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

Date of Decision: 04th October, 2024

+ **W.P.(C) 4643/2021 & CM APPL. 14297/2021, CM APPL. 28005/2021, CM APPL. 30704/2023 & CM APPL. 43610/2024**

POOJA MEHTA & ORS.

.....Petitioners

Through: Mr. Rajiv Bajaj, Mr. Saurabh Soni,
Advocates for Petitioners No. 1 & 3
Mr. Vineet Mishra, Mr. Rishav
Dubey, Mr. Ruchir Jain, Mr. Pawan
Bhardwaj, Advocates for Petitioner
No. 2

versus

GOVERNMENT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Satyakam, ASC for GNCTD with
Mr. Harsh Kumar Singh, Advocate.
Mr. Vivek Chib, Senior Advocate
with Mr. Vaibhav Sethi, Ms. Priya
Pathania, Ms. Roma Bedi, Ms. Unnati
Jhunjhunwala, Ms. Mansi Gupta, Mr.
Brij Harani, Advocates for R-2 and 3

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present writ petition challenges the order dated 31st March, 2021



passed by the Divisional Commissioner,¹ who, as the Appellate Authority under Rule 22(3)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, (Amendment) Rules, 2016,² upheld the eviction of the Petitioner Nos. 1 and 2 – the daughter-in-law and son of Respondent No. 3, an elderly senior citizen. The impugned order originates from the earlier order dated 18th September, 2020, issued by the District Magistrate, permitting Respondent Nos. 2 and 3 to reclaim possession of their property, *i.e.*, Sai Naman Aster Estate, Bandh Road, Gadaipur, Mehrauli, New Delhi.³ This case, therefore, brings to the forefront the interplay between the rights of a daughter-in-law in a shared household under domestic violence laws and the protective measures granted to senior citizens for their welfare and property security under the Delhi Maintenance and Welfare of Parents and Senior Citizens Act, 2007.⁴ The Court is now called upon, to balance these conflicting rights and determine the legality of the eviction order in light of established precedents and statutory provisions.

The parties

2. Petitioner No. 1, who married Petitioner No. 2 in 2013, is the daughter-in-law of Respondent No. 3. Petitioner Nos. 3 and 4 are children from Petitioner No. 1's prior marriage and have been impleaded in the present proceedings, asserting their independent rights to the Subject Property based on their residence therein. While they seek to bolster the case of Petitioner No. 1, it remains undisputed that they are both adults—Petitioner No. 3 has since married, and Petitioner No. 4 is currently pursuing

¹ “impugned order”

² “Senior Citizens Rules”

³ “Subject Property”

⁴ “Senior Citizens Act”



higher education through a master's program.

3. Respondent No. 3, a senior citizen, is the mother of Petitioner No. 2 and the widow of Respondent No. 2, Vijay Mehta. It was Mr. Vijay Mehta, who had initially commenced the eviction proceedings before his unfortunate demise. Nevertheless, the rights and claims of Respondent No. 3 persist and form the core of this dispute. As a senior citizen, she claims exclusive possession of the property, invoking specific legal protections, including those under the Senior Citizens Act.

Petitioners' Contentions

4. Mr. Rajiv Bajaj, counsel for the Petitioners, contends that the impugned order is marred by several legal and factual infirmities. He summarises the case for the Petitioners as follows:

4.1 The marriage between Petitioner No. 1 and Petitioner No. 2 took place on 6th October, 2013. This was the second marriage for both parties: Petitioner No. 1 had lost her first husband, while Petitioner No. 2 was a divorcee. From her previous marriage, Petitioner No. 1 has two children, now impleaded as Petitioner Nos. 3 and 4. Following the marriage, the Petitioners took up residence with Respondent Nos. 2 and 3 in the "shared household" of Petitioner No. 1. The other son of Respondent Nos. 2 and 3 resides with his spouse within the same compound, but in a separate house.

