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

+ CM(M) 1046/2014

SHREE SHIV NATH YOG ASHRAM (REGD)

THR ITS AUTHORISED SIGNATORY

SH DINESH TANWAR

..... Petitioner

Through Mr.Rajiv Kumar Sharma &
Mr.Harindra Singh, Advocates

versus

SUDESH MANCHANDA & ORS

..... Respondents

Through Mr.Ashish Chaudhary, Adv.for R-1
Ms.Renu Gupta, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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03.08.2016

1. By the present petition, the petitioner seeks to impugn the order dated 02.08.2014 passed by the learned ADJ (West), Tis Hazari Courts, Delhi in MCA No.07/2014.
2. The petitioner filed a suit for permanent injunction to restrain defendant No.1/respondent No.1 from raising unauthorised and illegal construction in the tenanted premises situated on the first floor, i.e. above Goshala, forming part of Khasra No.1509, Bandar Wali Khui, Ramesh Nagar, New Delhi and also for a mandatory injunction directing defendant No.2/respondent No.2 to demolish the unauthorised and illegal construction having raised by respondent No.1.
3. An application for *ex-parte* injunction was also filed to restrain defendant No.1/respondent No.1 from raising any illegal and unauthorised

construction in the tenanted premises.

4. The trial court vide its order dated 17.02.2014 allowed the injunction application and restrained respondent No.1/defendant No.1 from raising any unauthorised and illegal construction in the suit property. Respondent No.1/defendant No.1 filed an appeal before the appellate court. The appellate court vide its order dated 02.08.2016 noted that as per the status report filed by respondent No.2/MCD, respondent No.1 has already raised unauthorised and illegal construction on the second floor of the suit property. Hence, it is stated that the application was rendered infructuous on the date of submission of the status report by respondent No.2/MCD. The appellate court also noted that an application under Order XXXIX Rule 2-A CPC had already been filed by the petitioner on 14.02.2014 whereas the injunction order was passed on 17.02.2014.

5. This court on 20.02.2015 directed respondent No.2/MCD to place on record the status report of the area occupied by the Goshala and also clarify which portion of Khasara No.1509 unauthorised construction was raised. The concerned engineer of respondent No.2/MCD has filed status report stating that during the inspection, there is approx. 100 sq.yds. area seems to be used for Gaushala. In the status report, it was stated that property, bearing No.J-79, Bandar Wali Khui was booked for unauthorised construction.

6. The learned counsel for the petitioner urged the necessity for the injunction order.

7. The learned counsel for respondent No.1 submits that the petitioner has no case. However, he submits that without prejudice so far as the property of which the petitioner is seeking injunction is concerned, no construction is going on the said property and whatever is constructed is in

accordance with law. He further clarifies that during the pendency of the suit no further construction will be raised without any prior permission of the trial court.

8. Keeping in view the submissions made by the learned counsel for respondent No.1, the present petition is disposed of. Respondent No.1 will not carry out any further constructions without prior permission of the trial court during the pendency of the suit.

9. This order is passed without prejudice to the rights and contentions of the parties. Petition is disposed of.

JAYANT NATH, J.

AUGUST 03, 2016/v