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

+ LPA 242/2021 & C.M.APPLs. 25966/2021 (*interim stay*),
25967/2021 (*Addl. docs.*)

DR. MS. ALKA AGARWAL & ANR.

..... Appellants

Through: Mr. Anand Grover, Senior Advocate
with Mr. Saurabh Chauhan, Mr. Varun Jain,
Advocates.

Versus

SHRI NARINDER SINGH BHANDARI

..... Respondent

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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13.08.2021

Proceedings have been conducted through video conferencing.

C.M.APPL. 25968/2021 (exemptions)

Allowed, subject to all just exceptions.

The application is disposed of.

LPA 242/2021

1. Feeling aggrieved and dissatisfied by order dated 05.08.2021 passed by the learned Single Judge in Cont. Cas (C) 509/2021, this appeal has been preferred by the original Respondent.

2. We have heard the learned Senior Counsel for the Appellant (original Respondent). It appears that earlier an application was preferred being C.M.(M) 366/2021 for repairing work of water motor, outdoor AC Unit, Dish Antenna, water proofing etc. In the said application, the learned Single Judge passed an order dated 06.05.2021 (Annexure A/1) whereby the repair

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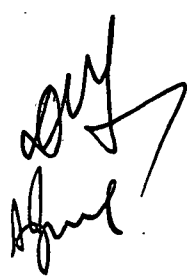
work was permitted with certain conditions. For ready reference, paragraphs 2 to 4 of the order dated 06.05.2021 is reproduced hereinbelow:-

- "2. Though, the learned senior counsel for the respondent nos. 1 and 2, who appears on advance notice objects to the maintainability of the application of the petitioner before the learned Trial Court itself, however, without prejudice to the rights and contentions of the said respondents, he submits that the said respondents shall get the water motor, outdoor AC unit and dish antenna inspected and repaired, if so required, at the expense of the petitioner, on their own. This shall be done within a period of three days from today. In case some major work is required, of course this time shall stand extended.*
- 3. In view of the above statement and binding the respondent no. 1 and 2 thereto, nothing further survives in this petition. The same is disposed of in terms thereof.*
- 4. It is made clear that the above order is passed without prejudice to the rights and contentions of the parties in the Suit pending before the learned Trial Court."*

3. It appears from the facts of the case that despite the above said repairs being carried out, certain water seepage still existed and, therefore, there is need of repairing work to be done, especially regarding leakage of water etc. Taking note of this fact, the impugned order dated 05.08.2021 (Annexure-A) was passed by the learned Single Judge in Cont. Cas (C) No.509/2021 allowing the repair work with certain conditions.

4. It sometimes happens that the repairing work is not up to the mark and, therefore, further repairing is required. No new directions have been given by the learned Single Judge vide the impugned order.

5. It also appears from the facts of the case that there is civil dispute between the parties to this litigation. The appellant has already instituted Civil Suit No.1061/2019 for roof rights of the property in question. The said



Civil Suit is pending before the Court of learned Additional District Judge, Saket Courts, New Delhi.

6. The learned Single Judge taking note of the pending Civil Suit has made it clear in the impugned order that the repairing work will be without prejudice to the rights and contentions of the parties to the litigation and will not tantamount to any admission of fact or otherwise on the part of the Appellant. The access of the Respondent herein or the defendant in the suit, on the terrace of the property in question is only for the purpose of the repair work. It has also been made clear in the impugned order that the access to the terrace and repairs will be done only with prior intimation by the respondent to the appellant.

7. In view of the aforesaid, we see no reasons to entertain this LPA. The same is accordingly, dismissed along with the pending applications.


CHIEF JUSTICE


AMIT BANSAL J

AUGUST 13, 2021

'anb'