4.2 For nearly five years after the marriage, the Petitioners and Respondent Nos. 2 and 3 cohabited without significant conflict. However, in May, 2018, tensions abruptly surfaced. Respondent No. 2 lodged police complaints against Petitioner No. 1 at Police Stations Naraina and Mehrauli, alleging an apprehension of physical harm. These complaints were retaliatory, a "counterblast" to Petitioner No. 1's refusal to comply with the



alleged sexual advances of Respondent No. 2. Furthermore, Petitioner No. 1 had brought these advances to the attention of Respondent No. 3, adding to the friction.

4.3 Around the same time, another source of discord emerged: Petitioner No. 2's intention to sell certain land he owned. This move reportedly caused friction between him and Respondent No. 2, culminating in an attempt by the latter to thwart the sale. Matters escalated to a point where Respondent No. 2's chartered accountant, acting through a company he owned, obtained an order from this Court in *Grand Realty Pvt. Ltd. v. Nanak Mehta*,⁵ directing Petitioner No. 2 to deposit a sum of Rs. 2.05 Crores with the Court's Registry before proceeding with the land's alienation.

4.4 On 31st October, 2018, Petitioner Nos. 1 and 2 visited the office of their family-owned business, Mehta Offset Pvt. Ltd., where matters took a distressing turn, whereby Respondent No. 2 not only verbally abused Petitioner No. 1, but also sexually assaulted her, further threatening dire consequences should she ever set foot in the office again. In the ensuing chaos, Petitioner No. 2 was also assaulted. Shocked and deeply shaken by her father-in-law's conduct, Petitioner No. 1 filed a formal complaint with Police Station Naraina, leading to the registration of FIR No. 0297/2018 under Sections 323, 354, 506, and 509 of the Indian Penal Code, 1860.

4.5 The gravity of these events, coupled with daily tensions in the household, compelled Petitioner No. 1 to seek legal recourse. She approached the Learned Metropolitan Magistrate – 03, Mahila Court, South District, Saket, by filing a complaint under the Protection of Women from Domestic Violence Act, 2005⁶ on 17th November, 2018. The Court, taking

⁵ O.M.P. (I) (Comm.) 309/2018.

⁶ "DV Act"



cognizance of the urgency and seriousness of the situation, issued an interim order on 30th November, 2018 in the following terms:⁷

“Considering the record, this court deems it fit to pass protection order in favour of aggrieved as protecting the rights of aggrieved is bounded duty of the present court, hence, all the respondents are restrained from dispossessing the aggrieved from the property, address of which is mentioned in memo of parties without following due process of law.”

4.6 Meanwhile, Respondent No. 2 lodged a complaint on or about 20th November, 2018, which subsequently led to the registration of FIR No. 754/2018 against Petitioner Nos. 1 and 2, alleging theft. In a further escalation, Gautam Mehta (the other son of Respondent Nos. 2 and 3, and brother to Petitioner No. 2), along with Radhika Saraf (their daughter and Petitioner No. 2’s sister) and Respondent No. 3, approached the National Company Law Tribunal,⁸ Principal Bench, with a petition under Sections 241 and 242 of the Companies Act, 2013. They alleged mismanagement and oppression concerning the affairs of Mehta Offset Pvt. Ltd., implicating Petitioner Nos. 1 and 2. The NCLT, in its order dated 30th January, 2019 in ***Gautam Mehta & Ors. v. Mehta Offset Pvt. Ltd. & Ors.***, 02/241-242/PB/2019, granted *status quo* regarding the shareholding and the composition of the Board of Directors of the company.

4.7 Respondent Nos. 2 and 3 filed an eviction petition against Petitioner Nos. 1 and 2, which was allowed by the District Magistrate through order dated 18th September, 2020. The said order was received by the Petitioners on 19th September, 2020 and would have become operative on 19th October, 2020. However, at the instance of the Respondents, certain police officials prematurely and forcibly evicted the Petitioners from the Subject Property

⁷ “DV Order”

⁸ “NCLT”



on 20th September, 2020. The Petitioners assailed the said action before this Court in W.P. (C) 7023/2020, whereby this Court through order dated 28th September, 2020, not only granted interim protection to Petitioner Nos. 1, 3, and 4, but also ordered an inquiry into the conduct of the police officials involved in the eviction.

