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

% **Date of decision: 30th May, 2025**

+ LPA 384/2025

PARAMJEET SINGH & ORS.Appellants

Through: Mr. Rajat Aneja and Mr. Aditya
Sharma, Advs.

versus

PRITAM SINGH & ANR.Respondents

Through: Ms. Aakansha Kaul, Mr. Aman
Sahani, Ms. Ashima Chopra,
Advs. for R-1.
Ms. Vaishali Gupta, Panel
Counsel (Civil), GNCTD.

CORAM:

HON'BLE THE CHIEF

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 35561/2025

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 35563/2025

3. This application is moved under Order XLI Rule 27 of the Code of Civil Procedure, 1908 [“CPC”] on behalf of the appellants seeking permission to place on record certain additional documents in the present appeal.



4. In short, the appellants seek to place on record a copy of the registered GPA¹ dated 01.01.2018 stated to have been executed by the respondent No.1/father in favour of his daughter Smt. Ranjeet Kaur.

5. Ms. Aakansha Kaul, learned counsel appearing for the respondent No.1, has no objection if the said application is allowed.

6. Accordingly, the application is allowed, and the document is allowed to be placed on record.

LPA 384/2025 & CM APPL. 35562/2025

7. The appellants are preferring the present LPA² in terms of Clause 10 of the Letters Patent of Lahore, as applicable to the Delhi High Court, read with Section 10 of the Delhi High Courts Act, 1996 thereby, assailing the final Judgment dated 13.05.2025 passed by the learned Single Judge in W.P.(C) 13840/2022, by virtue of which the appellants have suffered an eviction order.

8. Learned counsel for the respondent No.1 as well as respondent No.2 are present on advance notice.

9. Respondent No.1 is father of the appellant No.1, the appellant No.2 happens to be his daughter-in-law and appellant Nos. 3 and 4 are the grandchildren.

10. In a nutshell, respondent No.1 instituted proceedings for eviction of the appellants from the property bearing address No. V-162, Gali No.5, Dispensary Wali Gali, Arvind Nagar, Ghonda, Delhi-

¹ General Power of Attorney

² Letters Patent Appeal



110053 [“**subject property**”] under the Delhi Maintenance and Welfare of Parents and Senior Citizen Rules, 2009 [“**2009 Rules**”], which resulted in passing of the eviction order against the appellants *vide* order dated 17.09.2021 by the District Magistrate. Aggrieved thereof, an appeal was preferred by the appellants before the Divisional Commissioner under Rule 22(3)³ (4)⁴ of the 2009 Rules, which came be allowed by the Divisional Magistrate *vide* order dated 21.04.2022, thereby setting aside the eviction order dated 17.09.2021.

11. In summary, the learned Single Judge observed that the order dated 17.09.2021 was passed by the District Magistrate painstakingly after analyzing the facts and circumstances of the case with the

³ (3)(1) Procedure for eviction from property/residential building of Senior Citizen/Parents,-

(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.

(ii) The Deputy Commissioner/DM shall immediately forward such application to the concerned Sub Divisional Magistrates for verification of the title of the property and facts of the case within 15 days from the date of receipt of such application.

(iii) The Sub-Divisional Magistrate shall immediately submit its report to the Deputy Commissioner/DM for final orders within 21 days from the date of receipt of the complaint/ application.

(iv) The Deputy Commissioner/District Magistrate during summary proceedings from the protection of senior citizens parents, shall consider all the relevant provisions of the said Act if the Deputy Commissioner/District Magistrate is of opinion that any son or daughter or legal heir of a senior citizen/parents is not maintaining the senior citizen and ill treating him and yet is occupying the property of any kind whether movable or immovable, ancestral or self acquired, tangible or intangible and include rights or interests in such property of the senior citizen, and that they should be evicted. The Deputy Commissioner/District Magistrate shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause as to why an order of eviction should not be issued against them/him/her.

⁴ (4) Appeal-

(i) The appeal against the order of Dy. Commissioner/DM shall lie before Divisional Commissioner, Delhi.

(ii) Provisions regarding disposal of appeal before Appellate Tribunal shall apply *mutatis mutandis* to the appeals before the Divisional Commissioner, Delhi.



finding that respondent No.1/petitioner was the lawful owner of the subject property as his title stood affirmed in Civil Suit bearing No. 603/2017 by the Court of Additional Senior Civil Judge, District North-East, Delhi *vide* judgment dated 11.02.2020; and pertinently the allegations of ill-treatment of respondent No.1/petitioner at the hands of his son and family i.e. the appellants stood substantiated and justified. Further, it was observed that no indefeasible right has been created in favour of the appellants merely on account of having lived in the subject property as a gratuitous licensee/permissive user.

