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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 530/2026, CM APPL. 2665/2026 & CM APPL. 2667/2026**

Date of Decision: **25.02.2026**

IN THE MATTER OF:

COL HARINDER SINGH (RETD)Petitioner

Through: Mr. Deepak Joshi, Mr. Sanjay
Sharma, Mr. Shivam Yadav, Ms. Ekta
Khangawal, Advocates.

versus

GOVT. OF NCT OF DELHI THROUGH DIVISIONAL
COMMISSIONER, & ORS.Respondents

Through: Ms. Vaishali Gupta, Panel Counsel
(Civil), GNCTD for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

JUDGEMENT

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The petition is for setting aside the order dated 10.09.2025 passed by the Appellate Authority, whereby, the petitioner's appeal against the order dated 08.09.2023 passed by the District Magistrate has been dismissed.
2. The impugned orders arise out of an application filed by respondents no. 3 and 4 under Rule 22(3)(i) of the Delhi Maintenance and Welfare of Senior Citizens Rules, 2009 (Rules) framed under the Maintenance and Welfare of Senior Citizens Act, 2007 (Act). The said application was



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allowed, and the petitioner, along with his family, has been directed to vacate the property in question. In the said order, it is also recorded that the allegations of respondents no. 3 and 4 that they were facing harassment by the petitioner, were found to be genuine.

3. The petitioner preferred an appeal against the said order under Rule 22(4) of the Rules before the Appellate Authority, on the following grounds:

3.1. The property in question belongs to the Hindu Undivided Family of the petitioner and respondents no. 3 and 4. Therefore, respondents no. 3 and 4 are not entitled to eviction of the petitioner.

3.2. A civil suit for partition involving the property in question is pending before this Court. The said aspect has not been considered by the District Magistrate while passing the order under appeal.

3.3. The wife of the petitioner enjoys independent rights of residence under Section 17 of the Protection of Women from Domestic Violence Act, 2005, which has not been considered by the District Magistrate.

4. The Appellate Authority, in the order dated 10.09.2025, has rejected all the aforesaid grounds raised in the appeal.

5. Learned counsel appearing for the petitioner submits that order dated 08.09.2023 was passed without issuing any show-cause notice as mandated under Rule 22(3)(iv). He places reliance on the decision of this Court in *Pooja Mehta and Ors. v. Govt. of NCT of Delhi and Ors.*,¹ in support of his submission that issuance of a show-cause notice is a mandatory requirement prior to the passing of any order for eviction under the Rules.



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6. He further submits that the impugned orders have been passed by the authorities without jurisdiction, considering that the title of respondents no. 3 and 4 were disputed by the petitioner and the pendency of the civil suit for partition with respect to the same property were brought on record in the proceedings under challenge. It is submitted that the impugned orders have the effect of extinguishing the petitioner's pre-existing rights as a coparcener in the said HUF. Reliance is placed on the decision of the Supreme Court in *Samtola Devi v. State of Uttar Pradesh and Ors.*,² in this regard.

7. According to him, both the authorities below, have erroneously held that the provisions of the Act override the right of shared residence of the petitioner's wife under Section 17 of the Protection of Women from Domestic Violence Act, 2005 (DV Act). He places reliance on the decision of the Supreme Court in *S Vanitha v. Deputy Commissioner*,³ to submit that the provisions of both the aforesaid statutes have to be harmoniously construed.

8. His next submission is that the report of the Sub Divisional Magistrate as per Rule 22(3)(iii) of the Rules would unequivocally indicate that there is no clear evidence of harassment being meted out to the respondent nos.3 and 4 by the petitioner, and therefore, the impugned orders have been passed without application of mind.

9. Further, he submits that the Appellate Authority had not considered the petitioner's submissions that the application for eviction had been filed by respondents no. 3 and 4 in connivance with their daughter in order to deprive the petitioner's wife of her rightful claim to her matrimonial home,

¹ 2025:DHC:4424-DB

² 2025 INSC 404



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and also that while sixty days had been granted for filing an appeal against order dated 08.09.2023, the petitioner has been directed to vacate the property in question within thirty days.

10. The submissions made by learned counsel appearing for the petitioner are opposed by learned counsel appearing for respondent nos.3 and 4 and he contends that neither of the two impugned orders suffer from any infirmity warranting interference by the Court.

11. According to him, paragraph nos.5 and 6 of the order passed by the District Magistrate clearly record the findings of ill treatment and the harassment being meted out to the respondent nos.3 and 4.

12. He submits that while there does exist a pending civil suit for partition with respect to the property in question, the title deed of the property is admittedly in the name of the said respondents. Therefore, according to him, so long as the rights of the petitioner are not crystallized in the civil suit, the petitioner cannot claim any right in the property.

13. He also submits that the objection with respect to non-adherence of the provision under Rule 23 (3)(1)(iv) of the Rules was not raised before the Appellate Authority. He places reliance on the decision of the Division Bench of this Court in *Paramjeet Singh and Ors v. Pritam Singh and Anr.*,⁴ to contend that unless the said objection is raised before the Appellate Authority, the same may not be raised for the first time, before this Court.

14. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

³ 2020 SCC OnLine SC 1023

⁴ 2025:DHC:4821-DB



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15. A perusal of the order dated 10.09.2025 indicates that the Appellate Authority has considered the aspect of pendency of the civil suit and held that the same does not bar the exercise of the jurisdiction under the Act. Although the petitioner places reliance on the decision in *Samtola Devi*, a perusal of the same indicates that the Court has not laid down any absolute rule that mere pendency of a civil suit disputing the title of the senior citizen would bar proceedings for eviction under the Rules. The paragraphs which are relied on by the petitioner are extracted below, for reference:

“33. In our opinion, the Appellate Tribunal was, therefore, not justified in ordering for his eviction merely for the reason that the property belongs to Kallu Mal, completely ignoring the fact that the claim of Krishna Kumar regarding 1/6th share and the cancellation of gifts and sale deeds is pending adjudication before the civil court.

34. In our opinion, in the facts and circumstances of the case, there was no necessity for the extreme step for ordering the eviction of Krishna Kumar from a portion of the house rather the purpose could have been served by ordering maintenance as provided under Section 4/5 of the Senior Citizens Act and by restraining him from harassing the parents and interfering in their day-to-day life.”

16. In fact, the Court has also observed that in case of continuous harassment and torture, eviction may be necessitated. The relevant portions of the said decision is extracted below, for reference:

“27. It is in this background coupled with the fact that under the Senior Citizens Act, senior citizens are simply entitled to maintenance rather than eviction of their son/relatives that the Tribunal disposed of the matter with the categorical direction that Krishna Kumar would continue to occupy and carry on business from the shop in question and at the same time would reside only in a one room portion with attached bathroom without encroaching upon any other part of the house.

28. It was only in the contingency of Krishna Kumar not behaving properly or continuing to humiliate or torture the parents that the eviction proceedings would be necessary against him.”



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17. In the order dated 08.09.2023, the District Magistrate has explicitly recorded that the apprehension of further harassment was not unfounded. Paragraph no. 8 of the said order is extracted below, for reference:

“8. Accordingly, on perusal of inquiry and various documents submitted by petitioner, it is apprehended that, if both the petitioner and the respondents continue to reside in the same property, the chances of ill-treatment and harassment will persist.”

18. Moreover, a perusal of the provisions under Rule 22 of the Rules indicates that the proceedings for eviction are envisaged to be summary in nature. In such proceedings, no adjudication of title over the property takes place. Accepting the submission that merely because the title of the senior citizen is disputed, the application for eviction cannot be entertained under Rule 22 of the Rules would defeat the object of the Act, which has been enacted for the protection of the rights of senior citizens.

19. The contention that the property in question belongs to the HUF and the petitioner has an interest in the same, has been correctly rejected on the ground that under Rule 22(3)(i), an application for eviction may be entertained with respect even to ancestral properties. Rule 22(3)(i) of the Rules is extracted below, for reference:

“22.(3)(i) A senior citizen/parents may make an application before the Deputy Commissioner/District Magistrate of his district for eviction of his son and daughter or legal heir from his property of any kind whether movable or immovable, ancestral or self acquired, tangible or intangible and include rights or interests in such property on account of his non-maintenance and ill-treatment.”

20. Insofar as the contention that the authorities below have failed to appreciate the material on record in concluding that respondents no. 3 and 4 were facing harassment by the petitioner, it is seen that in the order dated 08.09.2025, a categorical finding has been rendered that the allegations of



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harassment have been found to be genuine. The relevant paragraph is extracted below, for reference:

“ 6. Therefore the allegations of the petitioner in this case are found genuine. Both the petitioners are emotionally drained and distressed at this stage of life due to harassment by respondents and the chances are that the harassment would only increase if they stay together.”

21. The aforesaid finding has been affirmed by the Appellate Authority. The petitioner has not placed any material on record to indicate any perversity, or illegality in the impugned orders so as to warrant reappraisal of evidence by this Court under Article 227 of the Constitution.

22. The contention that non-adherence with the provision of Rule 22(3)(iv) would vitiate the impugned orders cannot be accepted. A Division Bench of this Court in ***Paramjeet Singh and Ors***, has taken note of the decision in ***Pooja Mehta and Ors*** and has held that if the said objection is not raised before the Appellate Authority, the same cannot be raised for the first time before this Court.

23. Finally, the contention that the Appellate Authority has not considered certain grounds raised in the appeal, also does not warrant any interference by this Court. The first contention is that the eviction proceedings were instituted at the behest of the petitioner's sister in order to defeat the rights of the petitioner's wife. While adjudicating applications under Rule 22(3) of the Rules, the District Magistrate is only required to be satisfied that the senior citizen is not being maintained and is facing ill-treatment by his/her children who are occupying his/her self-acquired or ancestral property. In the impugned orders, it has been categorically recorded that the aforesaid conditions exist. Therefore, the lack of reasons for rejecting the said



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objection has not caused any prejudice to the petitioner. The next ground of appeal urged by the petitioner is that the District Magistrate had passed contradictory findings that the petitioner may file an appeal against the order within sixty days, the petitioner was directed to vacate the property in question within thirty days. This objection too, is unfounded. Merely because the time period within which the petitioner is directed to vacate the property in question is shorter than the time period within which he may file an appeal cannot be a ground for setting aside the order. The petitioner may prefer an appeal against an eviction order even after vacating the property. Therefore, there is no contradiction in the order dated 08.09.2023.

24. There does not exist any justification to interfere with the impugned orders, and accordingly, the instant petition stands dismissed.

PURUSHAINDRA KUMAR KAURAV, J
FEBRUARY 25, 2026/p/amg