4.8 Subsequently, the Petitioners preferred an appeal against the order of the District Magistrate, which was dismissed by the Divisional Commissioner. The impugned order passed by the Divisional Commissioner is, according to the Petitioners, a non-speaking and erroneous order. It fails to address the grounds raised in the appeal, makes no reference to the relevant legal framework, and disregards principles of judicial (or quasi-judicial) discipline. Notably, it consciously ignores the DV Order, which expressly restrained Respondent Nos. 2 and 3 from dispossessing Petitioner No. 1 from the shared household. The High Court of Judicature at Bombay in *Sanjivani Jayesh Seernami v. Kavita Shyam Seernani & Ors.*⁹ emphasized the supremacy of orders passed under the DV Act in disputes concerning shared households. This precedent clearly establishes that an executive officer, acting under the Senior Citizens Act, cannot render an order that effectively nullifies a judicial determination made under the DV Act. Therefore, any order passed in violation of this principle is liable to be set aside.

4.9 Moreover, the Petitioners highlight what they perceive as a deliberate attempt to undermine their legal protections. The impugned order, although passed on 31st March, 2021, was only served on 12th April, 2021. This timing, they argue, was orchestrated to exploit the upcoming public holiday

⁹ 2024 SCC OnLine Bom 844.



on 14th April, 2021, creating a narrow window where Respondent Nos. 2 and 3, in cooperation with the police, could once again resort to physical intimidation to forcefully evict the Petitioners from the premises, similar to the earlier incident in September, 2020. This sequence of events underscores a pattern of disregard for the due process and raises serious questions about the propriety of the Respondents' actions.

4.10 The Subject Property is owned by a company, Aster Estates Pvt. Ltd., 33% shares of which are held by Vijay Mehta HUF, in which Petitioner No. 2 is a co-parcener. This fact alone establishes a legitimate claim of Petitioner No. 2 in the property. While Respondent No. 3 also holds 33% of Aster Estates' shares, the title or ownership of the Subject Property cannot be said to lie with her. More importantly, the property is also recognized as the shared household of Petitioner No. 1, who under the DV Act, has a right to reside therein, and any attempt to evict her without due process infringes upon her legal protections. Consequently, the order directing her eviction is *prima facie* unsustainable.

4.11 Furthermore, the impugned order disregards the interim protection granted to Petitioner No. 1 under the DV Act, which remains in force and has been consistently overlooked by the authorities. The Supreme Court's landmark decision in *Satish Chander Ahuja v. Sneha Ahuja*¹⁰ explicitly acknowledges the rights of a daughter-in-law to reside in a shared household, yet this crucial legal principle has been entirely disregarded in the present case.

4.12 The order issued by the District Magistrate under the Senior Citizens Act fails to establish any substantive grounds for the eviction. In fact, a

¹⁰ (2021) 1 SCC 414.



review of the order reveals a lack of a credible basis for invoking the provisions of the Senior Citizens Act. The report of the Sub-Divisional Magistrate does not draw any substantive conclusions with respect to the averments made by the Respondents. The available evidence did not warrant a definite opinion on the alleged ill-treatment, and the absence of any tangible proof in support of the allegations renders the eviction order inherently illegal. Therefore, the factual basis for initiating proceedings under the Senior Citizens Act is vitiated. Yet, these critical infirmities in the impugned order were inexplicably ignored by the Divisional Commissioner. This failure to exercise due diligence not only demonstrates a lack of application of mind, but also constitutes an overreach of the statutory provisions of the Act.

