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

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Judgment delivered on: 10.08.2018

+ CRL.M.C. 3962/2011

ANKUR MUTREJA

..... Petitioner

versus

AECHBS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Petitioner in person.

For the Respondents: Mr. S.N. Singhal, Secretary of the Society

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

10.08.2018

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 09.06.2011 whereby the application of the petitioner seeking striking out of the alleged irrelevant allegations in the reply filed by the respondent has been rejected.

2. The petitioner had as made a complaint under Section 473 of the DMC Act, *inter alia*, contending that the respondent society which was managing a Community Hall was using the back portion of the

Community Hall for the purposes of catering/cooking, etc. which is causing nuisance.

3. In the reply filed by the respondent, the allegations made by the petitioner were denied.

4. The petitioner was aggrieved by certain allegations made by the respondent society in its reply. The petitioner is aggrieved by paragraphs 1, 2 & 9. The relevant portion of paragraphs 1, 2 & 9 which are objected by the petitioner reads as under:-

“Preliminary Objections:-

1. That the application is misconceived, malafide and is not maintainable in law. The complainant is neither the owner nor the lawful occupant of the property bearing No. 156, Gagan Vihar Extn., Delhi. The plaintiff has been bent upon to somehow harass the respondent by moving false and frivolous complaint in the departments as well as before the courts. In fact, the complainant and his parents are unauthorized occupants in property bearing No. 156, Gagan Vihar Extn., Delhi and have encroached upon a portion of about 40 Sq. Yds. of the property belonging to DDA/PWD, which has been meant for the purposes of Footpath. The complainant after encroaching upon a portion of about 40 Sq. Yds. has raised construction over there. Now in order to grab the said land belonging to the D. D.A./Govt. of India, the complainant has been filing one after the other complaint against the respondent, which is a registered society and is having a community center, adjacent to property No. 15 6, Gagan Vihar Extn.,

Delhi.

2. That earlier Smt. Mushpa Mutreja and Sh. B.D. Mutreja- were litigating with the defendants and long back both Pushpa Mutreja and Sh. B.D. Mutreja have made a statement before the court of Ms. Kamini Lau, Civil Judge, Delhi, whereby they have stated and made an undertaking that they will close the doors and windows towards the side of the community center, but till date they have failed to close the same. Since they have made an undertaking before the competent court of law, now- they put forward their son the complainant herein to litigate with the defendant. Earlier, the parents of the complainant, who are still alive, are alleging that they are the owners of property No. 156, Gagan .Vihar Extn., Delhi and the complainant is alleging that he is the owner, of the said property. The complainant may be directed to file the copy of the sale deed or any other document showing his ownership over the property bearing -No. 156, Gagan Vi.har Extn., Delhi- and further be directed to disclose the measurement of the plot. The same is otherwise necessary to restrain the complainant from encroaching' upon further land in the area. The complainant is not entitled to any relief.

Reply on Merits

9. *****“The defendant is filing the photograph of the illegal and unauthorized construction as well as the encroachment made by the complainant in property No. 156, Gagan Vihar Extn., Delhi. The Municipal Corporation of Delhi /DDA/Govt. of NCT may be directed to remove the

*unauthorized construction as well as the unauthorized encroachment in the said property. *****”*

5. Petitioner filed the subject application contending that the Respondent in its reply has made irrelevant and baseless allegations and the same should be struck off the record and respondent should not be allowed to lead any evidence with respect to the same for another trial on relevant issues.

6. The Trial Court by the impugned order dated 09.06.2011 has held that *it is basic principle of the evidence that irrelevant and baseless allegations are not considered. Since complainant has also filed his rejoinder after the reply of the respondent in which he had the occasion to answer allegations of the respondent, and further the court is a court of law, which is duty bound, not to rely on irrelevant and baseless allegations. It is the basic function of the court to allow parties to lead evidence only with respect to the facts which are relevant for the case as per Indian Evidence Act. But a court is not supposed to give it in writing as promise it to the parties in each and every case that on future date whenever the evidence would be lead it will not allow irrelevant questions or evidence.*

7. I am of the view that there is no error in the impugned order and the Court has rightly held that petitioner has already filed his rejoinder controverting the allegations made by the respondents in its reply. Further, the Court is not bound to rely on every irrelevant and baseless

allegation. The trial court is empowered to ignore irrelevant pleas and deal with only the relevant pleas. Every allegation made in the pleadings need not engage the attention of the Court; Court is only bound to deal with the averments that are relevant for consideration or determination of the issues at hand.

8. The petitioner at the stage of pleadings cannot seek a direction from the court to prevent the respondent from leading its evidence on issues that the petitioner considers are irrelevant. It is for the trial court to consider at the appropriate stage as to what is relevant and germane for the main issue and what is not.

9. I am of the view that the application of the petitioner is completely misconceived and no direction can be issued to strike off any allegation made in the reply.

10. In view of the above, I find no merit in the petition. The petition is accordingly dismissed.

SANJEEV SACHDEVA, J

AUGUST 10, 2018
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