



OFFICE OF THE DISTRICT MAGISTRATE CUM APPELLATE TRIBUNAL  
FOR MAINTENANCE AND WELFARE OF PARENTS & SENIOR CITIZENS  
DISTRICT-SOUTH WEST

OLD TERMINAL TAX BUILDING, KAPASHERA, NEW DELHI-110037

Ref. No. 22443  
Case Id:-16674  
Case No.-1/32/2017  
Ram Phool

Dated: 23-04-2018

Applicant

Vs.

Rambhaj, Kuldeep & Ors.

Respondent

ORDER

1. An application has been submitted by a Senior Citizen, Sh. Ram Phool S/o Late Sh. Chandgi Ram R/o RZ-5, Gaushala Colony, Dharampura Road, Najafgarh, New Delhi under Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2016 for eviction of his sons namely Sh. Ram Bhaj & Sh. Kuldeep from property bearing no. RZ-11, B-Block, Old Roshanpura Extension, Najafgarh, New Delhi (herein referred as Suit Property).
2. The complainant in brief has stated the following:-
  - a) He is a Senior Citizen bearing registration No. 26869 and retired from education department, GNCT of Delhi as a Gazetted Officer.
  - b) That his eldest son Sh. Rambhaj and middle son Sh. Kuldeep have disrespectful behaviour towards him and have thrown out him from his house no. RZ-11, B-Block, Old Roshanpura Extension, Najafgarh, Delhi.
  - c) That he is residing with his younger son Sh. Deepak at H. No.-RZ-5, Gaushala Colony, Dharampura Road, Najafgarh, New Delhi-43 as he has been thrown out from his house by the respondents.
  - d) That he is the rightful owner of the suit property having purchased the same out of his own savings.
  - e) That he has been facing humiliation and abuses from his elder sons & their family.
  - f) That due to the continued disrespectful behaviour acts and deeds of his elder sons, he wants to evict them from the suit property.
3. The effective hearings of the case were done on 09.08.2017, 13.09.2017, 27.09.2017, 15.11.2017, 20.12.2017 and 17.1.2018.
4. The respondent no.2 Sh. Kuldeep in his reply dated 09.08.2017 has submitted the following in brief:
  - a. That the complainant is a habitual drunkard and used to beat his deceased wife Smt. Prakash Devi (Mother of the respondent) and also used to torture her by burning her with cigarettes.
  - b. He used to have extra marital relations with another woman, Smt. Santosh, a resident of Ram Nagar, Sonapat from whom he has alleged to have fathered three sons.
  - c. That due to the above reasons his mother was forced to commit suicide. However, as per his grand-parents, his mother was poisoned to death by his father.

  
23/4/18

1 of 4

- d. That H. No. RZ-11 Old Roshanpura, Najafgarh was purchased by his grand-parents for their residence along with their children and even on this date, the electricity and water bill comes in the name of his Late mother Smt. Prakash Devi.
- e. That his grand-parents had given him a plot of Size 64 Sq. Yards, at RZ-5, Gaushala Colony, Dharampura which has been given by him to his father to stay.
- f. That the complainant is misusing the Senior Citizen Act and is using this complaint to mentally torture him so that he is driven to commit suicide.

In view of the above reasons, the respondent has therefore requested that the complaint may be dismissed.

5. The respondent no. 2 Sh. Kuldeep has also submitted an application dated 28.09.2017 wherein he has informed that the suit property is not in the name of the complainant. He has stated that the property is in the name of Smt. Prakash Devi (Mother of the Respondents) and reiterated that the bills of electricity and water are issued in the name of his deceased mother till date. However he has added that in the present house two rooms are vacant and his father is welcome to stay there if he wishes.
6. Sh. Rambhaj, Respondent no. 1 has levelled allegations on similar lines of his brother kuldeep against his father. He has stated that he and his brother Kuldeep have jointly constructed rooms, kitchen, Court Yard etc. at H. No. RZ-11, B-Block, Old Roshanpura, Najafgarh through loan from his relatives in the year 1998. He has again stated that the house is in the name of his mother Smt. Prakash Devi and not his father. He has also stated that his father threatened him and that many criminal cases are underway against his father.

He also stated that his father is a womaniser and constantly threatens him. However he also added that two rooms are vacant in the house and his father is welcome to stay, if he so wishes. Based on the above, he has requested for the appeal to be dismissed.