4.13 Petitioner No. 1 is currently bedridden and faces severe financial constraints. She has no independent source of income and has been left without support from her husband. Both her children from her first marriage are residing with her, adding to her responsibilities. Her daughter, despite being married, is also living with her due to certain unfortunate circumstances. Therefore, directing her eviction from the Subject Property would not only disregard her right of a shared household, but also inflict undue hardship and prejudice against her. The eviction would leave her without shelter, violating her fundamental right to residence. Her situation demands a holistic consideration that acknowledges the right to live with dignity and the necessity of a secure dwelling, as contemplated under the law.

4.14 The Petitioners desire to peacefully cohabit with Respondent No. 3 in the Subject Property, and are willing to furnish an undertaking to the said



effect.

4.15 Without prejudice to the aforementioned contentions, even if this Court were to accept the fact that some form of accommodation must be provided to the Respondent, such a determination can only be appropriately examined within the ambit of the ongoing proceedings under the DV Act. This Court should refrain from stepping into an arena where jurisdiction has already been exercised by the concerned forum. Therefore, any adjudication on the question of alternative accommodation should be left to the Mahila Court, which is already seized of the matter.

4.16 The entire proceedings under the Senior Citizens Act were initiated at the behest of Nanak Mehta, who appears to be acting in collusion with Respondent No. 3. This raises questions about the *bona fides* of the proceedings, further indicating that they were pursued with ulterior motives, rather than for the legitimate purpose of securing the welfare of a senior citizen.

Respondents' Contentions

5. *Per contra*, Mr. Vivek Chib, Senior Counsel for the Respondents, argues that the jurisdictional issue raised by the Petitioners is not novel and has been conclusively settled by the Supreme Court in *Satish Chander Ahuja* and *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District and Ors.*¹¹ These landmark decisions have unequivocally established that the rights under the Senior Citizens Act and the DV Act must be balanced and harmonized. He submits that, in this case, the scales of harmony weigh heavily in favour of upholding the rights of the senior citizen. His submissions, structured around key facts and legal principles, are

¹¹ (2021) 15 SCC 730.



summarized as follows:

5.1 The present case exhibits circumstances so compelling that the only viable means to restore peace and dignity in the life of the senior citizen, Respondent No. 3, is to direct the immediate eviction of the Petitioner. While the DV Act safeguards the rights of women in a shared household, it does not override the right of senior citizens to live a life free from emotional and physical distress. In this instance, the continued presence of the Petitioner has become a source of ongoing conflict and suffering, which cannot be ignored. The facts are glaring, and any further delay in eviction would amount to a denial of the senior citizen's right to live with dignity, as enshrined under the Senior Citizens Act.

5.2 There is an undeniable connection between Petitioner Nos. 1 and 2, establishing that they are not merely co-residents but active collaborators. This is palpably evident from their joint legal representation in both the present proceedings and their coordinated legal strategy when securing bail in the FIR related to misappropriation of property and household articles. This joint approach portrays a shared intent to circumvent the law, thereby bolstering the case for the eviction order. In essence, their actions indicate a concerted effort to retain control over the property, to the detriment of the senior citizen's welfare. The attempt by Petitioner No. 1 to distance herself from her husband, Petitioner No. 2, is a calculated move aimed solely at creating a pretext to continue occupying the Subject Property. This deliberate attempt to obfuscate their relationship is nothing more than a strategic ploy to undermine the eviction process and maintain control over the Subject Property, despite the rightful claims of Respondent No. 3.

5.3 The Petitioners have misused the provisions of the DV Act as a shield



to justify their continued occupation of the property. However, the facts on record clearly establish that this occupation has inflicted emotional distress and turmoil upon Respondent No. 3. In light of these facts, the senior citizen's right to peace and security must take precedence. The harmonization envisaged by the Supreme Court in *Satish Chander Ahuja* and *S. Vanitha* cannot be achieved by perpetuating a situation that leaves the senior citizen in a state of vulnerability and strife.

