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

Date of decision: 27.09.2023

+ **CM(M) 1604/2023 & CM APPLs. 50438/2023, 50439/2023**

TRIPTA CHAWLA & ORS.

..... Petitioner

Through: Mr. Prakash Gautam, Advocate
(through VC)

versus

**MUNICIPAL CORPORATION OF DELHI
& ORS.**

..... Respondent

Through: Mr. Chetanya Singh and Mr. Chetan
Sharma, Advocates for R-1/MCD

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 50439/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1604/2023 & CM APPL. 50438/2023

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 02.09.2023 passed by (Principal District & Session Judge West District, Tis Hazari Court, Delhi ('Appellate Court') allowing the impleadment application of Respondent Nos. 2 and 3 herein.

1.1. The Petitioner Nos. 1-3 herein are respondent nos.1-3 before the Appellate Court. The Respondent Nos. 2 and 3 were the applicant before the Appellate Court.



2. The learned counsel for the Petitioners states that the Appellate Court did not take into account the fact that the Petitioners herein have submitted an application for sanction of building plan for third floor which excludes the servant room under the occupation of the Respondent Nos. 2 and 3. He states that therefore, the Petitioners herein are not seeking to affect in any manner the rights of Respondent Nos. 2 and 3.

2.1 He states that he has apprehensions that the observations made by the Appellate Court in impugned order 02.09.2023 should not influence the final outcome of the appeal as admittedly the title of the parties is not a subject matter in these proceedings. He further states that Respondent Nos. 2 and 3 have also filed an independent appeal against the order dated 30.05.2017 passed by the Appellate Tribunal Municipal Corporation Delhi ('ATMCD').

3. This Court has perused the impugned order dated 02.09.2023 and heard the counsel for the parties.

4. The learned counsel for the Respondent No. 1 has entered appearance. None appears for the remaining Respondents.

5. In view of the observations made by the Appellate Court in the impugned order, this Court is of the opinion that the impugned order does not require any interference except for clarifying that the Appellate Court at the time of the final disposal will duly consider the effect of the Petitioner's building plan submitted for third floor, which excludes the servant room under the occupation of Respondent Nos. 2 and 3. It is needless to state that the final determination in the appeal will be uninfluenced by any observation made by the Appellate Court in the impugned order dated 02.09.2023; as all observations in the impugned order are only for the limited purpose of adjudicating upon the application of impleadment of Respondent Nos. 2 and 3. The said impugned order is not an expression on the merits of the claims



of Respondent Nos. 2 and 3.

6. With the aforesaid directions, the present petition is disposed of.

7. Pending application stands disposed of.

MANMEET PRITAM SINGH ARORA, J
SEPTEMBER 27, 2023/msh/sk
Click here to check corrigendum, if any