



2025:DHC:4081-DB



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

+ LPA 380/2024, CM APPL. 28178/2024 & CM APPL. 30350/2025

SUDESH CHHIKARAAppellant

Through: Mr. Jai Pal Singh, Advocate.

versus

DIVISIONAL COMMISSIONER, DELHI AND ORS

....Respondents

Through: Mr. Anubha Gupta, Panel Counsel
(Civil) for GNCTD/r-1 & 2.

Mr. Robin Ratnakar David and Mr.
Nihar Baijal, Advocates for
DHCLSC/ R-3.

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Date of Decision: 19.05.2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J: (ORAL)

1. The present letters patent appeal has been filed assailing the judgment dated 02.04.2024 (hereinafter referred as "*impugned judgment*"), whereby the learned Single Judge has declined to entertain the writ petition filed by the appellant bearing W.P.(C) 4695/2024 titled *Sudesh Chhikara vs. Divisional Commissioner, Delhi & Ors.*, on the ground that the appellant had not been able to demonstrate the perversity in the observations made by two authorities/forum below i.e. by the Appellate Court of Divisional Commissioner as also by the District Magistrate, (South-West), Delhi.

2. The appellant had preferred the underlying writ petition challenging the order dated 13.12.2023 passed by the Appellate Court of the Divisional



Commissioner, Delhi rejecting the appeal filed by the appellant herein assailing the order dated 14.09.2021 passed by the District Magistrate wherein the District Magistrate had directed the appellant herein to vacate the property bearing No. C-33, Mansa Ram Park, New Delhi- 110059 (hereinafter referred as “*Subject property*”).

3. It is the case of the appellant that respondent no.3/Baljeet Singh, who is father-in-law of the appellant, had filed a petition bearing case appeal no.1/82/2017 titled “*Baljeet Singh vs. Sudesh Chhikara*” under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as “*Senior Citizens Act, 2007*”) for the eviction of the appellant from the subject property before the respondent no.2/District Magistrate (South-West), Delhi (hereinafter referred as “*District Magistrate*”). Thereafter, the appellant preferred writ petition bearing W.P.(C) 11326/2019 before this court challenging the jurisdiction of the District Magistrate in entertaining the petition of the respondent no.3 on the ground that the subject property is not a residential property as the appellant was running a school from the subject property.

4. *Vide* order dated 14.09.2021, the District Magistrate held respondent no.3 as the sole and absolute owner of the subject property with direction to the appellant to vacate the subject property and not to interfere with the peaceful possession of the respondent no.3 in the subject property. Aggrieved by the aforesaid order dated 14.09.2021 passed by the District Magistrate, the appellant preferred an appeal before the respondent no.1/Divisional Commissioner under the Senior Citizens Act, 2007.

5. *Vide* order dated 13.12.2023, the Divisional Commissioner dismissed the said appeal of the appellant and held that the District Magistrate ought not to have gone into the question of title of the subject property and that it should be decided in the Civil Suit which is pending adjudication before



the learned ADJ, Dwarka Court, New Delhi. Aggrieved by the aforesaid decision of the appellate authority, the appellant has filed the present appeal.

6. Mr. Jai Pal Singh, learned counsel for the appellant states that though in law, the procedure envisaged under the Senior Citizens Act, 2007 particularly the inquiry to be carried out by the SDM and the subsequent proceedings before the District Magistrate and the appellate proceedings before the Divisional Commissioner are summary in nature, yet the original inquiry proceedings before the SDM is one of recording findings of fact and to subjectively satisfy himself about the harassment both physical and mental being suffered by the respondent no.3/complainant. He states that in the present case, the SDM's report dated 31.07.2021 is bereft of any reason much less any finding of fact and does not fulfil the criteria envisioned under the Act. In support thereof, he draws attention to the SDM's report dated 31.07.2021 and states that the said report cannot withstand the scrutiny of law. According to him, if the substratum of the case i.e. SDM's report dated 31.07.2021 is eschewed from consideration, the entire edifice of the case of the respondent no.3/complainant would fall and the appellant would be entitled to possession of the subject property.