5.4 The severity of the familial discord is highlighted by the fact that Respondent No. 3, along with her now-deceased husband, Respondent No. 2, had to resort to the drastic step of publicly disowning her son, as evidenced by the public notices issued in this regard. Such an extreme measure is not undertaken lightly and is indicative of a complete and irreparable breakdown of the familial relationship. This disownment underscores the gravity of the situation and the extent to which the actions of the Petitioners have disrupted the peace and well-being of the senior citizen.

5.5 Moreover, the allegations raised by Petitioner No. 1 in the DV proceedings further reveal the acrimonious and toxic nature of the relationship between the parties. The accusations made by her include the use of abusive and derogatory language against the senior citizens, which significantly contributed to the deterioration of their health and well-being. It is precisely due to this hostile environment that Respondent No. 2 suffered a decline in health, ultimately passing away amidst ongoing turmoil and distress. Given these circumstances, Respondent No. 3's desire to live in a peaceful environment, free from the presence of both Petitioner Nos. 1 and 2 is entirely justified. Their eviction thereof is not only a matter of legal right, but also a pressing necessity for the senior citizen to restore her sense of



security and tranquillity in her own home. Reliance on this aspect is placed on the judgment of the Supreme Court in *S. Vanitha*.

Analysis and findings

6. The Court will first address the jurisdictional issue: whether the authorities under the Senior Citizens Act can pass an eviction order in light of an existing protection order, and residence claims over shared household under the DV Act.

Jurisdictional issue

7. Mr. Bajaj contends that the impugned eviction order is invalid, as it disregards the DV Order. He argues that the eviction order directly conflicts with the subsisting protection order and, therefore, the authorities under the Senior Citizens Act lacked jurisdiction to pass the impugned order. However, the Court finds this argument unconvincing. The conflict between the rights of a daughter-in-law and those of senior citizens, who are in-laws, has been the subject of several rulings of the Supreme Court and this Court. The latest authoritative guidance on this matter comes from *S. Vanitha*, wherein the Supreme Court examined the overlap between the DV Act and the Senior Citizens Act. In that case, the Supreme Court clarified that the provisions of both the DV Act and the Senior Citizens Act must be interpreted in a manner that preserves the intent of both statutes, emphasizing the need to balance the rights of senior citizens with the protections granted to a woman in a shared household.

8. In *S. Vanitha*, it was held that the protections granted under the DV Act cannot be overridden by simply invoking the provisions of the Senior Citizens Act through a summary proceeding. Thus, a woman's right to



reside in a shared household must be balanced against the rights of senior citizens to live in peace, especially when the household in question belongs to them. The Senior Citizens Act seeks to protect the rights and welfare of senior citizens, while the DV Act provides protection to women who are faced with violence within a domestic relationship. The DV Act also provides safeguards to women, ensuring their right to reside in a shared household. In situations where both statutes overlap, a harmonious construction must be adopted, balancing the daughter-in-law's right to reside in the shared household against the senior citizen's right to a tranquil life. The Court must ensure that neither right is obliterated, but instead coexists to the extent possible. Therefore, the jurisdiction of the appellate authority under the Senior Citizens Act is not stripped off by virtue of a protection order under the DV Act.

9. We note that Petitioner No. 1 seeks to reside in the Subject Property by invoking her right to a shared household, as envisaged under Section 17 of the DV Act. However, this right is not absolute, particularly in cases where it conflicts with the rights of senior citizens. Therefore, the Respondent's rights as senior citizens under the Senior Citizens Act cannot be ignored, especially when there is a consistent pattern of ill-treatment. The Divisional Commissioner has, after examining the evidence, found that the Petitioners' conduct has created a hostile environment, negatively affecting the senior citizen's quality of life. The fact that the Respondent No. 3 is a senior citizen, now widowed without support, is a pertinent consideration for this Court to ensure that her rights to security and peace are upheld. While the Petitioner's right under the DV Act is acknowledged, it does not supersede the right of the senior citizen to seek relief under the Senior



Citizens Act when there is evidence of gross ill-treatment. Thus, there is no jurisdictional bar on the authorities under the Senior Citizens Act to entertain the request for eviction.

