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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 131/2017, C.M.No. 10859/2017 and 10860/2017**
RAJENDER SHARMA

..... Appellant
Through: Mr. Ajay Chaudhary, Mr. Viresh
Chaudhary, Mr. Parambir Singh and Mr. Anurag
Tomar, Advs.

Versus

EAST DELHI MUNICIPAL CORPORATION & ANR

..... Respondent
Through: Mr. G.D. Mishra, Adv. Standing
Counsel for East Delhi Municipal Corporation
(EDMC)

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **08.03.2018**

This appeal impugns an order dated 03.11.2016 declining the appellant/plaintiff the interim relief from dispossession from the suit property. His application under Order XXXIX Rules 1 & 2 CPC was dismissed.

It is the appellant's case that one Ram Chander was allotted by the MCD, plot nos. 507 to 514, admeasuring 800 sq. mtrs. at Gharoli Dairy Farm, B-Block, Delhi-96, which the appellant purchased from the said Ram Chander. He relies upon a document dated 15.01.1977 (Annexure A-3) purportedly issued by the MCD. However, at the first look, it at best can be termed a letter of allotment which required certain amounts to be deposited by Ram Chander. There is no proof

of the requisite amount having been deposited or possession of the suit property being handed over to Ram Chander, from whom the appellant claim to have legitimate possession of the suit property. Indeed the impugned order records this as under:

“According to documents placed on record, the plaintiff is claiming ownership of the suit property by way of GPA, agreement to sell, receipt etc. Two documents have also been placed on record i.e. one receipt issued by MCD, according to which, plots No.B-507 to 514 was allotted to Ram Chander, however, according to this receipt, certain amount was to be deposited, proof of which has not been placed on record. Similarly, in the agreement to sell also, the seller has simply stated that he is actual owner and in possession of plots No.B- 507 to 514. It is nowhere mentioned that plot measuring 50 sq. meters each was allotted to him by the MCD against which demanded payment was deposited and possession was taken over. There is no possession slip placed on record, vide which, sellers had obtained the possession of suit plots of 50 sq. meters each. So, prima facie it seems that sellers were not the owners of the plots nor could be unless they had deposited the amount "Required and had obtained the possession from the MCD, Shahdara Zone in this respect. Similarly, the receipt of one Ram Chander in respect of plots No.B-507 to 514 is placed on record. So, these documents of ownership cannot be relied upon. Considering the vacation notice issued by the by. Director (Horticulture), Shahdara South Zone, EDMC to the plaintiff in respect of the suit property to be encroached upon by him, there is no prima facie case in favour of the plaintiff nor any balance of convenience lies in his favour and plaintiff will not suffer any irreparable loss, which cannot be compensated in terms of money, if

injunction is not granted. Accordingly, application U/o 39 rule 1&2 CPC is dismissed, being meritless. Application stands disposed off.”

On being asked whether the appellant has any document to show possession having been given to Ram Chander by the MCD, the answer is in the negative.

The learned counsel for the Municipal Corporation states that encroachments from the aforesaid property have been removed and the area has been converted into a public park: boundary walls have been raised and the park so maintained is a spatial, visual and necessary environmental relief for the people of the area. He further submits that as per the Layout Plan of the area, the suit property forms part of a L-shape Park and the Municipal Corporation has gone about its duty of developing the land accordingly.

In view of the above, the Court finds no reason to interfere with the impugned order. The appeal is dismissed.

Nothing stated in this order shall be deemed to be an adjudication on the merits of the matter.

NAJMI WAZIRI, J

MARCH 08, 2018/acm