



2026:DHC:9189



\$~44

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: October 13th, 2026***# **CNR No. DLHC010377712024**+ **W.P.(C) 8947/2024 & CM APPL. 36547/2024****SHAKUNTALA SHARMA**

.....Petitioner

Through: Mr. Amarjeet Singh Sahni,
Mr. Ekam Sahni & Ms. Sneha,
Advs.

versus

JETEINDER SHARMA & ORS.

.....Respondents

Through: Mr. Atul Kharbanda, Mr. Kapil
Sethi & Ms. Anshika, Advs. for
R1 & R2 with R1 in person
Mr. Tushar Sannu & Mr. Shrey
Bhardwaj, Advs. for GNCTD
Ms. Nidhi Raman, CGSC with
Mr. Arnav Mittal, Adv. for
UOI/ Delhi Police**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The Petitioner, by way of the present petition under Article 226 of the Constitution of India assails the Order dated 16.04.2024 passed by the learned Divisional Commissioner/Appellate Authority, Department of Revenue, in Appeal No. 937/2024, whereby the appeal preferred by Respondent Nos. 1 and 2 against the Order dated 20.02.2024 passed by the District Magistrate, South-West District, directing their eviction from property bearing No. 59-C, Janakpuri, New Delhi, was allowed and the eviction Order was set aside.

Signature Not Verified

Signed By: SANJAY

KUMAR

Signing Date: 14.10.2024 **W.P.(C) 8947/2024**

19:48:58



2026:DHC:9189



2. It is borne out from the record that the Petitioner/ Smt. Shakuntala Sharma is the mother of Respondent No. 1/ Sh. Jitender Sharma (Elder Son) and mother-in-law of Respondent No. 2/ Smt. Tapasya Sharma.

3. It is the Petitioner's case that the dispute essentially arises out of the occupation of two residential flats, namely, Flat No. 58-B and Flat No. 59-C, situated in Block C-4D, Janakpuri, New Delhi. The Petitioner claims that her late Husband/Sh. Bhagirath Sharma was the erstwhile owner of the Flat No. 58-B, where she has been residing in since past 50 years, and she is also the owner of the property Flat No. 59-C where Respondent Nos. 1 and 2 reside.

4. The Petitioner had approached the District Magistrate under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, (**'the Senior Citizens Act'**) seeking eviction of Respondent Nos. 1 and 2 from the Flat No. 59-C on allegations of ill-treatment, harassment, theft and failure to maintain her.

5. The District Magistrate, allowed the Petition, by Order dated 20.02.2024, and directed Respondent Nos. 1 and 2 to vacate the property within thirty days.

6. Aggrieved thereby, Respondent Nos. 1 and 2 preferred an Appeal before the Divisional Commissioner.

7. By the impugned order dated 16.04.2024, the learned Appellate Authority set-aside the eviction order, observing that the allegations of ill-treatment and non-maintenance were not sufficiently substantiated and that the parties were already embroiled in civil litigation concerning the properties. At the same time, with a view to



2026:DHC:9189



safeguarding the interests and welfare of the Petitioner, the learned Appellate Authority permitted the Petitioner to choose in which flat she wants to reside and then execute exchange of the two flats if she decides to shift to Flat No. 59-C from Flat No. 58-B.

8. Aggrieved, the present petition has been filed.

9. Learned counsel for the Petitioner assails the impugned order, contending that the learned Appellate Authority failed to appreciate the disclosed incidents of harassment, abusive behaviour and threats to the Petitioner; that the Petitioner, being the owner of Flat No. 59-C, was entitled to seek eviction of Respondent Nos. 1 and 2 therefrom; direction permitting an exchange of the flats travels beyond the relief sought in the appeal; and the same is contrary to the subsisting Order dated 13.12.2022 passed by this Court in *CS(OS) 786/2022*, whereby the parties were directed to maintain *status quo* with respect to the title and possession of the properties in dispute.

10. *Per Contra*, the learned Counsel for the Respondent submits that the parties have been residing separately in Flat Nos. 58-B and 59-C, with separate kitchens since 2005, and that the allegations of harassment and non-maintenance were false and motivated by the pending property dispute; *vide* the registered Will dated 16.01.2018, executed by the late father of Respondent No. 1, rights *qua* Flat No. 58-B (in which the Petitioner resides) were transferred to him, while Flat No. 59-C, where the Respondents reside stands in the Petitioner's name; the Petitioner is occupying their property while the Respondents are occupying the Petitioner's property; the Criminal Complaint alleging theft of property documents culminated in a

Signature Not Verified

Signed By: SANJAY

KUMAR

Signing Date: 14.10.2024 W.P.(C) 8947/2024

19:48:58



2026:DHC:9189



closure report; the Petitioner was earning rental income of approximately ₹1 Lac per month from an industrial property measuring 1,100 square yards; and even otherwise, the parties' rights in the properties were already the subject matter of a partition suit before this Court, in which an order of *status quo* had been passed on 13.12.2022. It is thus urged that the eviction order had rightly been set aside in the absence of sufficient material substantiating the allegations of ill-treatment or non-maintenance.

