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

+ W.P.(C) 13825/2022

ANMOL AND ANOTHER Petitioners

Through: Mr. Pankaj Kumar, Adv.

versus

SUSHILA Respondent

Through: None.

**CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA**

ORDER

% **26.09.2022**

CM APPL. 42305/2022 (for exemption)

Allowed, subject to all just exceptions.

The application shall stand allowed.

W.P.(C) 13825/2022 and CM APPL. 42306/2022(Stay)

This writ petition has been preferred assailing the orders passed by the respondents in proceedings initiated under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 [“the 2007 Act”]. The District Magistrate upon finding that the allegations of ill treatment and harassment stood duly proven, had proceeded to frame directions requiring the petitioners to vacate the premises. The said view as framed by the District Magistrate has also been affirmed by the Divisional Commissioner in appeal.

The Court notes that the senior citizens had referred to an altercation

which had occurred in 2018 as a consequence of which the relationship between the parties had broken down and soured. Ultimately and on the assurance that the incidents of ill treatment would not be repeated, the senior citizens had inducted the petitioners back into the premises. Since their conduct did not see any change or improve even thereafter, they were constrained to institute the impugned proceedings under the 2007 Act.

The Court notes that all that the petitioners have essentially done in those proceedings was to assert a claim of ownership in the property in question. Those issues cannot possibly form subject matter of consideration or adjudication in proceedings under the 2007 Act. Ultimately the authorities administering the said enactment have to bear in mind and accord primacy to the issues of ill treatment of the senior citizens and their right to a secured existence. The forums constituted under the 2007 Act are neither obliged nor required to undertake a trial with respect to the civil and property rights that may be claimed by the warring factions. Those issues must be ultimately left to be conclusively adjudicated by the competent civil courts. In proceedings initiated under the 2007 Act, the authorities would upon finding that the senior citizens can validly claim an interest in the property, proceed ahead and evaluate steps that would be warranted to be taken in order to safeguard and secure their interest.

In view of the aforesaid and bearing in mind the fact that the petitioners have failed to establish that they were in fact maintaining and looking after the senior citizens or assailing the findings with respect to harassment and ill treatment, the Court finds no justification to interfere with the view as taken by the Divisional Commissioner.

The writ petition, along with pending application, fails and shall stand dismissed.

Order *dasti*.

YASHWANT VARMA, J.

SEPTEMBER 26, 2022
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