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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 04.08.2026

% Judgment delivered on:30.09.2026

 # CNR No. DLHC010298882022

\+ **W.P.(C) 11683/2022& CM APPLs. 34755/2022, 40490/2022, 36932/2023, 8321/2026, 8322/2026, 33770/2026**

PUNAM .....Petitioner

versus

DIVISIONAL COMMISSIONER, GNCT OFDELHI & ORS.
.....Respondents

Advocates who appeared in this case:

For the Appellant : Ms. Meera Kaura Patel, Ms. Ritika Saini, Ms. Zainab Hussain, Mr. Varun Mudgil & Mr. Sarthak Malawaliya, Advs.

For the Respondents : Mr. Sameer Vashisht, S.C. (Civil), GNCTD with Ms. Vaishali Gupta, Panel Counsel, Civil, GNCTD.
Ms. Aakanksha Kaul, Mr. Aman Sahani, Ms.Simran Khorana, Advs. for R-2.
Ms. Manisha Agrawal Narain & Ms. Aditi Singh, Advs. for R-2.
Mr. Shiven Varma, Adv. Mr. Rishabh Mistry and Ms. Akansha Kaul, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

J U D G M E N T

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DEVENDRA KUMAR UPADHYAYA, C.J.

CHALLENGE

1. Proceedings of this petition have been instituted under Article 226 of the Constitution of India, challenging the order dated 07.07.2022 passed by learned Divisional Commissioner in *Appeal No. 320/2021/1249-1251*, which was filed by the respondent no.2 against the order dated 10.02.2021 passed by the District Magistrate, rejecting the application made by the respondent no.2 under Rule 22(3)(1) of Delhi Maintenance and Welfare of Parents and Senior Citizens Rules, 2009 [hereinafter referred to as the "**2009 Rules**"].

By the impugned order dated 07.07.2022, the appeal preferred by the respondent no.2 against the order of District Magistrate dated 10.02.2021has been allowed and the petitioner has been directed to vacate and handover peaceful possession of the subject property to the respondent no.2 with a further direction that the petitioner shall not create any hassles in the peaceful life of respondent no.2. The Divisional Commissioner/Appellate Authority has also directed that the District Magistrate and the concerned Deputy Commissioner of Police ["**DCP**"] shall ensure compliance of the said order and also that they shall ensure that life and property of the respondent no.2 is secured and no harassment is caused to the respondent no.2.

2. Apart from challenging the order dated 07.07.2022 passed by the Divisional Commissioner, a prayer has also been made by the petitioner, seeking a declaration that Rule 22(3)(1)(i) and (iv) of the 2009 Rules are *ultravires* and violative of Article 14, 15 and 21 of the Constitution of India.

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FACTS

3. The petitioner is the daughter-in-law of the respondent no.2 and is married to one Sh. Rakesh Kumar Malawliya, who is the son of respondent no.2, as per Hindu rites and customs, on 22.04.1996. Out of the said wedlock, two children were born who are 24 and 21 years of age respectively.

4. There appears to be some matrimonial discord between the petitioner and her husband, as a result of which, a complaint was filed by the petitioner on 13.08.2018 against her husband, Sh. Rakesh Kumar Malawliya and the respondent no.2, under the provisions of the Protection of Women from Domestic Violence Act, 2005 [hereinafter referred to as the "**D.V. Act**"] with certain prayers, including a prayer for passing a residence order under Section 19 of the D.V. Act restraining the respondent no.2 from dispossessing the petitioner from the shared household which she has been using in the property located at House No. 20, Ground Floor, Gautam Nagar, New Delhi. The proceedings of this application under the D.V. Act are stated to be pending before the Court of Judicial Magistrate First Class (Mahila Court), South, Saket Court, New Delhi.

5. On 23.10.2018, the respondent no.2 instituted proceedings seeking eviction of the petitioner from the shared household under Rule 22(3)(1) of the 2009 Rules. In terms of the scheme of Rule 22(3)(1) of the 2009 Rules, the Sub-Divisional Magistrate ["**SDM**"] concerned conducted an inquiry and reported that, "*on inquiry nothing could be established about any harassment being caused by the petitioner and further that this is a matter of mutual family dispute and conflict between mother-in-law and daughter-in-*

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law, therefore, no specific conclusion could be drawn on whether any harassment is being caused by the petitioner or not".

6. The said application, thereafter, was disposed of by the District Magistrate, who, *vide* his order dated 10.02.2021, rejected the application moved by the respondent no.2 under Rule 22(3)(1) of the 2009 Rules on consideration of certain material placed on record and also taking into account the report submitted by the SDM concerned.

