



**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.: DCSW/2018/1026  
Case ID: 20265  
Case No.: 1/11/2018

Dated: 14/9/18

Smt. Kela Devi

Applicant

Vs

Beena, Sanjay & Ors.

Respondent

**ORDER**

A complaint / appeal has been filed by a Sr. Citizen, Smt. Kela Devi W/o Late Sh. Ghamlu Ram was received in this office on 31.05.2018 against her Sons and daughter-in-laws, Sh. Mahesh Kumar, Smt. Beena W/o Mahesh Kumar, Sh. Sanjay Kumar and Smt. Geeta W/o Sanjay Kumar on the grounds that they have been ill-treating her and pressurising her to declare the suit property i.e. H. No. 4/37, Roshan Garden, Najafgarh, Delhi-43 in their name. She has expressed apprehension towards her safety from her sons and daughter-in-laws and has requested that the respondents may be evicted from the suit property.

The case was heard and notices were issued to the respondents and they appeared before the court on 01.08.2018, 23.08.2018 and 05.09.2018. The respondents Smt. Beena in her written statement dated 05.09.2018 submitted the following (in brief):

- I) That the complaint against her is false and is an abuse of law.
- II) That she was harassed by her husband, mother-in-law and other relatives for payment of dowry and when their demands were met they used to beat up her.
- III) That her husband Sh. Mahesh Kumar is having an affair with another woman and is staying with her, with the support of his mother.
- IV) That she has filed complaints against her husband and mother-in-law with the police.
- V) That all the other family members have instituted these proceedings to get her evicted from the house.
- VI) That she has also filed a suit against her husband, mother-in-law and other family members in the Dwarka Court which is presently under adjudication.

The respondent Sh. Mahesh Kumar in his written statement dated 05.09.2018 has stated that his wife Beena from the very beginning of their marriage has been very adamant and of un-cooperative nature and that she

  
13/9/18

has intentionally refused and avoided to reside with him just to grab the property. He stated that his wife is pressurising his mother to transfer the property in her name and is harassing and torturing her for the same. He added that the family members of Beena are instigating her to grab the property. In his appearance before the undersigned on 05.09.2018 he has expressed his willingness to keep his estranged wife Beena with him.

The other respondent Sh. Sanjay Kumar in his written response submitted on 05.09.2018 has reiterated the complaints against Smt. Beena and has alleged that Smt. Beena has many times beaten up his mother and is asking for Rs. Fifteen Lakhs to be paid to her for vacating the house. He and his wife have undertaken to vacate the suit premises provided Smt. Beena is also directed for the same.

As per the provisions of Rule 22 (3)(1) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 (Amended), a report was also sought from SDM (HQ), South West District which was submitted on 31.08.2018. The SDM (HQ) has concluded his report with the following remarks:

*"It is alleged by the complainant that the respondent creates nuisance at home and do not enjoy cordial relation with the mother in law hence Smt. Kela Devi insists on the two daughter in laws to vacate the house.*

*Respondent, Smt. Beena on the other hand alleged that her husband is living separately from her for the past 8 to 9 yrs. Although the couple has a daughter studying in 8<sup>th</sup> standard. She also alleged that the entire family knows about the whereabouts of Sh. Mahesh and are in touch with him except her. She informed the undersigned that she is earning living by ironing the clothes of neighbours and the same money is utilized for the studies of her daughter. This was confirmed by the neighbours of the complainant.*

*Smt. Kela Devi gets a widow pension for her up keep and alleges to have been mistreated by both her daughter in laws.*

*On enquiry from the at least three the neighbours it was confirmed that the complainant and the respondent are at logger heads and Smt. Beena is spending her life as a single mother irons clothes of neighbour to earn her bread and butter and struggling to make both ends meet".*

As per the property papers Smt. Kela Devi has a rightful claim over the ownership of the suit property and none of the respondents have been able to provide any documentary support expressing their claim over the same. Further, except for Smt. Beena all the other respondents have expressed their willingness to vacate the suit property. The poor relations between the parties concerned are evidenced by a number of police complaints filed by the parties against each other which have been produced before the undersigned in the case proceedings.