Title dispute

10. Next, we shall deal with the title dispute raised by the Petitioner to object to the maintainability of the eviction application. The Senior Citizens Act permits eviction irrespective of whether the property is self-acquired or ancestral, as long as the senior citizen has a modicum of right or interest in the property. As noted in *Rajeev Behl v. State*,¹² the Senior Citizens Act provides for eviction when the senior citizen has a right or interest in the property, regardless of its nature. In the instant case, the report of the Sub-District Magistrate dated 17th December, 2019 has concluded that the Subject Property was under the name of a company, Aster Estates Private Limited, 33% ownership of which is held by Vijay Mehta HUF and 66% ownership is held by Respondent No. 3. While the Petitioners have claimed that the Subject Property is owned by a company, which is a distinct legal entity and that Respondent No. 3 has a shareholding of merely 33.09% in the company, it is imperative to note that the quantification of the senior citizen's share in the Subject Property is inconsequential, and Respondent No. 3's interest in the property by virtue of her shareholding, is sufficient for her to seek eviction under the Senior Citizens Act.

Mala fide proceedings

11. The Petitioners allege that the proceedings under the Senior Citizens Act were initiated with *mala fide* intentions to circumvent the protection

¹² 2018 SCC OnLine Del 12472.



granted to Petitioner No. 1 under the DV Act. However, this claim lacks substantive evidence. The proceedings before the District Magistrate and the appellate authority focus on the senior citizen's right to live peacefully, and there is nothing on record to indicate that the initiation of proceedings was a mere pretext to bypass the protection order. Here, the record reveals that Respondent No. 3, a senior citizen, has suffered continuous harassment and abuse, necessitating the need for her to live without the constant strain imposed by the Petitioners' presence.

12. The Petitioners argue that Senior Citizens Act is a social welfare legislation and should not be wielded as a tool to curtail the rights of a wife and children to reside in a shared household. They further contend that the authorities should have taken a more conciliatory approach, and considered the large size of the Subject Property, capable of accommodating all parties peacefully. Additionally, they highlight their financial hardships and the alleged lack of alternative accommodation, while asserting that Respondent No. 3 is dependent on them for care. However, this line of argument lacks legal merit when scrutinized in light of the objectives and provisions of the Senior Citizens Act, relevant case law, and the circumstances of the present case.

13. While the Petitioners assert that they desire to coexist peacefully, this claim appears more aspirational than reflective of the current situation. The findings in the impugned orders indicate a history of acrimonious relations and an atmosphere that does not support peaceful cohabitation. The Petitioners' submission that there is "enough space" to coexist does not address the reality of the ill-treatment reported by Respondent No. 3. Furthermore, the argument that the authorities should have explored



coexistence arrangements ignores the senior citizen's right to decide how she wishes to live. There exists no straightjacket formula to conclusively ascertain the averments of ill-treatment and the District Magistrate and the appellate authority have the discretion to determine the appropriate relief based on the facts and circumstances of each case. Here, given the gravity of the allegations and the evident breakdown of relations between the parties, eviction is the most appropriate remedy.

14. The Petitioners' plea concerning their financial constraints and health conditions is noted. However, the Senior Citizens Act does not grant automatic protection to adult children and their spouses solely based on their financial or health status. The residence rights asserted by Petitioner No.3 and 4, the adult children of Petitioner No. 1, in particular, cannot be accommodated against the rights of Respondent No.3 in absence of legal standing. While it is unfortunate that the Petitioners may face hardships due to eviction, the Court must consider the senior citizen's right to a peaceful and secure living environment, especially given the allegations of mistreatment. The Petitioners' alleged financial difficulties also do not constitute a legal basis to override the specific protections granted to senior citizens under the Act. These rights of maintenance have to be claimed against her spouse.