7. The respondent no.2, feeling aggrieved, challenged the order dated 10.02.2021 passed by the District Magistrate in an appeal before the Divisional Commissioner filed by her under Rule 22(4) of 2009 Rules, which has been allowed by the Divisional Commissioner/Appellate Authority *vide* impugned order dated 07.07.2022, directing the petitioner to vacate the subject premises with a further direction to her not to create any hassles in the peaceful life of the respondent no.2. It is this order dated 07.07.2022 that has been challenged before us in the instant appeal.

8. The impugned order dated 07.07.2022 passed by the Divisional Commissioner has been challenged both on merits as also by asserting that the provisions contained Rule 22(3)(1)(i) & (iv) of 2009 Rules are *ultra vires.*

DISCUSSION AND CONCLUSION

Whether Rule 22(3)(1)(i) & (iv) of 2009 Rules are ultra vires.

9. Ms. Meera Kaura Patel, learned counsel representing the petitioner while challenging the impugned rules has argued that the State Government, while framing the said rules, has exceeded its rule making power vested in it

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under Section 32 of the Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 [hereinafter referred to as the "**Senior Citizens Act**"] by vesting a power of eviction that is not contemplated in the parent statute, which is primarily enacted for providing for maintenance and protection to senior citizens. Thus, the submission is that the impugned rules are *ultra vires* the Senior Citizens Act itself.

10. It is also the submission of the learned counsel for the petitioner that the impugned rule is violative of Article 14, 15 and 21 of the Constitution of India, inasmuch that it acts against the interest of women and violates the protection available to them under the D.V. Act and therefore, it is unreasonable and violates even the right to life enshrined under Article 21 of the Constitution of India.

11. Referring to Section 17 of the D.V. Act, it has been argued on behalf of the petitioner that every women under the said provision, in a domestic relationship, has been vested with the right to reside in the shared household, irrespective of the fact whether or not she has any right, title or beneficial interest in such shared household. It has also been argued that Section 17 of the D.V. Act contains a *non-obstante* clause and accordingly, the right available to a woman under Section 17 of the D.V. Act is available to her irrespective of any other provision contained in any other law for the time being in force and therefore, the impugned rule clearly infringes her right to reside in a shared household emanating from Section 17 of the D.V. Act.

12. Our attention has been drawn to a Single Judge judgment of Punjab and Haryana High Court in ***Simrat Randhawa v. State of Punjab & Ors. 2020 SCC OnLine P&H 4394***, and it has been contended on the said basis

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by the learned counsel for the petitioner that the impugned rule is not sustainable, as a similar provision contained in the Punjab Action Plan, 2004 was declared *ultra vires* by the said judgment. Clause 1, 2 and 3 of the Punjab Action Plan, 2004, which were considered in ***Simrat Randhawa (supra)*** are extracted herein below:

> ***"38.*** *The Action Plan formulated under the Punjab Act and Rule 23 of the 2012 Rules was promulgated on 27.11.2014 though it was published in the Punjab Government Gazette Part I on 13.03.2015 and the Action Plan came into force from the date of its issuance i.e. from the date of notification. Here for the first time, the procedure for 'eviction' has been laid down and for its enforcement. Clauses 1, 2 & 3of the Punjab Action Plan are reproduced below for ready reference:*
>
> *1. Procedure for eviction from property/residential building of Senior Citizens/parent:*
>
> *(i) Complaints received (as per provisions of the Maintenance of Parents and Senior Citizens Act, 2007) regarding life and property of Senior Citizens by different Department/Agencies i.e. Social security, Sub Divisional Magistrate, Police Department, NGOs/Social Worker, Helpline for Senior Citizens and District Magistrate himself, shall be forwarded to the District Magistrate of the concerned district for further action.*
>
> *(ii) The District Magistrate shall immediately forward such complaints/applications to the concerned Sub Divisional Magistrates for verification of the title of the property and facts of the case through revenue department/concerned Tehsildars within 15 days from the date of receipt of such complaint/application.*
>
> *(iii) The Sub Divisional Magistrates shall submit its report to the District Magistrate for final orders within 21 days from the date of receipt of the complaint/application,*
>
> *(iv) If the District magistrate is of opinion that any son or daughter or legal heir of a senior citizens/parents are in unauthorized occupation of any property as defined in the Maintenance and Welfare of parents and Senior Citizens Act2007, and that they should be evicted, the District Magistrate shall issue in the manner hereinafter provided 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.*
>
> *(v) The Notice shall:—*
>
> *(a) Specify the ground on which the order of eviction is proposed to be made; and*

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(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 issue thereof.*

(c) *The District Magistrate shall cause the notice to be served by having it affixed on the outer door or at some other conspicuous part of the public premises and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given/served to all persons concerned.*

2. Eviction Order from property/residential building of Senior Citizens/Parents:.

(i) *If, after considering the cause, if any, shown by any persons in pursuance to the notice and any evidence he/she may produce in support of the same and after giving him/her a reasonable opportunity of being heard, the District Magistrate is satisfied that the property/premises are in unauthorized occupation, the District Magistrate or other officer dully authorized may make*

