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

+ C.R.P. 120/2016

ANKUR MUTREJA Petitioner
Through Petitioner-in-person.

versus

GNCTD & ORS Respondents
Through Ms.Prabhasahay Kaur, Advocate for
R-1 & 6.
Mr. G.D.Mishra, Standing Counsel for R-4/East
Delhi Municipal Corporation.
Mr. Dhanesh Relan and Ms.Isha Garg, Advocates
for DDA/R-5.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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10.08.2016

CM Nos. 28975/2016, 28977/2016 & 28978/2016 (exemption)

Exemption is allowed subject to all just exceptions.

**C.R.P. 120/2016 and CM No. 28974/2016(for summoning of TCR) 7
28976/2016 (delay)**

1. By the present petition, the petitioner seeks to impugn the order dated 30.04.2014 passed by the Additional District Judge/Appellate Court. The petitioner has filed the present suit for seeking the relief of specific performance and mandatory injunction and in the alternative, for declaration and mandatory injunction against the respondents. In essence the case of the petitioner is that the petitioner seeks ad interim injunction whereby directing

the respondents to break open the door of four feet width in the northern wall adjacent to eastern boundary wall of property bearing No. 156, Gagan Viharn Extn., Delhi-110051 and further allowing the petitioner to lay service lines in the portion of the disputed property adjacent to the eastern boundary wall. It is the contention of the petitioner that he is the owner and in possession of Unit I, Ground Floor of the said property. Further it is stated that there is a vacant area between the property 156, Gagan Vihar Ext. and Gagan Vihar Community Centre which is a side road. It is further claimed that respondent No.2 in agreement with the owner of this property temporarily constructed a labour accommodation on the said area. The petitioner relies upon a communication dated 05.07.2007 received from the office of PWD to contend that it was promised by respondent No.1 that the said accommodation made by respondent No.2 shall be removed after completion of work, at best by 31.08.2007.

2. The trial court by its detailed order dated 06.10.2012 noted the following things:-

- (i) Ad interim mandatory injunction can be granted only in exceptional circumstances and the present case is prima facie barred by limitation.
- (ii) Documents filed by respondent No.3 shows that the property belongs to the mother of the petitioner. In these documents the property on the East side of property No. 156, Gagan Vihar Ext. is the property of others, in the North side there is a road and in the South side, there is a Nala and road and on the West side, there is a property bearing No.155,156, Gagan Vihar Extn. Hence, the relief the plaintiff is claiming from the court relates to a property which prima facie

belongs to some other party.

(iii) Thirdly, the petitioner seeks the same relief under the present application as sought in the suit.

(iv) In the entire pleadings, it is not clear whether the area in question/the subject matter of dispute which is a side road has been constructed by PWD/MCD/DDA.

(v) Pleadings drafted by the petitioner are prima facie evasive and extremely hard to understand.

Hence, the trial court dismissed the application under Order 39 Rules 1 & 2 CPC. The appellate court has confirmed the order of the trial court.

3. The petitioner who appears in person states that he seeks opening a four feet door on the wall existing at the north end of the vacant land.

4. I have seen the plaint in the present case. I agree with the observations of the trial court that the plaint is extremely confusing, verbose and the simple relief of seeking mandatory injunction to remove some unauthorised construction on the side road has been converted into a cauldron of confused facts. The plaint narrates paras 1 to 17 as common facts, then following paras under the heading “alternate facts 1 to alternate fact 6” is stated in sequence, then followed by grounds and alternate grounds; the plaint finally ends with nine prayers each having a heading “or in alternate”.

5. I may also note that the trial court has passed its order on 06.10.2012. The appellate court whose order is sought to be impugned has passed its order on 30.04.2014. After passage of such a long time, the petitioner has now approached this court. This long delay itself would defeat the right of the petitioner for interim injunction.

6. In my opinion, there are no reasons made out for this court to modify

the impugned order.

7. The present petition is dismissed.

JAYANT NATH, J

AUGUST 10, 2016

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