7. The report of the SDM (Najafgarh) was sought under Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules. As per the report dated 22.11.17, the following is stated:-  
*"As per the enquiry it has emerged that Shri Ram Bhaj son of the complainant often misbehaves & manhandle with the complainant Sh. Ramphool Singh". The detailed report of Halqa Patwari was attached.*
- The report of the Patwari establishes that Sh. Rambhaj (Respondent No.1) frequently quarrelled with his father and younger brothers at H. No. RZ-5, Dharampura. The H. No. RZ-11, B-Block is under occupation of Sh. Rambhaj.
8. On the proceeding dated 04.01.2018, the complainant has submitted some documents/bills related to the receipt of property tax from MCD, bills of construction materials which are in the name of his deceased wife Smt. Prakash Devi. He has referred to some document submitted in the court of ADM-Cum-Maintenance Tribunal, South West, in support of his ownership of the suit property.
9. The applicant (Sr. Citizen) has requested for the eviction of the respondent no.1 from the suit property as provided under Rule 22 Sub Rule 3 (1)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizen (Amendment) Rules 2017, the Procedure for eviction from Property/residential building of senior citizen/parents is as under:-
- (i) *A senior citizen may make an application before the Dy. Commissioner/District Magistrate of his district, for eviction of his son and daughter or legal heirs 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 Dy. Commissioner/District Magistrate shall immediately forward such application to the concerned Sub-Divisional Magistrate 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 Dy. Commissioner for final orders within 21 days from the date of receipt of the Complaint/Application.

(iv) The Deputy Commissioner during summary proceedings for the protection of senior citizen/parents shall consider all the relevant provisions of the said Act 2007. If the Dy. Commissioner is of opinion that any son or daughter/ legal heirs 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 Dy. 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. The notice shall:-

- (a) Specify the grounds on which the order of eviction is proposed to be made; and
- (b) Require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the property/premises, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issued thereof.

10. I have gone through the submissions of both the parties and referred to the provisions of the Act and the Rules. The Lower court record has also obtained from the court of Additional District Magistrate, South West, Delhi.

11. With respect to the ownership of the suit property, as per the documentary evidence submitted by the complainant there is agreement to sell for the suit property dated 18.02.1974 in his name along with a Will dated 18.02.1974. There is also a registered payment receipt of the same date, stating that Sh. Ramphool Singh has paid consideration of Rs. 4200/- to the sellers for the suit property. In furtherance the previous stated agreements. In the records there are a number of bills pertaining to water and electricity for the suit property in the name of Late Smt. Prakash Devi and also a GPA dated 18.02.1974 for the same property. However the said GPA is no longer valid today, on account of her death. Thus by virtue of the above stated agreement to Sell, Will and payment receipt, Sh. Ramphool has effective claim over the suit property. The respondents and particular Sh. Rambhaj (Respondent No.1) have not been able to provide any supporting document/proof justifying their ownership rights to the suit property. Their other allegations regarding the character of their father, bad habits etc. are

not material to this case and do not support their case in any way. Similarly they have not provided any concrete evidence of the alleged criminal action of their father particularly against their mother which again does not support their case in any way.

12. It is also clear that both the respondents are not paying any maintenance to their father or providing any financial support to him despite the respondent no. 1 staying in the suit property. There is also evidence of fights and cross complaints between the father and the sons showing that they do not maintain good relations with each other. Further as per the proceeding dated 30.11.2016 of the Maintenance Tribunal, Sh. Rambhaj had committed to vacate the Suit Property by February 2017 which had then been mutually agreed to by both the parties. It is clear that the said agreement was not honoured by the respondents hence the case.

13. In view of the above, it seems evident that no compromise would be possible between the parties and thus the undersigned taking into accounts the facts and circumstances of the case and the provisions of the Act and the Rules, is inclined to allow the appeal filed by the appellant and hereby order for the eviction of the respondent no.1 (Sh. Rambhaj) from the suit property, RZ-11, B-Block, Old Roshanpura, Najafgarh within a period of two weeks from the date of receipt of this order.

14. The SDM (Najafgarh) and the SHO (Najafgarh) are directed to execute the above order, in case of non-compliance of the same by the respondent within the stipulated time period.

15. Given under my hand and seal on this 23<sup>rd</sup> day of April 2018.

16. The file may be consigned to the record room.

  
23/4/18

**ABHISHEK DEV, IAS  
DISTRICT MAGISTRATE  
DISTRICT- SOUTH WEST**

Dated: 23-04-2018

Ref. No. 22443

Copy to:-

1. Both the parties.
2. SDM (Najafgarh).
3. SHO Concerned.
4. System Analyst, NIC, Kapashera, New Dew Delhi.
5. Guard File.

  
23/4/18

**ABHISHEK DEV, IAS  
DISTRICT MAGISTRATE  
DISTRICT- SOUTH WEST**