(ii) *an order of eviction, for reasons to be recorded therein, directing that the property/residential building shall be vacated, on such date, not later than 45 days from the date of receipt of such order, as may be specified in that order, by all persons who may be in occupation thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises;*

(iii) *The District Magistrate may also associate NGOs/Voluntary organizations/social workers working for the welfare of senior citizens for the enforcement of order;*

3. Enforcement of Orders:

(i) *If any person refuses or fails to comply with the order of eviction within thirty days from the date of its issue, the District Magistrate or any other officer duly authorized by the District Magistrate in this behalf may evict that person from the premises in Question and take possession.*

(ii) *The District Magistrate shall have powers to enforce the eviction orders with Police help.*

(iii) *The District Magistrate will further handover the property/premises in question to the concerned Senior Citizens/Parents;*

(iv) *The District Magistrate, shall forward monthly repost of such cases to the Director, Social Security Department, Punjab by7th of the following month for review of such cases in the State Council for Senior Citizens constituted under "The Maintenance and Welfare*

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of Parents and Senior Citizens Act, 2007" and Rules of 2012 framed under the said Act under the Chairmanship of the Principal Secretary, Social Security Department, Punjab."

13. Learned counsel for the petitioner has emphasised that in ***Simrat Randhawa (supra),*** it has been held by Punjab and Haryana High Court that the action plan introduced, arbitrarily, a concept foreign to the scheme in the Senior Citizens Act, i.e. eviction or ejectment and was therefore, declared as arbitrary, unreasonable, oppressive, harsh and unconstitutional and contrary to doctrine of rule of law and separation of powers as the basic feature of the Constitution of India.

14. Learned counsel for the petitioner has also referred to another judgment of learned Single Judge of Punjab and Haryana High Court in the case of ***Sudershan Kumar v. State of Haryana, 2021 SCC OnLine P&H 4612.*** It has been stated in this regard that neither the Tribunal envisaged under the Senior Citizens Act nor the Appellate Authority have jurisdiction to pass an order of eviction and that the only power with the Tribunal and the Appellate Authority is to grant maintenance based on consideration of facts of the case and also to set aside the transfer of property in case senior citizen is able to prove that a fraud was played by the children while executing the transfer.

15. The submission, primarily on behalf of the petitioner challenging the impugned rule, is that proceedings of eviction under the 2009 Rules are not independent of the proceedings of D.V. Act which clearly vests a right in the women under Section 17 of the D.V. Act to reside in a shared household. It has also been the submission on behalf of the petitioner that what Senior

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Citizens Act provides for is the maintenance and welfare of the senior citizens and therefore, the impugned rule which provides for eviction is *ultra vires* the Act since the Act does not contemplate any proceedings for eviction. It has also been submitted on behalf of the petitioner that Section 32 of the Senior Citizens Act empowers the State Government to make rules for carrying out the purposes of the Act and since no proceedings of eviction from a shared household is contained in the principal statute, any rule which provides for eviction would be beyond the Act itself. Thus, the impugned rule having been framed beyond the scope of the principal Act is illegal.

16. In this regard, reliance has been placed by the learned counsel for the petitioner on (1) ***Hukam Chand v. Union of India, (1972) 2 SCC 601,*** (2) ***Addl. Distt. Magistrate (Revenue) Delhi Admn. v. Siri Ram, (2000) 5 SCC 451***and (3) ***Dr. Mahachand Prasad Singh v. Chairman, Bihar Legislative Council & Ors., (2004)8 SCC 747,*** to submit that no delegated legislation can legally be permissible to be made which travels beyond the scope of the principal act itself. In other words, if the principal act does not contain any provision for providing a particular thing, then such a thing cannot be provided by way of delegated legislation.

17. In this regard, further submission has been made that rule making powers available to the State Government under Section 32 of the Senior Citizens Act read with Section 22(2) cannot be permitted to be used for providing something which the Act itself does not provide for and further that Section 22 and 32 are to be read in the context of the purpose for which Senior Citizens Act has been enacted, which does not provide for any express or even implied provision for instituting proceedings for eviction. It

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is also the submission on behalf of the petitioner that Section 23 of the Senior Citizens Act provides that transfer of property can be declared to be void in case it is found that the transferee has refused or failed to provide amenities and physical needs to the senior citizens based on which the property was transferred by way of gift or otherwise and therefore, eviction can be ordered by the Tribunal created under the Senior Citizens Act only as a result of declaration of any transfer of property as void and not otherwise.

