

Anju Mehta Alias Anju Juneja vs Government Nct Of Delhi & Anr on 1 February, 2023

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1253/2023 and CM APPL. 4754/2023, 4755/2023

ANJU MEHTA ALIAS ANJU JUNEJA Petitioner

Through: Ms. Sudershani along with Mr. Atul
Chopra, Advocates. (M-997110802)

versus

GOVERNMENT NCT OF DELHI & ANR. Respondent

Through: Ms. Mehak Nakra, ASC (Civil)
GNCTD, Advocates for R-1 (M-
9871144582).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 01.02.2023

1. This hearing has been done through hybrid mode.
2. The Petitioner, who is the daughter-in-law of Respondent No.2, is aggrieved by the order dated 15th December, 2022 passed by the District Magistrate. The said order reads as under:

"The respondents are present and have submitted that they not illtreated the complainant and are ready to keep the complainant.

The complainant on the other hand alleged that the respondents have ill-treated her at various occasions & the Resp. No. 2 has filed a DU case after the complainant filed the present complaint. Also, she alleges that the Respondents call the police in night & she is not safe, though upon enquiry it has happened only once. I have heard the parties in detail and have gone through the material on record & I have come to the conclusion that the complainant is the sole owner of the property in question and the Respondents are currently residing in the property. The complainant is living with her daughter. However, she was living with her daughter from before the Respondents entered the house. She earlier used to visit the house occasionally for ensuring upkeep. The DV case is filed after 19 years of marriage after the present application is filed & this facts needs to be appreciated that the respondents have lived 17 years in Dubai, away from the accused (herein complainant) in that DV case. It indicates that the case is prima facie filed to ensure no eviction order is passed

from this court. Upon asking also the respondent No. 2 couldn't establish any domestic violence.

In view of the facts & circumstances of the case in hand, I am of the view that the complainant has an undisputed right to live in her house & enjoy the property without any obstruction or fear from anyone & if she doesn't want to allow her son & daughter-in-law to live with her, she is free to do so. In view of this the application to evict the respondents from the suit property is allowed and the respondents are directed to vacate the property within 30 days failing which they shall be escorted out with the help of the police from the nearby P.S. Case decided. Decision conveyed.

Order Dasti."

3. The grievance of the Petitioner is that she has filed an appeal under Rule 22(3)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizen Rules, 2009 assailing the order dated 15th December, 2022 before the Divisional Commissioner. Ld. Counsel further submits that her appeal and application seeking stay of the impugned order are yet to be listed. Thus, she apprehends eviction in view of the District Magistrate's order. It is also submitted by Ld. Counsel for the Petitioner that the impugned order is an interim order and the matter is yet to be finally decided by the District Magistrate.

4. Ms. Nakra, Ld. Counsel for Respondent No.1 submits that the matter is slated to be listed before the Divisional Commissioner on 3rd February, 2023 at 11:00 a.m.

5. Considering that the District Magistrate's order is an order appealable before the Divisional Commissioner, it is directed that the Petitioner shall not be evicted till the stay application is decided by the Divisional Commissioner.

6. In the meantime, the District Magistrate shall take a final view of the matter and communicate the final order as well to the Petitioner.

7. With these observations, the petition is disposed of along with all pending applications.

9. All remedies of the Petitioner and Respondent No.2 are left open.

PRATHIBA M. SINGH, J.

FEBRUARY 1, 2023 Rahul/SK