order be provided to both parties. Record of the Proceedings before DM (Central) be also sent back to DM with the copy of his order.”

5. By the impugned order, the Divisional Commissioner has directed the Petitioner to pay Rs.5,000/- per month to Respondent No.2, failing which the daughter-in-law has been permitted to come back and reoccupy one room in the accommodation of the Petitioner.

6. The Petitioner is 73 years of age. He along with his wife-Smt. Nirmala Devi, who is 71 years old, has been living in the subject property. The case of the Petitioner is that he and his wife have disowned their son. The son is also having matrimonial issues with his wife i.e., daughter-in-law.



The Respondent Nos. 4, 5 and 6 are children of Respondent Nos. 2 and 3.

7. It is submitted by Mr. Tandon, Id. Counsel that the only income of the Petitioner is rental income of Rs.5,000/- besides pension of Rs.2,500/-. Respondent No. 2, i.e. the daughter-in-law is stated to be living at her parental home with three children all of who are major and earning.

8. Issue notice.

9. Considering the facts and circumstances of the case, till the next date of hearing, the impugned order, to the extent that it permits Respondent No.2 & 3 to reoccupy the subject premises, shall remain stayed.

10. List before the Registrar for completion of service and pleadings on 12th May, 2023.

11. List before the Court on 14th September, 2023.

PRATHIBA M. SINGH, J.

MARCH 16, 2023

mr/sk