18. On the other hand, learned counsel representing the respondent no.2, Ms. Aakanksha Kaul has argued that so far as the validity of impugned Rules is concerned, the issue is no more *res integra* as Hon'ble Supreme Court in its latest judgment in ***Ravi Kant Gupta v. State of Uttar Pradesh & Ors.,*** rendered on 04.08.2026 in ***SLP (C) Diary No. 22768/2024,*** has held that in view of the constitutional mandate of Article 21 and 41 of Constitution of India, the Parliament has enacted the Senior Citizens Act, provisions of which incorporate the values deeply rooted in our country's civilizational ethos which revere the mother and the father as divine and further that it is a well settled legal proposition that where an Act confers a jurisdiction, it grants power of doing all such acts as are essential to its execution.

19. Submission is that though ***Ravi Kant Gupta (supra)*** had emanated from the State of Uttar Pradesh where no rule akin to the impugned rules existed, however, considering the object of Senior Citizens Act as also the provisions of D.V. Act, it has been held that the Tribunal created under the Senior Citizens Act will have the authority to order an eviction if it is necessary and expedient to ensure maintenance and protection of a senior

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citizen or a parent. Paragraphs 9, 10 and 11 of ***Ravi Kant Gupta (supra)*** are extracted herein below:

> *"**9.** The measure of a civilized society is often reflected in the dignity, respect and security it affords to its elderly. Across cultures, religions, and civilizations, senior citizens have been regarded not merely as dependents requiring care, but as repositories of wisdom, experience, and collective memory whose guidance enriches families and society alike. Article 21 of the Constitution as interpreted by this Court and Article 41 of the Constitution envisage a social order that protects the vulnerable and enables every individual to live with dignity throughout the course of life. This commitment finds statutory expression in the Act, enacted to ensure that advancing age does not become synonymous with neglect, insecurity, or indignity. In light of the aforesaid constitutional mandate, the Parliament has enacted the Act. The provisions of the Act incorporate the values deeply rooted in our country's civilizational ethos which revere the mother and the father as divine. The Act is intended to provide a speedy remedy for the senior citizen.*
>
> ***10.** Under Section 7 of the Act, the tribunals have been constituted which have power under Section 8 of the Act to conduct an inquiry following a summary procedure with powers of a Civil Court. Section 27 of the Act explicitly bars the jurisdiction of the Civil Courts. It is a well-settled legal proposition that where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution (Income Tax Officer Cannanore v. M.K. Mohammed Kunhi, 1968 SCC OnLine SC 71). On this analogy, we have no hesitation in holding that the tribunal under the Act has power to order eviction in order to ensure the maintenance or protection of a senior citizen.*
>
> ***11.** It is noteworthy that a three-Judge Bench of this Court (S. Vanitha v. Deputy Commissioner, Bengaluru Urban District & Ors., (2021) 15 SCC 730), while dealing with claims arising out of the provisions of the Act and the Protection of Women from Domestic Violence Act, 2005 held that the tribunal under the Act may have the authority to order an eviction if it is necessary and expedient to ensure the maintenance and protection of a senior citizen or a parent. It was further held that eviction would be an incident of enforcement of right to maintenance and protection. Taking into account the aforesaid observations, a two-Judge Bench of this Court (Samtola Devi v. State of U.P. & Ors., 2025 SCC OnLine SC 669),held that tribunal under the Act may order eviction if it is necessary and expedient to ensure the protection of senior citizens. Another two-Judge Bench of this Court (Kamalakant Mishra v. Additional Collector & Ors., 2025 SCC OnLine 2077) reiterated the same view."*

20. Reliance has also been placed by the learned counsel for the respondent no.2 on yet another judgment of Hon'ble Supreme Court in

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Samtola Devi v. State of Uttar Pradesh & Ors., 2025 SCC OnLine SC 669, where Hon'ble Supreme Court has concluded that though Senior Citizens Act does not specifically provides for eviction but on account of the law laid down by Hon'ble Supreme Court in ***S. Vanitha v. Commissioner, Bengaluru Urban District, 2021 (15) SCC 730,*** the Tribunal may also order eviction if it is necessary and expedient to ensure the protection of the senior citizens. Paragraph 31 of ***Samtola Devi (supra)*** reads as under:

> ***31.*** *The provisions of the Senior Citizens Act, nowhere specifically provides for drawing proceedings for eviction of persons from any premises owned or belonging to such a senior person. It is only on account of the observations made by this Court in S. Vanitha v. Commissioner, Bengaluru Urban District5 that the Tribunal under the Senior Citizens Act may also order eviction if it is necessary and expedient to ensure the protection of the senior citizens. The Tribunal thus had acquired jurisdiction to pass orders of eviction while exercising jurisdiction under Section 23 of the Senior Citizen Act which otherwise provide for treating the sale of the property to be void if it is against the interest of the senior citizen."*

