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

+ **W.P.(C) 7163/2024**

VIJAY LAXMI BHARAL

..... Petitioner

Through: Mr. Ashim Vachher, Mr. Vaibhav Dabas and Mr. Kunal Lakra, Advocates.

versus

DIVISIONAL COMMISSIONER AND OTHERS Respondents

Through: Mr. Karn Bhardwaj, ASC with Mr. Subham Singh and Mr. Rajat Gaba, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **17.05.2024**
CM APPL. 29896/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 7163/2024 & CM APPL. 29895/2024

1. The Petitioner, a senior citizen, has approached this Court challenging the Order dated 20.08.2023, passed by the Appellate Authority, allowing the appeal filed by the Respondents No.2 & 3 herein against the Order dated 20.09.2023, passed by the District Magistrate evicting the Respondents No.2 & 3 from house bearing No.63 & 103, Village Masjid Moth, New Delhi (*hereinafter referred to as 'the property in question'*).

2. Relevant portion of the Order dated 20.08.2023, passed by the Appellate Authority reads as under:

“9- This appellate authority does not find any substance in the arguments of the respondent ,that she



is a victim of ill-treatment and harassment at the hands of the appellants. In fact it is her own case that she was bearing the school fees charges of the daughter of the appellants. The appellants have responsibility of their school going daughter. The appellants showed and relied upon the Will of late father of appellant no. 1, which is not even denied by the respondent. According to the Will the appellant no.1 is the co-owner of half share of the property in question. It is fairly spacious property and both the parties can live peacefully. The eviction under Senior Citizen Act 2007 cannot be passed merely on the allegations of the senior citizen. SDM report states that the complaint of Senior Citizen is not genuine. It is clearly evident from the facts that it is a case of property dispute which parties should resolve before the Civil Court rather than misusing provisions of, Senior Citizen Act, 2007. The District Magistrate has passed order contrary to the facts revealed in the report of SDM and committed error of using the Senior Citizen Act, 2007 to address the property dispute. Appeal is accordingly allowed. Impugned order dated 20.09.2023 is set-aside. The parties are advised to address/resolve their property dispute in the appropriate civil court. Copy of this order be provided to both the parties. Record of the Proceedings before DM (South) be also sent back to DM (South) with the copy of this order.”

3. It is stated by the learned Counsel for the Petitioner that the only issue that the Authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (*hereinafter referred to as ‘the Senior Citizens Act’*) can decide is as to whether the welfare of the senior citizens is being affected or not. He, therefore, states that if the welfare of the senior citizens is being affected then the senior citizen can approach the forums under the Senior Citizens Act and the Rules made thereunder seeking a direction that the



senior citizens be allowed to live peacefully in the eve of their life. He states that the issues such as ownership of the property is not within the domain of the Senior Citizens Act and for the said purpose the only remedy before the parties is to approach the Civil Court by filing a suit to assert the title of the property. He, therefore, states that if the senior citizen do not want to live with their son and daughter-in-law because of the harassment caused by them to the senior citizen, then the scope of enquiry under the Senior Citizens Act can be limited to harassment which is claimed to have been done by the District Magistrate. He, therefore, states that the Order of District Magistrate ought not to have been interfered with the Appellate Authority and the Appellate Authority could not have traversed the issue of title over the property in question.

4. Issue Notice.
5. Learned Counsel for Respondent No.1 accepts notice.
6. On Petitioner's taking steps, let notice be served on the Respondents No.2 & 3 through all permissible modes, including *Dasti*.
7. Since the dispute is between the mother and the son, the parties are directed to explore the possibility of an amicable settlement.
8. List on 08.08.2024.

SUBRAMONIUM PRASAD, J

MAY 17, 2024

Rahul