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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 19838/2025, CM APPL.82795/2025 and 82796/2025

RASHMI @POOJA BAHRY

.....Petitioner

Through: Mr. Osama Suhail, Ms. Suman Suhail, Ms. Sanya Gandontra and Ms. Puja Kesarwani, Advocates.

versus

NEENA BAHRY & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

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31.12.2025

1. The present petition has been filed by the petitioner assailing an order dated 05.04.2025 passed by the District Magistrate (West), GNCTD in Eviction Case No. 692/DCW/2022 and the consequential orders passed by the Appellate Authority (Divisional Commissioner, Department of revenue, Govt. of NCT of Delhi) in the proceedings under Rule 22(3)(4) of Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.

2. It is submitted that on account of the impugned orders, the petitioner is facing imminent threat of dispossession from her residential abode. It is further submitted that the impugned orders do not examine the controversy in keeping with the dicta laid down by the Supreme Court in *S. Vanitha vs The Deputy Commissioner* (2021) 15 SCC 730, wherein it has been held that the rights conferred under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 must be construed harmoniously with the rights enjoyed by a daughter-in-law in the shared household. The relevant observations in *S. Vanitha* (supra) are as under:



“34. Section 36 [“36. *Act not in derogation of any other law.—The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.*”] of the PWDV Act, 2005 stipulates that the provisions of the Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. This is intended to ensure that the remedies provided under the enactment are in addition to other remedies and do not displace them. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is undoubtedly a later Act and as we have noticed earlier, Section 3 stipulates that its provisions will have effect, notwithstanding anything inconsistent contained in any other enactment. However, the provisions of Section 3 of the Senior Citizens Act, 2007 giving it overriding force and effect, would not by themselves be conclusive of an intent to deprive a woman who claims a right in a shared household, as under the PWDV Act, 2005. Principles of statutory interpretation dictate that in the event of two special Acts containing non obstante clauses, the later law shall typically prevail. [Solidaire (India) Ltd. v. Fairgrowth Financial Services Ltd., (2001) 3 SCC 71] In the present case, as we have seen, the Senior Citizen's Act, 2007 contains a non obstante clause. However, in the event of a conflict between special Acts, the dominant purpose of both statutes would have to be analysed to ascertain which one should prevail over the other. The primary effort of the interpreter must be to harmonise, not excise. A two-Judge Bench of this Court, in Bank of India v. Ketan Parekh [Bank of India v. Ketan Parekh, (2008) 8 SCC 148] , in examining a similar factual scenario, observed that : (SCC p. 160, para 28)

“28. In the present case, both the two Acts i.e. the Act of 1992 and the Act of 1993 start with the non obstante clause. Section 34 of the Act of 1993 starts with non obstante clause, likewise Section 9-A (sic 13) of the Act of 1992. But incidentally, in this case Section 9-A came subsequently i.e. it came on 25-1-1994. Therefore, it is a subsequent legislation which will have the overriding effect over the Act of 1993. But cases might arise where both the enactments have the non obstante clause then in that case, the proper perspective would be that one has to see the subject and the dominant purpose for which the special enactment was made and in case the dominant purpose is covered by that contingencies, then notwithstanding that the Act might have come at a later point of time still the intention can be ascertained by looking to the objects and reasons. However, so far as the present case is concerned, it is more than clear that Section 9-A of the Act of 1992 was amended on 25-1-1994 whereas the Act of 1993 came in 1993. Therefore, the Act of 1992 as amended to include Section 9-A in 1994 being subsequent legislation will prevail and not the provisions of the Act of 1993.”



(emphasis supplied)

This principle of statutory interpretation was also affirmed by a three-Judge Bench of this Court in Pioneer Urban Land & Infrastructure Ltd. v. Union of India [Pioneer Urban Land & Infrastructure Ltd. v. Union of India, (2019) 8 SCC 416 : (2019) 4 SCC (Civ) 1] .

35. In the present case, Section 36 of the PWDV Act, 2005, albeit not in the nature of a non obstante clause, has to be construed harmoniously with the non obstante clause in Section 3 of the Senior Citizens Act, 2007 that operates in a separate field.