21. Learned counsel for the respondent no.3 and 4, i.e. GNCT of Delhi and Lieutenant Governor of Delhi, has supported the submission made on behalf of the respondent no.2 by Ms. Kaul, whereas learned counsel for Union of India – respondent no. 5 has argued that the State Government does not have any authority or power available to it under the Senior Citizens Act to frame a rule which provides for eviction. The said submission is, however, based on the stand taken by the Union of India – respondent no. 5 in front of Punjab and Haryana High Court as recorded in the judgment of ***Simrat Randhawa (supra).***

22. Before delving into the respective submissions made by the learned counsel for the parties for and against the issue as to whether Rule 22 (3)(1)(i) and (iv) of the 2009 Rules are *ultra vires*, it may be apposite to

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discuss the scheme of the Maintenance And Welfare Of Parents And Senior Citizens Act, 2007. This Act has been enacted after the D.V. Act and aims at providing for more effective provisions for maintenance and welfare of parents and senior citizens and the matters connected therewith. Chapter II of the Senior Citizens Act provides for the maintenance of parents and senior citizens. Section 4, *inter alia*, makes it obligatory for the children or relative to maintain the senior citizen, which extends to the needs of such citizens so that senior citizens may lead a normal life. Section 4 of the Senior Citizens Act is extracted herein below:

> *"**4. Maintenance of parents and senior citizens.—**(1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of—*
>
> *(i) parent or grand-parent, against one or more of his children not being a minor;*
>
> *(ii)a childless senior citizen, against such of his relative referred to in clause (g) of section 2.*
>
> *(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.*
>
> *(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.*
>
> *(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such citizen or he would inherit the property of such senior citizen:*
>
> *Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property."*

23. Section 5 provides for a mechanism for seeking relief of maintenance, according to which an application for maintenance is to be made under Section 4 before the Tribunal, which in terms of Section 2(j) is to be constituted under Section 7 and is known as "Maintenance Tribunal".

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Whereas, Chapter II of the Senior Citizens Act is in respect of maintenance of parents and senior citizens, Chapter V provides for the protection of life and property of senior citizens. Section 21 of the Act provides for the State Government to take certain measures for providing protection of life and property of senior citizens. Section 22 of the Act enables the State Government to confer such powers and impose such duties on a DM, as may be necessary to ensure that the provisions of the Act are properly carried out. It also permits the DM to specify a subordinate officer, who shall exercise all or any of the powers and perform all or any of the duties conferred or imposed on him, and such powers and duties shall be carried out by the officers as may be prescribed. Sub-section 2 of Section 22 mandates that the State Government shall prescribe a comprehensive action plan for providing protection of live and property of senior citizens. Section 22 of the Senior Citizens Act is extracted herein below:

> ***"22. Authorities who may be specified for implementing the provisions of this Act.—***
> *(1) The State Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.*
> *(2) The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens."*

24. Thus, the scheme of Senior Citizens Act contains provisions for: (a) maintenance of parents and senior citizens (Chapter-II), and (b) protection of life and property of senior citizens (Chapter-V). It is also to be noticed that Section 3 of the Senior Citizens Act contains a clause, according to which the provisions of this Act are to have effect notwithstanding anything

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inconsistent with such provisions contained in any other enactment or in any instrument having effect by virtue of any enactment other than the Senior Citizens Act. Thus, the provisions of the Senior Citizens Act by virtue of operation of Section 3 have the overriding effect.

25. We may also note at this juncture that Section 17 of the DV Act also contains a *non-obstante* clause. The issue of presence of *non-obstante* clause in Section 17 of DV Act and overriding effect clause in Section 3 of the Senior Citizens Act drew attention of the Hon'ble Supreme Court in ***S. Vanitha (supra)***, and though the Hon'ble Supreme Court recognized the well-established principle that in the event of two special Acts containing *non-obstante* clauses, the later law shall typically prevail, however having regard to the fact that both these legislations are intended to deal with salutary aspects of public welfare and interest, the Hon'ble Supreme Court held that in deference to the dominant purpose of both the legislations, it would be appropriate for the Tribunal under the Senior Citizens Act to grant such remedies of maintenance which do not result in obviating competing remedies under other special enactments, such as the DV Act. Paragraphs 37 and 38 of the judgment in ***S. Vanitha (supra)*** are quoted herein below:

> *"**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*

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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*

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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."

