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

+ C.R.P. 2/2018 and CM APPL. 275-277/2018

PRATIMA DEVI

..... Petitioner

Through: Ms. Phool Kumari, Advocate with
petitioner in person.

versus

RAM AVTAR SHARMA

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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05.01.2018

Petitioner is the defendant in the civil suit (Suit No.9146/2016) instituted by the respondent (plaintiff). She is aggrieved with the order dated 06.09.2017 of the learned trial Judge, whereby her application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC) was dismissed. She reiterates through the petition at hand that the plaint does not disclose any cause of action.

Having heard her and having gone through the copy of the plaint of the suit in question, this Court finds the petition to be wholly frivolous and misconceived. The suit for damages filed by the opposite party against the petitioner does set out the requisite background facts giving rise to the cause of action. It may be mentioned here that both the parties claim to be the owners and in possession of properties built on adjoining plots of land.

It is the case of the plaintiff in the suit that the petitioner (defendant) had carried out certain illegal construction in her property including by creating a basement which led to damage being caused to his property. It is compensation for the said damage to the property which is the core claim in the suit. It cannot be said by any stretch of reasoning that the plaint does not disclose any cause of action.

The petition along with accompanying applications is dismissed with costs of Rs.10,000/- (Ten Thousand Only) to be deposited with Delhi High Court Legal Services Committee within a week.

R.K.GAUBA, J.

JANUARY 05, 2018

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