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

CNR No. DLHC010393262026

+ **CM(M) 1861/2026 & CM APPL. 56688/2026**

K.L. ANAND @ KISHAN LAL

.....Petitioner

Through: Mr. Rajiv Bajaj, Mr. Naman Arora,
Ms. Shivani Bardia and Mr. Shubham
Bhati, Advs.

versus

ASHOK MAGGO

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER
21.08.2026

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1. Through the present petition, the petitioner seeks to assail the order dated 17.08.2026 passed by the learned Civil Judge – 04, (West) Tis Hazari Courts, whereby the petitioner's application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, was dismissed, and the matter was posted for 05.09.2026.
2. It is stated that the petitioner is the absolute owner of the ground floor of WZ-1, Block-A, Sharda Puri, Ramesh Nagar, New Delhi – 110015, and the respondent is the owner of the first and second floor in the same property. It is stated that the respondent, without prior approval of the MCD, Delhi Fire Service, any other competent authority and the petitioner herein, started to illegally dig up the common passages of the property.
3. It is further stated that on 10.08.2026, the petitioner also filed



complaints against the purported unauthorized construction before DDA, MCD, Delhi Police and the concerned SDM, however, to no avail.

4. Aggrieved by the respondent's efforts to construct an unauthorized lift, and the purported inaction of the authorities, the petitioner instituted a suit seeking mandatory injunction against the respondent, and also filed an application under Order XXXIX Rules 1 and 2 CPC.

5. The application under Order XXXIX Rules 1 and 2 CPC came to be dismissed *vide* order dated 17.08.2026 whereby the learned trial court noted that the petitioner has not shown any emergent circumstances, and has not placed on record documents such as the sanctioned site plan. The matter was put up for maintainability of the suit on 05.09.2026.

6. The learned counsel for the petitioner has submitted that the learned trial court has erred in failing to consider that the lift is being constructed without prior permission of the petitioner and the competent authorities, and that the same causes severe prejudice to the petitioner.

7. He has further submitted that the learned trial court has failed to consider that the respondent started his unauthorized construction on 07.08.2026, and would have completed the same by 05.09.2026 i.e. the next date of hearing, leaving the petitioner remediless.

8. After some arguments, learned counsel for the petitioner seeks liberty that the petitioner may be allowed to move an application seeking preponement of the date of hearing and for the matter to be decided expeditiously.

9. Without advertng to the facts of the present case, this Court is of the considered opinion that, in exercise of its supervisory jurisdiction under Article 227 of the Constitution, this Court does not sit as a court of appeal,



especially when the learned trial court is seized of the case at hand. That being said, a balance needs to be struck between the rights of parties which may otherwise get vitiated due to efflux of time.

10. Accordingly, the petition, along with pending applications, if any, is dismissed as withdrawn with liberty to the petitioner to move an application seeking preponement of hearing, and the learned trial court is directed to decide the matter expeditiously.

11. It is made clear that this Court has not expressed its views on the merits of the matter.

AJAY DIGPAUL, J

AUGUST 21, 2026/ar/sg