

\$~22

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

%

Judgment delivered on: 11.03.2020

+ CM(M) 193/2019

R D VERMA

..... Petitioner

versus

NAVEEN SAXENA & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Tajinder Singh and Mr. Anurag Chauhan, Advocates

For the Respondents: Mr. Sameer Chandra, Advocate for Respondent No. 1
Mr. Kunal Vajani, Standing Counsel for SDMC with Mr.
Varun Ahuja, Advocates for Respondent No. 2

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 12.01.2018, whereby while dismissing the application under Order 1 Rule 10 CPC filed by the respondent No. 1, he was still permitted to file documents and argue orally at the final arguments' stage.

2. The wife of the petitioner claims to be an owner of Plot No. C-4/30, Goswara No. 26, Vashisth Park, New Delhi. It is contended that Petitioner, while he was allegedly making repair, renovation in the said property received a notice from MCD seeking to book the alleged raising of illegal unauthorised construction.

3. It is contended by the learned counsel for the petitioner that impugning the demolition action, petitioner has filed the subject appeal before the

Appellate Tribunal – MCD in which an application was filed by the respondent No. 1 seeking intervention which was dismissed by the impugned order and no appeal had been filed by the respondent No. 1 against that order.

4. Learned counsel for the petitioner further contends that since the application of respondent No. 1 for becoming a party has already been dismissed, respondent No. 1 cannot be now permitted to intervene in the appeal filed by the petitioner impugning the action taken by the respondent corporation.

5. It is contended by the learned counsel for the respondent No. 1 that the action was taken by the corporation respondent No. 1 made a complaint to the MCD and till the time, he made a complaint, no action was being taken by the MCD and it is only on account of his complaint that MCD sprung into action and started taking action against the illegal unauthorised construction.

6. Learned counsel appearing for respondent/ MCD submits that since the MCD has become aware of the illegal unauthorised construction, appropriate action of booking the property and passing of order of demolition of the unauthorised construction has already been passed. He submits that MCD would suitably defend the appeal before the Appellate Tribunal and would take appropriate action in accordance with law.

7. By the impugned order on the one hand, the Appellate Tribunal has dismissed the application of the Respondent N. 1 under Order 1 Rule 10 CPC for becoming a party and on the other hand has permitted respondent No. 1 to intervene in the proceedings and to file the documents and make oral submissions, which is clearly contradictory.

8. In case, the Tribunal had felt that respondent No. 1 was a necessary or proper party, the application should not have been dismissed. Admittedly, no

appeal has been filed respondent No. 1, challenging the dismissal of his application under Order 1 Rule 10 CPC.

9. Since, respondent No. 1's application under Order 1 Rule 10 CPC has been dismissed and no appeal has been filed by respondent No. 1, he becomes a stranger to the *lis* and cannot be permitted to now intervene, file documents or orally address before the Court.

10. However, respondent No. 1 would not be precluded from making any representation to the MCD, as he may deem fit and it would be open to the MCD to take the same into account and to take appropriate action, if so warranted, in accordance with law.

11. In view of the above, the petition is allowed. Impugned order, in so far as it permits respondent No. 1 to file documents and make submissions is set aside.

12. Interim order dated 05.02.2019 is vacated. The Tribunal shall expeditiously consider and dispose of the appeal filed by the petitioner in accordance with law.

13. Order *dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MARCH 11, 2020

PB