12. At this juncture, it would be apposite to reproduce the findings recorded by the Appellate Authority while allowing the appeal preferred by the appellant and passing the order dated 21.04.2022 setting aside the eviction order, which read as under:

“14. Under the provision of the act and amended rules, District Magistrate has to see that an application must be from senior citizen /Parent who wishes to evict his son or daughter or their legal heirs from his or her 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** i.e. on satisfaction of either of the two conditions, District Magistrate may issue an eviction order. Thus, District Magistrate while deciding the application shall look into these two aspects as being of vital importance for eviction. For eviction any of the conditions must be satisfied. In the above said matter the Respondent stated that he moved out from the suit property 4 years ago and filed the eviction application before the DM two years ago. From the period of filing application till now the Respondent has neither submitted nor stated any incident of ill-treatment and harassment and Both the parties are not involved when the SDM report was prepared. The Respondent has been living at his daughter's house for a long time. It has been observed that the appeal was filed with the motive to solve the property



dispute between the Appellant and his sister. The sole motive of this act is not only protect the senior citizen from any harassment and ill-treatment but also ensure that this act is not used to settle the property dispute.

15. Keeping in view the above facts and circumstances of the present case, the impugned order dated 17.09.2021 is hereby set-aside as respondent failed to prove ill-treatment, Accordingly, appeal is hereby allowed and Appellants cannot be thrown out from the suit property under the Provisions of the Delhi Maintenance and Welfare of Parents and Senior Citizens Amended Rules.”

13. At the outset, the aforementioned reasons do not hold legal merit. The learned Single Judge has rightly concluded that there is a categorical finding that the respondent was compelled to vacate the subject property due to the ill-treatment he suffered at the hands of the appellants, leaving him with no other option but to reside with his daughter. While the aforesaid facts have not been challenged by the appellants, much mileage was sought to be taken from the fact that after the matter was finally heard on 24.02.2025 by the learned Single Judge and the matter was reserved for judgment, he had moved an application bearing CM APPL. 15133/2025 on 04.03.2025 bringing to the fore that respondent No.1 had transferred his right, title or interest in the subject property in favour of his daughter Smt. Ranjeet Kaur by executing certain registered documents in her favour *viz.*,

“(i) General Power of Attorney executed by the Petitioner in favour of Smt. Ranjeet Kaur, vide Registration No. 18, Volume No. 11160, Book No. IV, From Pages 66 to 70, dated 01.01.2018;

(ii) Will executed by the Petitioner in favour of Smt. Ranjeet Kaur, vide Registration No. 148, Book No.3, Volume No. 3556 from page 150 to 154, dated 07.04.2018; and



(iii) Will dated 15.11.2017 executed by the Petitioner in favour of Smt. Ranjeet Kaur, vide Registration No. 501, Volume No. 3551, Book No. 3 from page 133 to 137, dated 15.11.2017.”

14. It was sought to be canvassed that in view of the execution of such documents, the respondent No.1/petitioner is no longer the owner of the subject property, and the entire proceedings are being orchestrated at the behest of his sister.

15. We have no hesitation in holding that the plea advanced on this aspect is also unsustainable. First and foremost, even assuming that a Will has been executed, it is a testamentary disposition that would come into effect only after the demise of respondent No. 1/petitioner. As for the other two documents, they merely empower his daughter to look after the property, pursue legal remedies to preserve the subject property, and comply with statutory obligations in respect thereof.

16. Faced with the aforesaid situation, learned counsel for the appellants placed reliance on an earlier decision of this Court titled **Pooja Mehta v. Govt. of NCT of Delhi**⁵ and urged that the proceedings before the District Magistrate were vitiated inasmuch as notice under Rule 22(3)(1)(iv)(v) and thereby the grounds of proposed eviction were not communicated. The said case is of no help to the appellants since it was a case where specific challenge was made about non-issuance of SCN in terms of Rule 22(3)(1)(iv)(v) of the 2009 Rules, which was not considered by the Appellate Authority and

⁵ LPA 12/2025 delivered on 27.05.2025



though such grounds were espoused before the Appellate Authority and even the learned Single Judge, the same were neither considered nor decided. In the instant matter, we find that no such ground was espoused before the Appellate Authority or before the learned Single Judge.

17. Lastly, it was argued that, to their knowledge, respondent No. 1/petitioner has already executed a registered Gift Deed, thereby relinquishing any right, title, or interest in the subject property. However, no details of the execution of such a Gift Deed are forthcoming. Even assuming that such a deed exists, executed by respondent No. 1/petitioner in favour of his daughter, Rule 22(3)(1) categorically provides that any right or interest is sufficient to seek protection. In this case, respondent No. 1/petitioner still retains the right and interest to permissive use from his daughter to reside in the subject property.

18. In view of the above, the present appeal is dismissed.

19. The pending application(s) also stand disposed of.

DHARMESH SHARMA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 30, 2024

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