11. Arguments heard and the material placed on record perused.

12. The controversy requires consideration of the nature and scope of the proceedings under the Senior Citizens Act. The statutory mechanism prescribed is intended to protect the life and property of senior citizens and to ensure that they are able to live with dignity and security. The power to direct eviction, where available under the applicable statutory framework, must be exercised in furtherance of these objectives and on an assessment of the facts and circumstances of the particular case. At the same time, such proceedings cannot be treated as a substitute for adjudication of disputed questions of title or as a means of resolving an otherwise pending civil dispute concerning the rights of family members in immovable property.

13. In the present case, it remained undisputed that the parties are involved in proceedings before this Court in *CS(OS) 786/2022* concerning the properties left behind by late Sh. Bhagirath Sharma. The said proceedings involve, *inter alia*, disputes concerning the ownership of the properties and the validity of the Will relied upon by Respondent No. 1.

Signature Not Verified

Signed By: SANJAY

KUMAR

Signing Date: 14.10.2024 W.P.(C) 8947/2024

19:48:58



2026:DHC:9189



14. In these circumstances, the learned Appellate Authority was justified in noting that the underlying property dispute was already seized of by the competent civil court and that the proceedings under the Senior Citizens Act could not be employed to determine questions which properly fell for adjudication in those proceedings.

15. A perusal of the record and the impugned order further indicates that it was an admitted position that the parties had been residing separately in different flats with separate kitchens since 2005. The learned Appellate Authority further rightly noted that, given the above noted factual context of the dispute, though the Petitioner is the owner of Flat 59-C, the same could not be the sole reason to evict the Respondents, that too when the Petitioner has failed to place forth evidence to support the allegations of ill-treatment or harassment. It further emerges that the Petitioner had not disputed receiving the rental income mentioned by the Respondents and merely the quantum of rent was disputed. Additionally, it was also not denied that the Respondent No. 1 is looking after the expenses of the Petitioner's younger son i.e. his younger brother/ Sh. Jeetan Sharma and his family.

16. Hence, in this context, it was held that no evidence warranting eviction of the Respondent No. 1 and 2 was made out. However, to secure the welfare of the senior citizen i.e. the Petitioner, the learned Appellate Authority attempted to provide an arrangement which, in its view, would afford the Petitioner a choice of residence and thus, directed the consequent exchange of properties, only, if she wishes to reside in Flat No. 59-C instead of Flat No. 58-B.



2026:DHC:9189



17. In so far as the reliance of the Petitioner upon the order dated 13.12.2022, directing the parties to maintain *status quo* with respect to the title and possession of the properties in dispute, is concerned, she cannot be permitted to approbate and reprobate by invoking the said order to suggest “*status quo*” be maintained, while herself having initiated eviction proceedings after passing of the above order, in respect of one of the very properties forming the subject matter of the pending civil dispute. Having sought to alter the possession of the disputed property by initiating proceedings under the Senior Citizens Act, after passing of the above order, the Petitioner cannot selectively invoke the order of *status quo* to defeat the arrangement directed by the learned Appellate Authority. Even otherwise, only an option has been given to the Petitioner, and she, in any case, can continue to reside in the Flat No. 58-B.

18. Notably, the impugned order discloses consideration of the material circumstances and furnishes reasons for setting aside the eviction order. The scope of judicial review under Article 226 does not permit this Court to substitute its own assessment for that of the appellate authority simply because a different conclusion could conceivably have been reached. Interference would be warranted where the decision suffers from a jurisdictional error, patent illegality, perversity or material disregard of the applicable law. No such infirmity has been demonstrated in the present case.

19. It is however clarified that all questions concerning title, possession, the validity of the Will and the parties' respective rights and claims ought to be examined in the appropriate civil proceedings,

Signature Not Verified

Signed By: SANJAY

KUMAR

Signing Date: 14.10.2024 W.P.(C) 8947/2024

19:48:58



2026:DHC:9189



on the basis of the pleadings and evidence led therein. Nothing stated in the impugned order, or in the present judgment, shall be construed as an expression of opinion on the merits of those claims.

20. In view of the foregoing discussion, the writ petition is dismissed. Pending applications, if any, also stand disposed of.

AMIT MAHAJAN, J

OCTOBER 13, 2026

"SS"

Signature Not Verified

Signed By: SANJAY
KUMAR

Signing Date: 14.10.2026
19:48:58

W.P.(C) 8947/2024

Page 7 of 7