36. In this case, both pieces of legislation are intended to deal with salutary aspects of public welfare and interest. The PWDV Act, 2005 was intended to deal with the problems of domestic violence which, as the Statements of Objects and Reasons sets out, “is widely prevalent but has remained largely invisible in the public domain”. The Statement of Objects and Reasons indicates that while Section 498-A of the Penal Code, 1860 created a penal offence out of a woman's subjection to cruelty by her husband or relative, the civil law did not address its phenomenon in its entirety. Hence, consistent with the provisions of Articles 14, 15 and 21 of the Constitution, Parliament enacted a legislation which would “provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society”. The ambit of the Bill has been explained thus:

“4. The Bill, inter alia, seeks to provide for the following—

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.



(ii) *It defines the expression “domestic violence” to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.*

(iii) *It provides for the rights of women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.*

(iv) *It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.*

(v) *It provides for appointment of Protection Officers and registration of non-governmental organisations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter, etc.”*

37. *The above extract indicates that a significant object of the legislation is to provide for and recognise the rights of women to secure housing and to recognise the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act, 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act, 2005, would defeat the object and purpose which Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives. Equally, the purpose of the PWDV Act, 2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens*



Act, 2007.

38. This Court is cognizant that the Senior Citizens Act, 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the civil courts, under Section 8. The jurisdiction of the civil courts has been explicitly barred under Section 27 of the Senior Citizens Act, 2007. However, the overriding effect for remedies sought by the applicants under the Senior Citizens Act, 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act, 2005. The PWDV Act, 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. In deference to the dominant purpose of both the legislations, it would be appropriate for a tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act, 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act, 2005. Section 26 [“26. Relief in other suits and legal proceedings.—(1) Any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.”] of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act, 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act, 2005 and the Senior Citizens Act, 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to override and nullify other protections in law, particularly that of a woman's right to a “shared household” under Section 17 of the PWDV Act, 2005. In the event that the “aggrieved woman” obtains a relief from a tribunal constituted under the Senior Citizens Act, 2007, she



shall be duty-bound to inform the Magistrate under the PWDV Act, 2005, as per sub-section (3) of Section 26 of the PWDV Act, 2005. This course of action would ensure that the common intent of the Senior Citizens Act, 2007 and the PWDV Act, 2005, of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realised. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realisation.”

3. Attention is also drawn to the fact that by way of an order dated 18.08.2022 passed in proceedings under the Protection of Women from Domestic Violence Act, 2005, the petitioner has been granted interim protection and it has been, *inter alia*, observed as under:

“10..... As far as respondent no. 3 and 4 are considered, it can be seen from the videos placed on record by both the parties that there are instigation from both the sides as well as hurling abuses against each other. In these circumstances, I do not deem it fit to oust the proposed respondents from the matrimonial home of the complainant. Before parting with the order, it would be necessary to direct that respondents no.3 and 4 and Manan will not commit any act of domestic violence against the petitioner in any manner. Furthermore, the respondents no.1 and 2 as well as the proposed respondents 3 and 4 and Manan Arora are restrained from entering the room of the shared household in which the petitioner is residing.”

4. It is submitted that the scope and import of the aforesaid order has not been examined in right perspective by the impugned order.

5. Issue notice to the respondents, on necessary steps being taken by the petitioner, through all permissible modes including electronically, returnable for the next date of hearing.

6. Let reply be filed within a period of 3 weeks from today. Rejoinder thereto, if any, be filed before the next date of hearing.

7. In the meantime, considering the aforesaid aspects, and considering that an interim order was subsisting in favour of the petitioner during the pendency of Appeal No. 1121/2025 before the Divisional Commissioner, it is



directed that *status quo* as regards title and possession of the property shall be maintained till the next date of hearing.

8. List on 03.02.2026.
9. Order *dasti*.

SACHIN DATTA
(VACATION JUDGE)

DECEMBER 31, 2025 /at

LawChakrain