7. Learned counsel invites attention to para 9 of the impugned judgment to submit that the learned Single Judge merely relied upon the so called findings recorded by the two forums below to dismiss the writ petition without considering the fact that no findings of fact was actually recorded by the authorities below. He states that the learned Single Judge had misdirected himself while observing that the appellant was unable to demonstrate that the observations by the lower authorities is completely perverse and is based on no evidence. He contends that once the SDM's report is bereft of any reason or findings of fact, the order directing eviction



by the District Magistrate as well as the appellate authority i.e. Divisional Commissioner on the basis of the very same SDM's report, would be perverse and *non est* in law. Thus, according to him, this Court ought to interfere and remit the matter back to the SDM for conducting fresh inquiry and putting the appellant back in possession till such time.

8. Mr. Robin Ratnakar David, learned counsel appearing for respondent no.3 refutes the submissions of the appellant and supports the findings recorded by the lower authorities as also the observations in the impugned judgment of the learned Single Judge.

9. We have heard the learned counsel for the parties, perused the impugned judgment and examined the records of the case.

10. We find from the record that what the learned counsel for the appellant referred to as the SDM's report dated 31.07.2021 is only an order passed by the District Magistrate in case appeal no.1/82/2017. The actual report of the SDM appears to have not been placed on record, however, the order dated 14.09.2021 of the District Magistrate carries an extract of the inquiry carried out by the SDM. A perusal of the order of the District Magistrate indicates that after considering the report of the SDM as also hearing the parties, the District Magistrate has furnished reasons and observations and findings apart from referring to relevant law on the subject matter, directed eviction of the appellant from the subject property. Thus, the submission that there are no findings recorded by the SDM during the inquiry or that the District Magistrate had not rendered any reason for eviction is not borne out from the records. In fact, the said submission is contrary to the records. Thus, the question of perversity does not arise.

11. We find that the learned Single Judge had examined the said arguments and the records in detail and has made very relevant legal



observations in paras 9, 10 & 11 which reads thus:-

“9. Two forums below have come to the conclusion that the Respondent No.3 was being ill-treated by the Petitioner herein. In view of the concurrent findings arrived at by the two forums below, this Comi is not inclined to interfere with the concurrent facts rendered by both the authorities while exercising its jurisdiction under Article 226 of the Constitution of India. The Petitioner has not been able to demonstrate that the observations of the authorities below is completely perverse and is based on without any evidence. It is well settled that the Courts while exercising jurisdiction under Article 226 of the Constitution of India do not substitute its own conclusion to the one arrived at by the authorities below only because one more view is possible.

10. The Appellate Authority has adequately protected the Petitioner by stating that there is no finding regarding the title of the property in question. This Court is in agreement with the finding of the Appellate Authority and makes it clear that the Trial Court will not be influenced by any observations made by the authorities under the Senior Citizens Act on the title of the property in question.

11. It is stated that the Suit bearing CS No.282/20 19 is pending before the learned ADJ, Dwarka Courts, New Delhi. The Trial Court is directed to consider the suit on its own merits and on the basis of the evidence adduced by the parties.”

12. We find that the learned Single Judge had taken note of the fact that a Civil suit bearing CS No.282 of 2019 is pending before the District Courts, Dwarka, New Delhi. That apart, learned counsel for respondent no.3 also informed that another civil suit between the parties is pending adjudication. Learned counsel for the appellant did not deny the fact that the appellant had vacated the subject property and was actually running a school in the said premises. Since the appellant is already out of possession and two civil suits are already pending adjudication before the civil courts, a writ court for obvious reasons would not be able to examine the dispute pertaining to ownership and title. Even otherwise, we find that the lower



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authorities had rendered reasons for eviction of the appellant which are summary in nature and are sufficient for the purposes of eviction under the Senior Citizens Act, 2007.

13. For the reasons aforesaid, we do not find any merit in the appeal. The appeal is dismissed with no order as to costs.

14. Pending applications, if any, shall also stand disposed of.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 19, 2025

kct/rl