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

+ CM(M) 638/2017

NEERAJ KANT SINGH

..... Petitioner

Through: Mr.Sanjeev Panda and
Mr.Sumit Shukla, Advocates
along with petitioner in person.

Versus

NORTH DELHI MUNICIPAL
CORPORATION & ORS.

..... Respondents

Through: Mr.Puneet S.Dhir, Advocate
for Respondent No.1.
Ms.Shobhana Takiar, Advocate
for respondent No.2/DDA.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
30.05.2017

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CM No.21306/2017

1. Exemption allowed subject to all just exceptions.
2. Application is disposed of.

CM(M) 638/2017

1. Petitioner has invoked the extraordinary jurisdiction of this Court under Article 227 of the Constitution of India impugning the order dated 05.05.2017, whereby the learned Trial Court while observing that the defendant No.2 is neither necessary nor proper party to decide the present suit, has ordered for deleting the name of defendant No.2/DDA from the array of parties.

2. Ms.Shobhana Takiar, learned counsel for the DDA/respondent No.2

CM(M) 638/2017

Page 1 of 3

submits that after the construction of 'B' Block, DDA Market, Prashant Vihar, the management has been handed over to North Delhi Municipal Corporation and DDA is neither necessary nor proper party in this case.

3. Vide impugned order, the learned Trial Court has observed that defendant No.2/DDA is neither necessary nor proper party to decide the present suit. Therefore, the defendant No.2 is deleted from array of parties. The impugned order reads as under:-

"I am of the view that defendant No.2 is neither necessary nor proper party to decide the present suit. Therefore, defendant No.2 is deleted from the array of parties."

4. In the plaint, the averments have been made against defendant Nos.1 & 2 in paras 2 and 3 which read as under:-

"2. That the defendant No.1 is the authority who looks after the constructions activity (unauthorized and authorized) done in its area and also passed the maps of the buildings and also provide the other amenities to the public at large. The defendant No.1 is also to take actions against the persons who are constructing the building in contravention of the law laid down in the MCD Act.

3. That the defendant No.2 had constructed the B-Block, DDA Market and allotted it to several persons for running their business."

5. A Civil Suit No.510/2017 has been filed by the petitioner/plaintiff seeking permanent and mandatory injunction against respondent Nos.3 to 9 for the alleged illegal/unauthorized construction by them on the Government land in front of their respective shops, not to build tin sheds by encroaching on the Government land. Along with Civil Suit, an application under Section 91 of CPC was also filed which has also been allowed by the learned Trial Court on 05.05.2017 by the same order impugned herein.

6. The factum of DDA having constructed 'B' Block, DDA Market, Prashant Vihar is not a disputed fact. It is also not disputed that the management has been handed over to North Delhi Municipal Corporation. The grievance of the petitioner is only against respondent Nos.3 to 9 and for that purpose DDA is neither necessary nor property party.

7. The impugned order does not suffer from any illegality, infirmity or perversity so as to warrant interference by this Court in exercise of its extraordinary jurisdiction under Article 227 of Constitution of India.

8. The petition is dismissed.

PRATIBHA RANI, J.

MAY 30, 2017

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