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

+ CM(M) 131/2013

NEW DELHI HOTELS LTD Petitioner

Through Mr.Mohit Gupta and Mr.Rohit
Aggarwal, Advocates

versus

ASSOCIATION OF APARTMENT OWNERS OF
MERCANTILE HOUSE (REGD) Respondent

Through Ms.Sunita Bhardwaj, Advocate for R1

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

20.10.2016

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1. By the present petition filed under Article 227 of the Constitution of India the petitioner has challenged the order dated 2.11.2012 by which order the trial court has disallowed consolidation of some of the suits.

2. An application had been filed by defendants for consolidation of 13 suits. The trial court had been hearing Suit Nos.112/2012 and Suit Nos. 136/2012 to 147/2012 were received by the trial court by way of transfer. The trial court noted that Suit Nos.136/2012 to 144/2012 and 146/012 though filed by different plaintiffs but having been filed against the same defendants, namely, the petitioners herein, the relief claimed was identical as all the plaintiffs had prayed for mandatory injunction and permanent injunction against the defendants. The counsels appearing for the plaintiffs in those matters also stated that they have no objection if the ten matters are

consolidated with each other. However, the trial court by the impugned order did not consolidate CS(OS)112/2012, 145/2012 and 147/2012. After perusal of the complaints the trial court concluded that these matters are neither similar nor identical. Parties are not the same. Reliefs are not similar and hence did not consolidate these matters.

3. I have seen the claim of the three suits. Suit No.145/2012 is filed by Mercantile House Flat Owners Association. The petitioner, namely, New Delhi Hotels Ltd. is not a party. The suit is filed seeking a decree of permanent injunction against the defendants from interfering in the activities of the Association and further restraining them from misleading themselves as office bearers of the plaintiff association.

4. Suit No.112/2012 is filed by the Association of Apartment Owners of Mercantile House i.e. the other Association. Here again, the petitioner, namely, New Delhi Hotels Ltd. is not a party. The suit is for declaration and mandatory injunction whereby the plaintiff therein has sought a decree of declaration declaring that defendant No.1 Mercantile House Flat Owners Association is not registered in accordance with the provisions of The Delhi Apartment Ownership Act, 1986 and for mandatory injunction directing defendant No.3 Registrar of Societies to cancel and revoke the registration granted to defendant No.1 as a society under The Societies Registration Act and to restrain the defendant No.1 from interfering in the activities pertaining to the welfare of members of the plaintiff association.

5. Suit No.147/2012 is filed by the Association of Apartment Owners of Mercantile House where the petitioner is impleaded as defendant No.1. The suit is for permanent injunction to restrain the defendants from damaging or removing the notice board and the help desk of the plaintiff association as

fixed in the main lobby of the building at Mercantile House, 15 K.G. Marg, New Delhi in any manner.

6. It is clear that Suit No.145/2012 and 112/2012 are essentially a dispute between the two associations, namely, Mercantile House Flat Owners Association and Association of Apartment Owners of Mercantile House. The third suit in which the petitioner is a party is presently not a dispute between the two associations.

7. It is clear that the petitioner is not a party in suit No.112/2012 or 145/2012. As to why he seeks consolidation of the three suits cannot be ascertained. In my opinion, the controversy in the three suits as is apparent from the complaints is entirely different. There are no reasons to interfere in the order passed by the trial court. There is no material illegality in the said order. The present petition is accordingly dismissed. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

OCTOBER 20, 2016

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