26. It is to be noticed that for the purposes of giving effect to the provisions of the Senior Citizens Act, the 2009 Rules have been framed, which *inter-alia* provides for the procedure for eviction from the property/residential building of a senior citizen/parents. We have already noticed that Section 22 of the Senior Citizens Act empowers the State Government to confer such powers and impose such duties on the DM as may be necessary to ensure that the provisions of the Act are properly carried out. Accordingly, the provisions contained in Rule 22 (3)(1) of the 2009 Rules, which provides for the procedure for eviction from the property/residential building of senior citizens/parents, are referable to Section 22 of the Senior Citizens Act. Rule 22 (3)(1)of 2009 Rules is extracted herein below:

"[(3) ***(1) Procedure for eviction from property/residential building of Senior Citizen/Parents,-***

[(i) A senior citizen/parents may make an application before the Deputy Commissioner/District Magistrate of his district for eviction of his son and daughter or legal heir 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 Deputy Commissioner/DM shall immediately forward such application to the concerned Sub Divisional Magistrates 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 Deputy Commissioner/DM for final orders within 21 days from the date of receipt of the complaint/application.

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[(iv) The Deputy Commissioner/District Magistrate during summary proceedings for the protection of senior citizen parents, shall consider all the relevant provisions of the said Act. If the Deputy Commissioner/District Magistrate is of opinion that any son or daughter or legal heir 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 Deputy 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.]
(v)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 issue thereof."

27. A perusal of the afore-quoted Rule 22 (3)(1) reveals that the said provision provides for making of an application by a senior citizen/parent before the DM for eviction of his son or daughter or legal heir from his property of any kind whether movable or immovable, ancestral or self-acquired, tangible or intangible and include right or interest in such property, on the ground of his non-maintenance or ill-treatment. Thus, the application by senior citizen/parents can be moved under the said provision before the DM for eviction in case of non-maintenance and ill-treatment. What is significant to note here is that Rule 22 (3)(1)(i) of the 2009 Rules provides relief to a senior citizen/parents to mitigate his/her sufferings on account of non-maintenance and ill-treatment. In other words, if before the DM, a senior citizen/parents is able to establish that he/she is not being maintained or is being ill-treated, he/she may seek eviction of his son or daughter or

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legal heir from his property. Clause (ii) of Rule 22 (3)(1) of 2009 Rules requires the DM to forward the application received by him under Clause (i) to the concerned SDM for verification of the title of the property and the facts of the case, whereupon SDM is obligated to submit his report to the DM for final orders.

28. Rule 22 (3)(1)(iv) of 2009 Rules requires the DM to consider all the relevant facts of the Act and if he is of the opinion that any person is not maintaining the senior citizen or his parents and ill-treating him and yet is occupying the property of any kind and that he should be evicted, then he shall issue a notice calling upon the persons concerned to show cause as to why an order of eviction should not be passed.

29. Section 22 of the Senior Citizens Act provides that the State Government may confer powers and impose such duties on a District Magistrate as may be necessary to ensure that provisions of the said Act are property carried out. Sub-section 2 of Section 22 provides that the State Government shall prescribe a comprehensive action plan for providing protection of life and property of the senior citizens. Accordingly, in our opinion, impugned Rule 22 (3)(1)(i) and (iv) of 2009 Rules are not only referable to the rule making power of the State Government available to it under Section 32 of the Senior Citizens Act but is also referable to Section 22 of the said Act. The State has, thus, empowered and imposed a duty on the District Magistrate under the impugned rules to evict the son or daughter or legal heir from his property on account of non-maintenance and ill-treatment of the senior citizens.

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30. Sub-section 2 of Section 22 mandates the State Government to prescribe a comprehensive plan not only for providing protection of life but also protection of property of the senior citizens and for the purpose of achieving such an object, if Rule 22(3)(1) provides that an eviction order can be passed by the District Magistrate on an application made to him by a senior citizen in certain circumstances, we are of the opinion that the impugned rule cannot be said to be *ultra vires* the Senior Citizens Act. Sub-section 2 of Section 22 itself permits the State Government to prescribe a comprehensive plan which may be issued by a simple executive order or circular or in the form of rules such as the impugned Rules.

31. Reliance placed by the learned counsel for the petitioner on two judgments of Punjab and Haryana High Court, namely ***Simrat Randhawa (supra)*** and ***Sudershan Kumar (supra)*** is of no avail to the petitioner as these judgements cannot be said to be good law any more in view of the law laid down by Hon'ble Supreme Court in ***Ravi Kant Gupta (supra)***. Reference may also be had to the judgment of Hon'ble Supreme Court in ***Samtola Devi (supra)*** wherein it has been held that though Senior Citizens Act nowhere specifically provides for drawing proceedings for eviction but on account of observations made by Hon'ble Supreme Court in ***S. Vanitha (supra),*** the Tribunals under the Senior Citizens Act may also order eviction if it is necessary and expedient to ensure protection of the senior citizens. Paragraph 31 of ***Samtola Devi (supra)*** has already been extracted in paragraph 20 of this judgment above.

