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

+ **FAO 193/2024, CM APPL. 35119/2024, CM APPL. 35120/2024**

SUMIT GREWAL & ANR.

..... Appellants

Through: Mr. Avadh Kaushik, Ms. Saloni Mahajan, Mr. Prateek Goyal, Mr. Rishabh Kumar, Advs.

versus

ATUL GARG AND ORS

..... Respondents

Through: Mr. Sunil Kumar, Adv. for R-1 to 4 (VC).

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

03.06.2024

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1. The present appeal has been filed on behalf of the appellants under Section 104 read with Order XLIII Rule 1 and Section 151 CPC challenging the order dated 27.05.2024 passed by learned Additional District Judge.
2. The brief facts of the matter are that, on 07.07.2022, the Delhi Development Authority (DDA) updated its policy for lift installation in Cooperative Group Housing Societies (CGHS) and DDA-built flats, which was adopted by Delhi's three municipal corporations. On 25.09.2023, the Municipal Corporation of Delhi (MCD) issued the necessary permissions for lift installation to the applicants, including the appellants and Nosheel Kapoor. After obtaining the permissions, the applicants approached Tata Power Delhi Distribution Limited



(TPDDL) to shift an underground power cable, submitting an NOC from their society's president. On 21.12.2023, respondents filed a civil suit CS No. 1444/2023 for mandatory and permanent injunction to prevent lift construction alleged to have been carried out without proper sanctions. The trial court declined to grant any interim relief on 23.12.2023 and again on 18.01.2024. The Defendants/appellant filed an application for the rejection of plaint. The suit was rejected by the Ld. Trial Court vide the detailed order dated 01.02.2024. It is pertinent to mention here that during the pendency of this suit MCD filed a status report wherein it was confirmed that permission for installation of lift in this matter was sought by owners of flat Nos. A-19, A-20 & A-24 of the Aman Apartment, Plot No.39, Sector-13, Rohini, Delhi, which was granted by the MCD after following the due process of law and as per the policy of installation of lift vide communication dated 25.09.2023.

3. The appellant is the owner of Flat A-19, Aman Apartment, Plot No.39, Sector-13, Rohini, Delhi.
4. Learned counsel for the appellant submits that this order was challenged by the respondents in Civil Appeal No. 16/2024 titled as ***Atul Garg & Ors. vs. Preet Grewal & Ors.***
5. Learned counsel for the appellant submits that the matter was placed before the learned ADJ on 19.04.2024. The matter was adjourned as the learned Presiding Officer was on leave and was listed for 23.04.2024.
6. On 23.04.2024 notice was issued for 24.05.2024. On 24.05.2024, since the learned Presiding Officer was on leave, the matter was adjourned till 06.07.2024.
7. Learned counsel submits that on the same day an application was



moved by the respondents for early hearing. This application was taken up by the learned ADJ on 27.05.2024 and the following order was passed:

शिवाली बंसल
Ms. SHIVALI BANSAL
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण)
Additional District Judge-03 (North)
कमरा नं. 001, इंदिरा नगर
Anil Garg & Ors
जिला न्यायाधीश, रोहिणी जिला
District Judge, Rohini Zone
Preeti Grewal & Ors.

RCA No. 16/24

27.05.2024

File taken up today on the application of plaintiff for early hearing.

Present: Mr. Punit Jain, Ld. Counsel for the appellant.
Mr. Avadh Kaushik, Ld. Counsel for respondent no. 1 and 2 (through VC) along with Mr. Pankaj Kumar, Mr. Prateek Goyal, Mr. Pawan verma, counsels for respondent no. 1 and 2.
Mr. Vikas Gupta, Ld. Counsel for the respondent no. 4.
Mr. Rajan Nagar, AR on behalf of respondent no. 5.

ORDER

1. Arguments heard on the application of plaintiff for early hearing.
2. The application stands dismissed. However, at request of counsels, the date is changed from 06.07.2024 to 22.07.2024. Earlier date given stands cancelled.
3. *Let status quo be maintained with respect to further construction of the lift till NDOH i.e. 22.07.2024 at 2:00 PM.*
4. *AE and EE from the MCD, Rohini Zone along with complete file is directed to appear in person on the NDOH.*
5. *Copy of the order be given dasti to all the parties.*



TRUE COPY

— SL
Shivali Bansal
DJ-03, Rohini Courts
North District, Delhi
27.05.2024

अतिरिक्त जिला न्यायाधीश-03 (दक्षिण)
Additional District Judge-03 (North)
जिला न्यायाधीश, रोहिणी जिला
District Judge, Rohini Zone



8. Learned counsel for the appellant submits that the learned ADJ of the first Appellate Court without even looking into the record passed the status quo order with respect to the construction of the lift. Learned counsel submits that this order is liable to be set aside as having been passed mechanically without any application of mind.
9. Issue notice.
10. Learned counsel appearing on behalf of respondent Nos. 1 to 4 has accepted the notice.
11. Respondent No.5 appeared in person and has accepted the notice.
12. I consider that the learned ADJ passed the order mechanically on 27.05.2024 granting status quo without disclosing any reason. On that day, learned ADJ was merely considering the application for early hearing and suddenly without giving any reasons passed the status quo order. The reasons in a judicial order are its lifeline. The Status-quo order is an important order and adversely affects the rights of two parties.
13. On the face of it, the order cannot be sustained and has to be set aside.
14. The matter is relegated back to the court of the learned District Judge. Since the vacations are going on and the urgency has been shown by the appellant, the matter be heard and decided by the learned ADJ on 06.07.2024, on the point of stay in accordance with law.
15. In view of the above, the present petition stands disposed of.
16. Copy of order be immediately sent to Principle District and Session Judge/ Vacation Judge, North.
17. Copy of order be also given *dasti* to the parties.



18. Such orders cannot be passed in routine without any basis.

DINESH KUMAR SHARMA, J
(VACATION JUDGE)

JUNE 3, 2024/AR..