15. Furthermore, the Petitioners' assertion that Respondent No. 3 is dependent on them for care is contradicted by her expressed desire to live free from their presence. The right to autonomy in deciding one's living arrangements, especially in their advanced years, is recognized under the Senior Citizens Act. The mere fact that Respondent No. 3 may be physically unwell, does not compel her to accept the presence of those who, in her



perception, have contributed to her distress. This Court cannot impose on the senior citizen a forced living arrangement against her will, especially when it has been found to be a source of her suffering.

16. Petitioner No. 1 has argued that the eviction proceedings were instigated by Mr. Gautam Mehta, her brother-in-law and were not genuine. However, this contention remains unsubstantiated. The authorities at both levels have reviewed the evidence, including the alleged ill-treatment faced by Respondent No. 3, and found sufficient grounds to grant relief under the Senior Citizens Act. The mere existence of family disputes or interpersonal conflicts does not negate the senior citizen's right to seek peace and protection under the law. The suggestions of coexistence and financial hardship do not override the statutory protections granted to senior citizens, nor do they negate the findings of ill-treatment that have been recorded. The order for eviction was rightly passed by the District Magistrate and affirmed by the appellate authority, and no ground is made out for this court to interfere with the exercise of their discretion under the Senior Citizens Act.

Ill-treatment and grounds for eviction

17. In assessing whether the senior citizens herein were subjected to ill-treatment, it is essential to examine the evidence presented by them regarding the actions and behaviour of the Petitioners. In the said eviction proceedings, Respondent No. 3 and 4, alleged that Petitioner Nos. 1 and 2 were subjecting them to mental and physical cruelty. They contended that they had been held captive in their own house and on some occasions, they were not even allowed to enter their own house and were made to stand outside in extreme cold weather. They also pointed out the police complaint made in this regard. They further highlighted that the Petitioners had



systematically removed all the servants and private guards and instead planted their own persons in their property, which was causing them mental torture. As a result of the Petitioners' behaviour, the Respondents were suffering from medical ailments and were not in a position to continue living with them. These facts supported by documents provide a compelling basis for eviction.

18. Furthermore, Respondent Nos. 2 and 3 have alleged that the Petitioners engaged in misappropriating household assets, including the removal of valuable paintings, jewellery, and other articles. This behaviour is indicative of economic exploitation, a recognized form of elder abuse under the Senior Citizens Act. Despite the police complaint filed by the senior citizens, no effective action appears to have been taken, leaving them vulnerable and without recourse. The deliberate removal of valuable items from the Subject Property is not only a form of economic harassment, but also reflects lack of respect for the senior citizens' rights and possessions. Such actions create an environment of hostility, further aggravating the strained relationship between the parties. The courts have acknowledged that ill-treatment under the Senior Citizens Act encompasses not just physical abuse, but also economic exploitation and psychological harassment, which is established in light of the aforementioned facts.

19. The Respondents have further stated that they have been confined to a single room in a property that has more than six rooms, the majority of which are occupied and controlled by the Petitioners. This restrictive use of space, in what is the senior citizens' home, demonstrates a clear attempt to undermine their comfort and autonomy. Confining Respondent No. 3 to a single room, while the Petitioners occupy the rest of the property, amounts



to mental and emotional harassment. It clearly demonstrates a violation of the senior citizen's right to live in their own property without being subjected to undue interference or control by others.

20. It is also noted that the ill-treatment at the instance of the Petitioners had reached such a level, that the Respondents felt compelled to publicly disown their son, *i.e.*, Petitioner No. 2, his wife, and children from the Subject Property. This act of disownment is a significant indicator of the severity of the familial discord and the distress suffered by the senior citizens. It reflects the Respondents' intent to distance themselves from the Petitioners, further highlighting the toxic environment within the household.

21. Additionally, the Respondents have cited numerous complaints lodged with the police, particularly by Petitioner No. 1, which have exacerbated their sense of threat, harassment, and mental anguish. Despite the ongoing complaints and interventions, the Petitioners have continued to act in a manner that disregards the well-being and dignity of the senior citizens.