32. We may also refer to yet another judgment of Hon'ble Supreme Court, dated 30.01.2025 in the case of ***Rajeswar Prasad Roy v. State of***

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Bihar, SLP (Civil) No. 7675/2024, which has reiterated that the Tribunal under the Senior Citizens Act possesses the authority to order eviction to ensure maintenance and protection of the senior citizens. The observations made in paragraph 10 of ***Rajeswar Prasad Roy (supra)*** is based on the law laid down by Hon'ble Supreme Court in ***S. Vanitha (supra),*** in paragraph 25 whereof the following principle of law applicable in the instant case has been laid down. Paragraph 10 of ***Rajeswar Prasad Roy (supra)*** is extracted as under:

> ***"10.****As far as the authority of Tribunal under the Act to order eviction is concerned, this court in S Vanitha v Deputy Commissioner Bengaluru Urban Disincr & Ors, (2021) 15 SCC 730, specifically held that the Tribunal under the Act has the authority to order eviction to ensure the maintenance and protection of the senior citizens. This case involved a similar challenge to the order of eviction by daughter-in-law. The relevant paragraph (Para 25) from the case is extracted below:*
>
> > *"25. The substance of sub-section (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter-in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a "right to receive maintenance out of an estate" and the enforcement of that right. In supporting the submission, they have referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen.* ***The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction, in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after adverting to the competing claims in the dispute.*** *It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter-in-law i.e. the appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-in-law. The son had purchased the property a few months before his marriage to the appellant. He had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the house, as her matrimonial residence, until the application was filed. Her spouse has (according to*

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her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner."

33. We may refer to yet another judgment by Hon'ble Supreme in ***Kamalakant Mishra v. Collector, 2025 SCC OnLine SC 2077*** wherein paragraph 7, it has been held that since the framework of Senior Citizens Act clearly notes that it was enacted to address the plight of older persons and for their care and protection and the Act being a welfare legislation, its provision must be construed liberally so as to advance its beneficial purpose. Placing reliance on ***S. Vanitha (supra), Kamalakant Mishra (supra)*** holds that the Tribunal is well within its power to order eviction of a child or a relative of a senior citizen when there occurs a breach of obligation to maintain the senior citizen. Paragraph 7 of ***Kamalakant Mishra (supra)*** is extracted herein below:

*"**7.** The framework of the Act clearly notes that the law was enacted to address the plight of older persons, for their care and protection. Being a welfare legislation, its provisions must be construed liberally so as to advance its beneficent purpose. This Court on several occasions has observed that the Tribunal is well within its powers to order eviction of a child or a relative from the property of a senior citizen, when there is a breach of the obligation to maintain the senior citizen.2 In the present case, despite being financially stable, the respondent has acted in breach of his statutory obligations in not allowing the appellant to reside in the properties owned by him, thereby frustrating the very object of the Act. High Court fell in error in allowing the writ petition ona completely untenable ground."*

34. So far as the reliance placed by the learned counsel for the petitioner on (1) ***Hukam Chand (supra),*** (2) ***Siri Ram (supra) and*** (3) ***Dr. Mahachand Prasad Singh (supra)*** is concerned, there cannot be any dispute that no delegated legislation is permissible which travels beyond the scope

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of the principal act itself, however, in the instant case, power to make the provisions as contained in the impugned rules not only flows from Section 32 of the Senior Citizens Act but the said rules also owe their existence to Section 22(2) of the said Act. Accordingly, these judgments do not help the cause being sought to be espoused by the petitioner.

35. In view of the aforesaid discussion, the challenge laid by the petitioner on the provisions of Rule 22 (3)(1)(i) and (iv) of the 2009 Rules fails, which is hereby rejected.

Claim of the petitioner on merits.

36. The main plank of argument of the petitioner on merits is that in view of the provisions of Section 17 of the D.V. Act, the petitioner has got a right to reside in the shared household irrespective of the fact whether she has or she does not have any right, title or beneficial interest in the subject property. It has been contended that since a residence application under Section 19 of the D.V. Act which was instituted by the petitioner is pending before the Court concerned, as such, without its disposing, the eviction could not have been passed. In this respect, we may refer to the findings recorded by the Divisional Commissioner who has categorically arrived at the conclusion that the petitioner already has a separate house at Bahadurgarh and further that she is working as a Post Graduate Teacher, and having a substantial income, she can easily live at her own residence.

37. The Divisional Commissioner while passing the impugned order dated 07.07.2022 has also recorded a finding that the respondent no.2 in her application had clearly stated that she wants to spend her remaining life peacefully and further that if there is matrimonial discord between the

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petitioner and her husband, it should not result in any harassment which drags the respondent no.2, who is a senior citizen, into frivolous litigations and complaints.

