



**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.: 50228
Case ID: 19948
Case No.: 1/17/2018

Dated: 06.09.2018

Lok Ram Bansal

Applicant

Vs

Yogesh And Ors.

Respondent

ORDER

A complaint/appeal dated 20.03.2018 has been filed by Sh. Lokram Bansal, Sr. Citizen, R/o H. No. J-80, Arya Samaj Road, Uttam Nagar, New Delhi. The complaint has been filed against his son Sh. Yogesh Kumar and daughter-in-law Ms. Seema Bansal on the ground of derogatory behaviour, not helping in daily chores, not providing money for medicines, harassment, etc. In the complaint cum appeal, the senior citizen has requested for a payment of maintenance amount of Rs. 15,000/- per month from his son and has also sought vacation of his property bearing No. H. No. J-80, Arya Samaj Road, Uttam Nagar, New Delhi from his son and other family members.

After non-appearance of the respondents on a number of court dates, the respondent, Sh. Yogesh Kumar finally appeared before the court in the 4th hearing held on 06.06.2018, after issuance of bailable warrants. The respondent, Sh. Yogesh Kumar in his written statement dated 27.06.2018 has denied the allegations made by his father against him and stated that he is un-employed and all the domestic expenses of his family are met by his in-laws. He has also submitted that his father has sufficient financial means including properties in other places and has thus requested that the matter be dropped.

As per the provision of Rule 22 of the Delhi Maintenance and Welfare of Parents and Senior Citizens Act, 2007, a report on the matter was called from the SDM (Dwarka) who has submitted the same vide his letter dated 27.06.2018. The contents of the report are reproduced below:

"Smt. Seema Bansal informed that his father-in-law Sh. Lokram has two sons and one daughter viz. Sh. Yogesh Kumar, Mukesh Bansal and Ritu. And has gone to Chandni Chowk for work. The daughter is married, Smt. Seema Bansal also informed that the house J-80, Arya Samaj Road, is having an area of 100 Sq. Yards ground floor with built up 1st & 2nd floor, Sh. Lokram lives on the 1st floor, one room set is vacant on the 2nd floor. Sh. Yogesh Kumar remains sick most of the time and he has one son who works with private car service with approx. salary Rs. 10,000/- . It was also informed that the house is in the name of the wife of Sh. Lokram who expired on 2012. Mukesh Bansal lives at Vishwas Park and Sh. Lokram works as commission agent in Chandni Chowk with approx. income of Rs. 2 lakh per annum with old age pension of Rs. 2,500/- per month and also has a shop at maliwada and one DDA flat having an area of 35 Sq. Yds approx. at Rohini. It was further informed that there is frequent quarrel among the family members on account of property."



5/9/18

The relevant provisions of the law i.e. Rule 22 sub-rule 3(1)(4) of the Delhi Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2007, states the following:

- (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.

I have gone through the provisions of the Act and Rules along with the documentary evidence submitted by the parties and also the report of the SDM (Dwarka) dated 27.06.2018.

With respect to the ownership of the property Sh. Lokram Bansal has claimed ownership over the suit property via a GPA dated 20.10.1988. While a GPA is not an conclusive proof of the property, the respondent Sh. Yogesh Kumar has not been able to submit any proof that support his claim over the ownership of the suit property, neither has he submitted any proof of expenditure done by him on the suit property. Thus, it established that the appellant, Sh. Lokram Bansal has the rightful claim over the suit property.

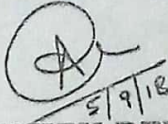
The SDM (Dwarka) in his report has noted that there are frequent quarrels between the family members on account of the property. The appellant has also submitted a copy of complaint dated 25.08.2017 and 01.09.2017 addressed to the SHO, Bindapur against the respondents.

In view of the above facts, provisions of the Acts & Rules and the judgement of the Hon'ble High Court in "Shadab Khairi & Anr. Vs. The State & Ors." and in "Sunny Paul & Anr Vs. State NCT of Delhi & Ors.", the undersigned is inclined to accept the appeal submitted by the Sr. Citizen and hereby direct the respondent, Sh. Yogesh Bansal, Smt. Seema Bansal and their family members to vacate the suit property within two weeks from receipt of these orders.

With respect to the request of the appellant to direct the respondent to pay maintenance amount of Rs. 15,000/-P.M., this court is not inclined to accept the same owing to the weak financial condition and also the health of the respondent, Sh. Yogesh Kumar.

The SDM (Dwarka) and the SHO, Bindapur are directed to render the requisite assistance to the appellant in case this order is not complied with by the respondents within the stipulated timeframe.

Given under my hand and seal on 05.09.2018.


(ABHISHEK DEV, IAS)
Deputy Commissioner/Registrar
District South West

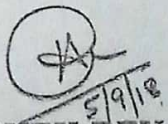
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Copy to:

1. Parties Concerned
2. SDM (Dwarka)
3. SHO (Bindapur)
4. Assistant Programmer, NIC, Kapashera, New Delhi
5. Guard File

Dated:




(ABHISHEK DEV, IAS)
Deputy Commissioner/Registrar
District South West