22. In this context, while the factual inquiry report conducted by the SDM, Mehrauli did not provide conclusive clarity on the allegations of ill-treatment, the District Magistrate, upon considering the overall facts and evidence presented by the Respondents, rightfully concluded that sufficient grounds for eviction existed. The District Magistrate's decision was based on the demonstrated instances of ill-treatment, which were evident from the facts of the case and supporting documents, justifying the eviction order.

23. In light of the above facts, it is evident that the Petitioners have engaged in conduct that amounts to ill-treatment as contemplated under the Senior Citizens Act. Thus, the eviction order passed by the District



Magistrate was a necessary and appropriate response to the ongoing ill-treatment of the senior citizens. The Petitioners' arguments for continued residence in the property are, therefore, outweighed by the Respondents' right to live free from abuse, distress, and undue interference.

Balancing rights

24. In considering the present circumstances, the Court must evaluate the nature of the relationship between the parties and strike a balance between the Senior Citizens Act and the DV Act. The record demonstrates that the relationship between the Petitioners and Respondent No. 3, the senior citizen, has deteriorated beyond repair. Allegations of ill-treatment, financial exploitation, and mental harassment have been raised and corroborated by complaints and evidence presented before the authorities. This strained and hostile environment has severely impacted the senior citizen's peace and well-being in her own home, thereby entitling her to seek the eviction of the Petitioners, including her daughter-in-law. The existing acrimony, supported by multiple complaints and a breakdown of the familial relationship, demonstrates that the senior citizen's desire to evict the Petitioners is not only justified, but also necessary to secure her right to live peacefully, in an advanced stage of her life.

25. As per the judgement of the Supreme Court in *S. Vanitha*, the Court is required to balance Petitioner No. 1's right to residence with the Senior Citizen's right to live a life of dignity, free from daily distress. In light of the facts of the present case, the relationship between Petitioner Nos. 1 and 2 is not impeded by any matrimonial discord or other complications. The same can be demonstrated from their joint legal representation in the current proceedings as well as their coordinated approach to securing bail in the FIR



concerning the theft of painting, artefacts and household items. Therefore, it is abundantly clear that Petitioner No. 1's rights are specifically pitted against her in-laws, and not her husband. Nevertheless, this Court is mindful of Petitioner No. 1's right to reside in the shared household, and recognizes that the primary responsibility for her maintenance, including the provision of alternate accommodation, rests with her husband, Petitioner No. 2. In the interest of balancing the rights of both parties, it is appropriate to allow Respondent No. 3 to fully exercise her ownership rights over the Subject Property. However, to ensure that Petitioner No. 1 is not left without suitable housing, this Court directs that she be provided with a monthly allowance sufficient to secure such accommodation. Therefore, in order to harmonize the senior citizen's rightful claims with Petitioner No. 1's residential rights under the DV Act, the following directives are issued:

(a) Petitioner No. 2, Mr. Nanak Mehta, is directed to provide financial assistance to his wife, Petitioner No. 1, by paying a sum of INR 75,000/- per month. This amount shall be credited to her bank account on or before the 10th of every month to enable her to secure alternative accommodation. Petitioner No. 1 shall provide the details of such bank account to Petitioner No. 2 within one week from today. If she fails to provide the details, payment shall be made through Demand Draft/Pay Order. Should Petitioner No. 2 fail to make these monthly payments or express an inability to fulfil this financial obligation, the responsibility to ensure payment shall fall upon Respondent No. 3.

(b) Once the financial support commences, the Petitioners shall vacate the Subject Property and hand over vacant possession to Respondent No. 3 within one month from the date of the first payment.



(c) The above directions are subject to any further directions which the Mahila Court may pass for granting additional maintenance to Petitioner No.1.

26. With the aforesaid directions, the petition is disposed of, along with pending applications.

SANJEEV NARULA, J

OCTOBER 4, 2024/ab