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

% Judgment delivered on: 07.03.2023

+ CM(M) 314/2023, CM APPL. 9604/2023 & CM APPL. 9605/2023

ANIL ANAND & ANR

..... Petitioners

versus

TRIPTA CHAWLA & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Ayush Gupta and Ms. Perna Chaturvedi, Advocates.

For the Respondents : Mr. Prakash Gautam, Advocate for R-1 to R-4.
Mr. Manish Chawla and Mr. Tarun Chawla, Advocates for R-2 and R-4.
Mr. Kumar Rajesh Singh, Standing Counsel for R-5/ MCD.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. The petitioner challenges the order dated 17.10.2022 in C.S. No. 10758/16 titled as “Tripta Chawla vs. Anil Anand” whereby the application filed on behalf of the petitioner/ defendant Nos. 1 and 4 under Order VI Rule 17 of the CPC, 1908, seeking placing on record

subsequent events was dismissed.

2. Mr. Ayush Gupta, learned counsel appearing for the petitioner submits that the respondents/ plaintiffs, during the pendency of the suit, had filed a writ petition on the basis of the same cause of action and therefore, it was relevant to place the said facts on record by way of an amendment to the written statement.

3. Learned counsel submits that the dismissal of the application on the basis that the said incorporation of facts is not necessary inasmuch as that the same would be an admitted fact, which could not be disputed by the respondents/plaintiffs.

4. Learned counsel submits that the absence of pleadings to that effect in the written statement may curtail the rights of the petitioner/ defendant Nos. 1 and 4 before the learned Trial Court, to exercise the rights available under the Code of Civil Procedure, 1908. To that extent learned counsel submits that the impugned order has prejudiced the case of the petitioner and the defense raised by the petitioner/ defendant.

5. Per contra, Mr. Prakash Gautam, learned counsel appearing for the respondent admits that indeed there is a writ petition bearing W.P.(C) 14345/2022 titled as “Manish Chawla vs. MCD & Anr.” filed and is pending adjudication before this Court.

6. Learned counsel submits that in the writ so filed, the direction has been sought against the MCD to implement the law as it is, seeking imposition of penalty and other reliefs in accordance with the rules and regulations of the MCD.

7. Whereas, in the present suit, learned counsel submits that the relief sought is of permanent injunction against the defendant to not use

the basement except for the permissible use and other ancillary reliefs have also been sought.

8. In view of the aforesaid, it would suffice if the petitioner/defendant No.1 and 4 are allowed to place on record the certified copies of the entire writ petition alongwith the proceedings and prior to the recording of the evidence of the petitioner.

9. Learned counsel appearing for the respondent/plaintiff states, on instructions, that they will not have any objection, if such certified copies are filed on record of the learned Trial Court.

10. In view of the aforesaid, the impugned order is modified to the extent as directed above.

11. The petition stands disposed of with no order as to costs.

12. It is made clear that this Court has not made any observation on the merits of the case.

TUSHAR RAO GEDELA, J.

MARCH 07, 2023/nd