



**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.: 30650
Case ID: 20596
Case No.: 1/55/2018

Dated: 30/10/18

Anup Johar & Ors

Appellants

Vs

Sameer Johar & Ors.

Respondents

ORDER

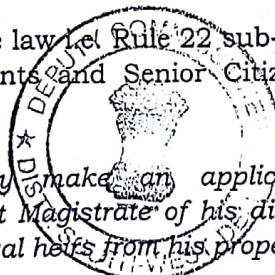
A complaint / appeal dated 12.09.2018 has been filed by Sh. Anup Kumar Johar, Sr. Citizen against his son Sh. Sameer Johar and daughter-in-law Smt. Promila Johar stating that they are residents of H. No. G-56, Upper Ground Floor, Mahavir Enclave, Bangali Colony, New Delhi (Suit Property) comprising of three bedrooms with attached bathroom and toilets having a total area of 100 Sq. Yds. It has been stated that he has a total of three sons, Sh. Sameer Johar, Sh. Neer Johar & Sh. Karan Johar and all of them reside with them in the suit property. Out of the three sons, Sh. Sameer Johar, who is the eldest is married to Smt. Promila Johar while the other two sons are unmarried. He has alleged that both his son Sh. Sameer Johar, who is a manager in a consultancy firm and daughter-in-law, who is an employee in Safdarjung Hospital, are doing well in life having a good salary but they are not at all contributing to the family expenses or the maintenance of the house, but instead have been misbehaving and threatening their life and property. He states that both he and his wife are totally dependent on the meagre salary of their other son, Sh. Karan Johar. On account of these reasons, the complainant and his wife have sought the eviction of the respondents from the suit property.

The respondents vide their written submission to the court on proceeding dated 25.10.2018 have denied the allegations made by the appellants and have also denied that they have not been contributing any amount for the maintenance of their parents or the upkeep of the house. A conjecture has also been made by one of the respondents Sh. Sameer Johar that he had contributed / invested more than half of the cost of the suit property when purchased in the year 2003. On these grounds the respondents have requested for the case against them to be dismissed.

The SDM (HQ), South West District was directed to conduct an inquiry under Rule 22, Delhi Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the inquiry report was submitted to the undersigned on 10.10.2018. The SDM (HQ) has stated in the report that the respondents are not on talking terms with their parents or the two brothers and have also not been contributing anything at home for the past four years. The respondents had agreed before the SDM (HQ) that they were willing to vacate the house as per the wish of the complainants once they are given their share of the property.

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



30/10/18

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:
- Specify the grounds on which the order of eviction is proposed to be made; and
 - 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.

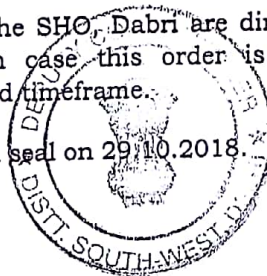
The complainants / appellants have presented a registered Sale deed of the suit property dated 09.07.2003 which shows that the appellants namely Sh. Anup Johar & Smt. Neelam Johar are the owners of the suit property. The respondents have not been able to produce any documentary evidence which proves their claim that they have contributed for the purchase of the house.

The appellants have given evidence of past complaints made against the respondents before the local police dated 19.07.2018, 22.08.2012 and before the ADM (SW) dated 30.03.2016 which clearly shows that the parties concerned are not maintaining good relations with each other. This has also been concluded in the report of the SDM (HQ) dated 10.10.2018.

In view of the provisions of the Act and the Rules and the judgements of the Hon'ble High Court in "Shadab Khairi & Anr. Vs. The State & Ors.", in "Sunny Paul & Anr Vs. State NCT of Delhi & Ors.", the undersigned is inclined to allow the appeal / complaint filed by the Sr. Citizen and hereby directs the respondents to vacate the first floor of the suit property i.e. G-56, Upper Ground Floor, Mahavir Enclave, Bangali Colony, New Delhi within a period of two weeks from the date of receipt of this order.

The SDM (Dwarka) and the SHO, Dabri 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 29/10/2018.



(ABHISHEK DEV, IAS)
District Magistrate
District South West

Ref. No.:

Dated:

Copy to:

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

AK
29/10/18



(ABHISHEK DEV, IAS)
District Magistrate
District South West