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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 160/2017 & CM No. 5342/2017**

MAYUR BAGH COOPERATIVE G/H SOCIETY LTD..... Petitioner

Through: Ms. Pooja for Mr. Mukesh M. Goel,
Advocate.

versus

ABHISHEK GOEL & ORS

..... Respondents

Through: Mr. Rishi Pal Singh, Advocate for
R-1 and 2.
Mr. Rahul Dubey with Ms. Shahana
Farah, Advocates for R-3.
Ms. Namrata Mukim, Advocate for
R-5.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **16.03.2018**

1. The petitioner is the plaintiff of the suit (CS no.72/16) whereby it seeks injunction – prohibitory and mandatory – qua alleged unauthorised construction carried out by first and second respondents in flat no.21, Balwinder Apartment, Mayur Bagh Cooperative Group Housing Society Limited, A-6, Paschim Vihar, New Delhi-110063. The civil judge had declined to grant any interim direction by her order dated 10.06.2016 on the application under Order XXXIX Rules 1 and 2 CPC. The petitioner/plaintiff remained unsuccessful before the first appellate court as its appeal (MCA no.341/16) was dismissed by order dated 22.11.2016. The said orders are under challenge by the petition at hand.

2. By order dated 10.02.2017, respondents were restrained from carrying out any additional construction in the flat. The said order has continued to operate till date. With the consent of both sides, the said order is made absolute for the pendency of the civil suit before the trial court.
3. It is necessary to regulate due compliance by the first and second respondents. Since it is they who carried out certain works in the said flat, it is their obligation to bring on record the present state of construction in the subject flat. Thus, with the consent, it is directed that both the parties shall appear before the civil judge tomorrow, i.e. 17th March, 2018. The civil judge will appoint a local commissioner at the cost of first and second respondents for inspection of the subject premises to bring on record the existing state of construction.
4. It is a matter of shock and concern to this Court that both the agencies, i.e. Delhi Development Authority and North Delhi Municipal Corporation seem to be washing their hands off the building activity saying the property in question is beyond their jurisdiction. The civil judge will carry out necessary inquiry into this aspect and hold the appropriate agency accountable.
5. The petition and the application filed therewith are disposed of in above terms.
6. Copy of the order be given *dasti* to both sides for due compliance, under the signatures of Court Master.

R.K.GAUBA, J

MARCH 16, 2018//srb