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

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***Date of Decision: October 16<sup>th</sup>, 2026***

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**CNR No. DLHC010279632022**

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**W.P.(C) 11103/2022 & CM APPL. 32567/2022, CM APPL. 60188/2026****RAJESH BASOYA****.....Petitioner**

Through: Mr. Rajat Aneja, Senior Advocate with Mr. Saubhagya Chauriha, Mr. Karandeep Singh, Advocates along with petitioner in person.

versus

**GOVERNMENT OF NCT OF DELHI & ORS. ....Respondents**

Through: Ms. Usha Pandey, Advocate for R2 and 3.

**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. By the present petition, the petitioner challenges the order dated 14.07.2022 (hereafter '**impugned order**') passed by the learned Divisional Commissioner whereby the appeal preferred by the petitioner against the order dated 25.11.2019 pursuant to which the petitioner and his brothers were directed to vacate the properties bearing H.No. C-167 and C-167/A/1, Dasghara Mohalla, Gali No. 1, Ramesh Market, Garhi, East of Kailash, New Delhi came to be dismissed.

2. Briefly stated, the petitioner is the eldest son of Respondent Nos. 2 (father) and 3 (mother) and is stated to be in possession of



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property being H.No. C-167/A/1, Dasghara Mohalla, Gali No.1, Ramesh Market, Garhi, East of Kailash, New Delhi (hereafter '**subject property**'). Initially, a suit was preferred by Respondent No. 2 in the year 2012 against the petitioner seeking the relief of mandatory and permanent injunction in respect of the fourth floor and one shop on the ground floor of the subject property. The said suit came to dismissed on 25.11.2019 noting that Respondent No.2 had failed to prove that he is the sole owner or licensor of the subject property and the petitioner is the co-sharer therein. Prior to the same, on 11.09.2018, an application was filed by Respondent Nos. 2 and 3 under the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 on 11.09.2018 seeking eviction of the petitioner and Respondent Nos. 4 and 5 from the aforementioned properties – being H.No. C-167 and C-167/A/1 on account of ill treatment and harassment. Respondent Nos. 4 and 5 are the younger brothers of the petitioner.

3. By order dated 25.11.2019, the learned District Magistrate allowed the application preferred by Respondent Nos. 2 and 3 and directed the petitioner as well as Respondent Nos. 4 and 5 to vacate the said properties. An appeal was thereafter preferred by the petitioner before the learned Divisional Commissioner and the same also came to be dismissed by the impugned order noting that Respondent Nos. 2 and 3 had been harassed and ill-treated and were forced to approach the authorities so as to live peacefully in their own house.

4. Aggrieved by the same, the petitioner has preferred the present



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petition.

5. It has been urged by the learned Senior Counsel for the petitioner that the proceedings under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 have been initiated by Respondent Nos. 2 and 3 on the instigation of his unmarried sisters who are residing with Respondent Nos. 2 and 3. He submits that the petitioner is a co-sharer in the subject property and is possession of the same. He submits that initially a civil suit was preferred by Respondent No. 2 against the petitioner and the same came to be dismissed noting that the petitioner is a co-sharer in the subject property. He submits that no appeal was preferred by Respondent No. 2 against the dismissal of the suit. He submits that the subject property had fallen to the petitioner by virtue of an oral settlement effected in the month of January, 2003.

6. He further draws the attention of this Court to the site plan and submits that though the properties are situated in the same vicinity, the subject property in which the petitioner is residing stands at a distance of 100.10 metres from the property in which Respondent Nos. 2 and 3 are residing. He submits that in such circumstances, the claim of harassment and ill treatment is meritless.

7. On the other hand, the learned counsel for Respondent Nos. 2 and 3 submits that the subject property was always owned by Respondent No. 2, however, owing to the constant scuffle between the brothers, the subject property was temporarily given to the petitioner. She submits that Respondent No. 2 is the rightful owner of the subject property and the said property was constructed so that Respondent No.



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2 could gain some rental income. She submits that Respondent Nos. 2 and 3 were constantly ill-treated and harassed at the hands of the petitioner as a result of which multiple complaints were preferred. She consequently submits that the present petition is without any merit and is liable to be dismissed.

8. Having taken note of the rival contentions of the parties and carefully traversed the record, this Court is of the opinion that the impugned order insofar as the same relates to the petitioner, cannot be sustained for the following reasons.

9. *Firstly*, though much emphasis has been laid by the learned counsel for Respondent Nos. 2 and 3 on the fact that Respondent No. 2 is the rightful owner of the subject property and the same was only temporarily given to the petitioner on account of the scuffle between the brothers, the judgment dated 25.11.2019 passed in the civil suit instituted by Respondent No. 2 records that Respondent No. 2 is not the sole owner and licensor of the subject property. It was noted that while various disputes had arisen between the parties since 2012, Respondent No. 2 had failed to prove that he is the sole owner of the subject property. It was further noted that the petitioner had been residing in the subject property since the year 2003 and he was also the co-sharer therein. Consequently, the relief of mandatory and permanent injunction was declined to Respondent No. 2.

10. *Secondly*, the learned senior counsel for the petitioner had drawn the attention of this Court to Layout Plan of the aforementioned properties which clearly reflects that the subject property being C-167/A/1 stands at a distance of 100.10 metres from the properties



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being C-167 and C1-167 where Respondent Nos. 2 and 3 reside. While the allegations of ill treatment and harassment made at the instance of the parents cannot and ought not to be trivialised, the site plan clearly reflects that the properties though in the same vicinity, are not even situated adjacent to each other. As noted by the Hon'ble Apex Court in the case of ***S. Vanitha v. Deputy Commissioner, Bengaluru Urban District and Others : (2021) 15 SCC 730***, while the Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, *may* order an eviction, such a recourse ought to be resorted to only if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Further, the said remedy can only be granted to after adverting to the competing claims in the dispute.

11. As noted above, the Layout plan on record clearly demonstrates that although the properties bearing Nos. C-167/C1-167 and C-167/A/1 are situated in the same vicinity, they are not contiguous to each other, the latter being situated approximately 100 metres away from the premises where the parents reside. Further, the judgment dated 25.11.2019 passed in the civil suit though not a conclusive determination of title, expressly records that the petitioner has been residing in the subject property as a co-sharer and Respondent No. 2 is not the sole owner or licensor of the subject property.

12. On such a conspectus of facts, the impugned order cannot be sustained *qua* the petitioner and is consequently set aside.

13. It is made clear that the observations made in the present petition are only confined to the subject property and the petitioner,



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and does not extend to the portion of the property where Respondent Nos. 4 and 5 reside.

14. The present petition along with the pending applications stand disposed of in the aforesaid terms.

**AMIT MAHAJAN, J**

**OCTOBER 16, 2026**

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