



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. 21500  
Case Id:-16816  
Case No.-1/43/2017  
Chhote Lal

Dated: 18.04.18

Ajaybir Rathore

Vs.

Applicant  
Respondent

ORDER

1. By this order I shall dispose of the case filed by the Senior Citizen, Sh. Chhote Lal S/o Late Shri Pal R/o D-33, Mansa Ram Park, Uttam Nagar, Delhi under Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2016 for eviction of his elder son Sh. Ajaybir Rathore from property bearing no. D-33, Mansa Ram Park, Uttam Nagar, Delhi (herein referred as Suit Property).
2. The complainant in brief has stated the following:-
  - a) He is the rightful owner of the suit property bearing H. No. D-33, Mansa Ram Park, Uttam Nagar, Delhi having executed by wife of the Complainant Smt. Savitri Devi in 23<sup>rd</sup> day of March 1999 in favour of the complainant.
  - b) He is residing in the above said property along with his wife Smt. Savitri Devi (Age-72) and his younger son Sh. Sukhbir.
  - c) That his elder son Sh. Ajaybir Singh Rathore has occupied his house despite he disowned him.
  - d) That his elder son is dangerous for him & his family.
  - e) That he want to repair the property for the purpose of rent that he has no source of income except this.
  - f) That his elder son threatened him & his family & not looks after him.

In view of the above, he has requested that his elder son Sh. Ajaybir Rathore (Respondent) may be evicted from the suit property D-33, Mansa Ram Park, Uttam Nagar, Delhi, at the earliest.

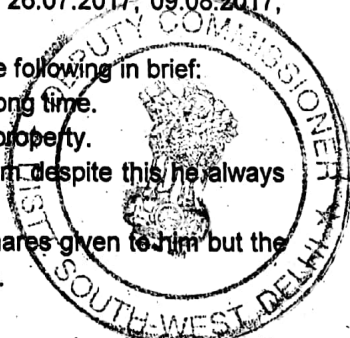
3. The effective hearings of the case were done on 21.06.2017, 26.07.2017, 09.08.2017, 27.09.2017, 15.11.2017 & 29.11.2017.
4. The respondent in his reply dated 12.07.2017 has submitted the following in brief:
  - a. That he always looks after his parents and brother since a long time.
  - b. That the suit property purchased after selling the ancestral property.
  - c. That the complainant always abusing him and debarred him despite this he always respected his father.
  - d. That the suit property divided by the "Panchayat" and ½ shares given to him but the complainant has refused to accept the order of "Panchayat".

The respondent has therefore requested that the complaint may be dismissed with costs.

5. The Senior Citizen has filed a rejoinder dated 26.07.2017 in which he has submitted the copy of the letter of disownment of his elder son Sh. Ajaybir Rathore and re-iterated that the respondent has other plots and not looks after the parents. Father, instead of looking after him he always threatened to kill him.

The applicant has therefore requested for allowing the appeal filed by him.

6. The report of the SDM Dwarka was sought under Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules. As the report dated 06.09.2017 was very sketchy, the SDM (Dwarka) was re-directed to submit a detailed report in the matter.
7. A report from SDM (Dwarka) received after a delay mentioning that:-



18/4

"In the above said case, a report was called from concerned Halqa Patwari. As per his report at the time of visit at H. No. D-33, Mansa Ram Park, Uttam Nagar, New Delhi, he conducted the local enquiry in the neighbourhood and it was informed that the house is built in an area of approx. 60 Sq. yard and is in the name of Chhote Lal. The house has 3 rooms and 2 Kitchens on the ground floor and 2 rooms and one kitchen on the first floor. Sh. Chhote Lal sells cigarette and beedi near metro pillar no. 770. Sh. Chhote Lal has 2 sons namely Ajay Bir Rathore and Sukhbir".

"Sh. Ajaybir works as security guard in Syndicate Bank with the salary of Rs. 16000/- approx. Ajay bir rathore has 4 daughters and a son. The whole family lives in the above said house only".

Sh. Chhote Lal second son Sh. Sukhbir works in M/S Jindal Company in Nasik, Maharashtra and he is unmarried. He also helps his parents by sending money at home. The house is in dilapidated condition".

"Sh. Chhote Lal wants his eldest son to move out of his home with his family because he is not helping him in building the house. On enquiry from Sh. Chhote Lal it was informed that his eldest son has house of approx. 30 Sq. yards in a colony behind the Nawada Village. He also informs that the eldest son has an additional 30 Sq. Yards and auto which has been given on rent".

"The wife of Ajay Bir Rathore informed that her in-laws does not like her food and demands cash for day to day expenditure. On refusal by them, the dispute has started".

8. The applicant (Sr. Citizen) has requested for the eviction of the respondent 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 is 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.

9. I have gone through the submissions of both the parties and referred to the provisions of the Act and the Rules.

As per the documentary evidence in the matter, Sh. Chhote Lal has a claim over the property on the basis of GPA dated 23.03.1999, the respondent Sh. Ajaybir Rathore does not have any claim over ownership of the Suit Property and has not been able to furnish any document in support of the same.

As per the report of SDM (Dwarka), the respondent Sh. Ajaybir has a house of approx 30 Sq. Yards in a colony behind Nawada village and an additional 30 yards of land and also an auto on rent. It is also evident that Sh. Ajaybir does not pay any maintenance amount or shares the household expenditure of his parents, despite staying with them in the Suit Property.

It is also established that the respondent Sh. Ajaybir Rathore is not taking care of his father or contributing any amount the overall household expenditure. There are also quarrels between the parties and the appellant has already disowned the respondent from his property.

In view of the above reasons, the appeal of Sh. Chhote Lal is sustained and I hereby direct Sh. Ajaybir and his family to vacate the suit property within a period of 2 weeks from the pronouncement of this order.

The SDM (Dwarka) and SHO (Sagarpur) are directed to execute the above order in case of non-compliance within the stipulated period.

10. Given under my hand and seal on this 18<sup>th</sup> day of April 2018.

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



Ref. No. 2/500

Copy to:-

1. Both the parties.
2. SDM (Dwarka) for necessary action.
3. SHO Uttam Nagar Police Station, New Delhi.
4. Assistant Programmer, NIC, Kapashera, New Dew Delhi.
5. Guard File.

  
18/4/18  
ABHISHEK DEV, IAS  
DISTRICT MAGISTRATE  
DISTRICT- SOUTH WEST

Dated: 19/4/18

  
18/4/18  
ABHISHEK DEV, IAS  
DISTRICT MAGISTRATE  
DISTRICT- SOUTH WEST