Smt. Beena on her part has submitted that she had filed a domestic violence suit against her husband and others in the Dwarka Courts which is presently under adjudication but she has not been able to produce any

A handwritten signature in blue ink, possibly reading 'A', with the date '19/18' written below it.

protection granted by the Hon'ble Court against her eviction from her in-laws house.

The Hon'ble High Court of Delhi in "Sunny Paul & Anr had held that

*"Keeping in view the aforesaid conclusions, this Court is of the view that the Act, 2007, amongst other remedies, provides for eviction of adult children in cases of parental abuse-like in the present case. Accordingly, the present writ petition and application are dismissed and the concerned SDM and SHO, Police Station Civil Lines, are directed to forthwith comply with the impugned order dated 1<sup>st</sup> October, 2015 passed by the Maintenance Tribunal, Central District, Delhi."*

In Sachin and Anr Vs Jhabbu Lal and Anr the Hon'ble Delhi High Court has observed that:

*"Here the house is self acquired house of the parents, son whether married or unmarried, has no legal right to live in that house and he can live in that house only at the mercy of his parents upto the time the parents allow. Merely because the parents have allowed him to live in the house so long as his relations with the parents were cordial, does not mean that the parents have to bear his burden throughout his life."*

The Hon'ble High Court of Delhi, in Shadab Khairi & Anr Vs The State & Ors has held that:

*"The object for which the Act as well as the subject Rules, extracted hereinabove, were brought into force, namely, for the welfare of parents and senior citizens and for protection of their life and property, leave no manner of doubt that the Maintenance Tribunal constituted under the Act has the power and jurisdiction to render the order of eviction."*

Finally the Hon'ble High Court in Smt. Darshna Vs The Govt. of NCT of Delhi & Ors. has held that:

*"In the present case, excluding daughter-in-law from the scope of Rule 22(3)(1)(i) of the Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 as amended would debilitate the provisions of the Rules and render it incapable to serve the object of Section 22 of the Act. It is difficult to accept that although a senior citizen is entitled to evict his/her son who is maltreating him, he/she has no option but to suffer the ill-treatment at the hands of his/her daughter-in-law. A daughter-in-laws right to reside in the premises of her in-laws cannot be greater than her husbands'. The expression "son and daughter or legal heirs" as used in the aforesaid Rules must also take within its sweep the families of the daughter/son, of a senior citizen. The term "legal heirs" must be understood in the broadest sense. Indisputably, a daughter-in-law is also a heir in certain circumstances (widow or a pre-deceased son)."*


In view of the above facts of the case, the provisions of Delhi Maintenance and Welfare of parents and Senior Citizen Act, 2007 and the Rules thereunder and the above quoted judgements of the Hon'ble High Court, the undersigned directs the respondents to vacate the suit property within a period of two weeks from the date of receipt of this order. The respondent Sh. Mahesh Kumar is directed to provide proper accommodation

A handwritten signature in blue ink, consisting of a stylized 'A' with a horizontal line through it, is enclosed in a circle. Below the signature, the date '13/9/18' is written in blue ink.

to his wife Beena and daughter and is also directed to take proper care of them, as undertaken, by him in Court before the undersigned on proceeding dated 05.09.2018.

The SDM (Najafgarh) and the SHO, Najafgarh to render the requisite assistance to the appellants in case the order is not complied with, within the stipulated time frame.

Given under my hand and seal on 13.09.2018.


  
13/9/18  
**(ABHISHEK DEV, IAS)**  
**District Magistrate**  
**District South West**

Ref. No.:

Dated:

Copy to:

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

  
13/9/18  
**(ABHISHEK DEV, IAS)**  
**District Magistrate**  
**District South West**