

\$~1

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

% *Date of Order: 14.01.2019*

+ **C.R.P. 259/2018**

BABITA

..... Petitioner

Through: Mr. Medanshu Tripathi & Mr. Satish
Rana, Advocates.

Versus

OMWATI & ANR

..... Respondents

Through: Mr. Nikhil Bahri, Advocate for R-1.
Ms. Prabjot Kaur, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **14.01.2019**

C.M. No.51002/2018 (for exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

C.R.P. No.259/2018 & C.M. No.51003/2018 (for stay)

1. The impugned order dated 01.10.2018 passed by the Court of learned Civil Judge-I, New Delhi, dismissing the application of the Petitioner under Order VII Rule 11 CPC is the subject-matter of challenge in this Revision Petition.

2. The Ld. counsel for the Petitioner contends that prior to the filing of the suit for Permanent and Mandatory Injunction by the Respondent No. 1/plaintiff against the petitioner and Respondent No. 2, no pre-requisite notice u/s 80 CPC was given to Respondent No. 2 and as such, plaint should have been rejected by the learned Civil Judge.

3. During the course of the arguments, this court brought to the notice of Ld. counsel for the petitioner the sub-Section (3) of Section 478 of The Delhi Municipal Corporation Act, 1957, which provides that the requisite notice as mentioned in sub section (1) need not be given to the Corporation in suits where the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit.

4. In light of the said provision, learned counsel for the petitioner seeks permission to withdraw the revision petition.

5. Accordingly, the revision petition is dismissed as withdrawn. The application, being C.M. No.51003/2018, stands disposed of.

(VINOD GOEL)
JUDGE

JANUARY 14, 2019

"sandeep"