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

+ LPA 840/2024 & C.M.No.49399/2024

GREEN AVENUE RESIDENTS ASSOCIATION & ANR.

.....Appellants

Through: Ms.Ashu Arora, Advocate (Through
VC)

versus

GNCT OF DELHI & ORS.

.....Respondents

Through: Mr.Rishikesh Kumar, ASC with
Ms.Sheenu Priya, Mr.Atik Gill,
Mr.Sudhir Kumar Shukla and
Mr.Sudhir, Advocates for GNCTD.
Mr.Sanjeev Sabharwal, standing
counsel with Ms.Shweta Singh,
Advocates for MCD.
Ms.Sapna Chauhan, Advocate for
DDA.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

29.08.2024

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1. Present letters patent appeal has been filed challenging the order dated 22nd July, 2024 passed by the learned Single Judge of this Court in C.M.No.40602/2024 in W.P.(C) 15269/2023, whereby the application filed by the appellants seeking appointment of a Local Commissioner for identification of properties, which are subject matter of the writ petition, was dismissed in view of the order passed by the learned Single Judge on an earlier occasion.

2. Learned counsel for the appellants states that vide order dated 01st December, 2023, the learned Single Judge had directed the MCD and DDA to conduct a joint inspection to identify properties mentioned in Annexure



P3 of the writ petition. She states that inspection could not be carried out on 01st December, 2023 due to opposition from local builders. She further states that joint inspection was finally carried out on 26th December, 2023, when only eight properties could be identified. She states that the petitioners/appellants faced wrath of furious mobs during the inspections.

3. She states that for the convenience of the respondents, the petitioners/appellants provided exact google map coordinates of the subject properties in C.M.No.17827/2024. She however states that MCD in its status report dated 02nd July, 2024 has stated that the department failed to identify the properties.

4. However, this Court is of the view that the letters patent appeal is not maintainable against the interlocutory order disposing of an application seeking appointment of the Local Commissioner. In ***Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda and Ors. (2006) 5 SCC 399***, the Supreme Court has held as under:

“15. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories:

- (i) Orders which finally decide a question or issue in controversy in the main case.*
- (ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.*
- (iii) Orders which finally decide a collateral issue or question which is not the subject-matter of the main case.*
- (iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.*
- (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.*

16. The term "judgment" occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in Section 2(9) CPC and orders enumerated in Order 43 Rule 1 CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, "judgments" for the



purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not " judgments" for the purpose of filing appeals provided under the Letters Patent."

5. This Court is of the opinion that as the impugned order falls in categories (iv) and (v) of para 15 of the ***Midnapore*** (*supra*) judgment, the present appeal is not maintainable.

6. This Court is further of the view that in a writ proceeding, an application for discovery and interrogatory cannot be filed. The petitioner is supposed to do its research before approaching the Court. In any event, as it is the case of the appellants/petitioners that a joint inspection has been carried out 26th December, 2023 and the google map coordinates are available on record, the appointment of a Local Commissioner is unwarranted on facts.

7. Accordingly, the present appeal along with the application is dismissed.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

AUGUST 29, 2024/KA