38. We may also refer to the provisions of Section 4(3) of the Senior Citizens Act, which provides that obligation of the children to maintain his/her parents extends to the needs of such parent either father or mother or both, so that such parent may lead a normal life. In the facts of the instant case, on account of marital discord between the petitioner and her husband if the respondent no.2 is not able to live normally and peacefully in the evening of her life, who is otherwise entitled to live peacefully and not haunted by the matrimonial discord between her son and daughter-in-law, in our opinion, the order of eviction of the petitioner has rightly been passed.

39. The relief granted to the respondent no.2 by the Appellate Court, i.e. the Divisional Commissioner, can be viewed from another point of view as well. It is not in dispute that the petitioner is employed as a Post Graduate Teacher and she is earning a decent salary. She is also having a separate house and therefore, her claim to reside in the shared household not being indefeasible has to be considered *vis-à-vis* right of the respondent no.2, who is a senior citizen to live a normal and peaceful life.

40. Another contention of the learned counsel for the petitioner that Rule 22(3)(1) of the 2009 Rules applies only to son, daughter and legal heirs, and not to the daughter-in-law, also merits rejections for the reason that in view of the law laid down by a division bench of this court in ***Shadab Khairi v. State, LPA No. 783/2017*** decided on 22.02.2018, the said rule cannot be interpreted in restrictive manner. ***Shadab Khairi (supra)*** has dealt with the

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issue as to why the 2009 Rules should receive liberal interpretation. Paragraph 20 of this judgement is quoted hereunder:

> *"**20.** We do not agree. At the outset, we had elaborated on how beneficial legislation in a welfare State demands a liberal interpretation wide enough to achieve the legislative purpose and be responsive to some urgent social demand in a welfare State. 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."*

41. In ***Darshna v. Govt of NCT of Delhi, LPA No. 537/2018*** decided on 03.10.2018, a co-ordinate bench of this court has approved such view taken by the learned Single Judge in his order, against which, the said LPA was decided. The learned Single Judge in the said matter has held that the expression 'son' and 'daughter' and the legal heirs must take within its sweep the families of the daughter/son of a senior citizen, and further that the term 'legal heirs' must be understood in the broadest sense. The learned Single Judge order against which the LPA was filed has also held that indisputably a daughter-in-law is also an heir in certain circumstances; the said observation has been endorsed by the Division Bench in ***Darshna (supra)***. Paragraph 10 of ***Darshna (supra)*** is extracted herein below.

> *"**10.** In fact, in Sunny Paul and Anr. (supra) this court relied upon the paragraphs of the judgment of the Division Bench in Shadab Khairi and Anr. (supra). That apart, in Para 26, the learned Single Judge has stated as under:*
>
> > *"26. 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*

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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 of a pre-deceased son)."

42. In paragraph 11, the Division Bench in ***Darshna (supra)*** endorses the conclusion drawn herein, and thus the submission that daughter-in-law will not be covered by the sweep of 22(3)(1) of the 2009 Rules is not tenable.

43. On behalf of the Petitioner, it has also been contended that for the grant of any relief to a senior citizen under the Senior Citizens Act, harassment, ill-treatment, and non-maintenance needs to be proved, and only the relief of maintenance can be granted and not that of eviction. The submission is that, there being no prayer for grant of maintenance and there being no proof of non-maintenance, the authorities under the Senior Citizens Act are not empowered to pass any order of eviction.

44. Such a submission made by learned counsel for the petitioner is non-tenable for the reason that an application for eviction can be filed under Rule 22(3)(1) of the 2009 Rules irrespective of the fact whether maintenance is claimed or not. We base this conclusion on the reasoning that proceedings for eviction as contemplated in Rule 22(3)(1) of the 2009 Rules are independent of the proceedings for maintenance for parents and senior citizens, which are filed before the Tribunal constituted under section 7, under the provision of section 4 read with section 5 of the Senior Citizens Act, whereas, proceedings as contemplated under Rule 22(3)(1) of the 2009 Rules are instituted before the District Magistrate, appellate authority of which is the Divisional Commissioner. Thus, the proceedings for

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maintenance under section 4 read with section 5 are independent of the proceedings of eviction which are to be instituted under Rule 22(3)(1) of the 2009 Rules. Thus, these proceedings being independent of each other, even if a prayer for maintenance under section 4 read with section 5 of the Senior Citizens Act by instituting appropriate proceedings has not been made, an application under Rule 22(3)(1) of the 2009 Rules can be maintained. Accordingly, the submission made in this regard on behalf of the learned counsel for the Petitioner does not appeal to us.

45. Having regard to the overall facts and circumstances and the records available, we are of the opinion that the order passed by the Appellate Authority, i.e. the Divisional Commissioner has correctly been passed and therefore, the same does not call for any interference by this Court in the instant writ petition.

46. For the reasons aforesaid, the writ petition fails, which is hereby dismissed. The application(s), if any, stands disposed of.

47. However, there will be no order as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

SEPTEMBER 30, 2026
"shailndra"

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