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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 1st October, 2024***
+ CM(M) 3522/2024 & CM APPL. 57668-57669/2024
UDAI BHAN AND ANRPetitioner

Through: Mr. M S Saini with Ms. Rudrakshi,
Advocates.

versus

RAJ KUMAR @ LALA AND ORSRespondent
Through: Mr. Siddharth Gupta, Advocate for
R-4.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
J U D G M E N T (oral)

1. Petitioner had filed a suit for permanent and mandatory injunction.
2. Along with the suit, they also filed an application under Order XXXIX Rule 1 and 2 of CPC seeking directions to restrain defendants from raising any construction over the suit premises.
3. The suit was resisted and defendant No. 1 claimed that he was the absolute owner of the suit property and that the plaintiff has no *locus standi* file the present suit.
4. The injunction application was dismissed by learned Trial Court on the ground that the plaintiff had failed to place on record any document showing their ownership over the suit property and have failed to show any personal interest. Thus, holding that there was no *prima facie* case and neither the



balance of convenience was in his favour nor there was any irreparable loss going to be caused to the plaintiffs, the application was dismissed.

5. The appeal filed by plaintiff also met with the same fate and this is how the present petition has been filed.

6. It is noticed that when the matter was pending consideration before the learned Trial Court, a status report was also filed by MCD, one of the defendants in the above said suit, and in such status report, it is categorically claimed that the “work stop” notice under Section 344 (2) of DMC Act has already been issued for stopping the construction.

7. During the course of arguments, learned counsel for MCD (respondent No. 4) appears on advance notice and states that demolition notice has also been issued on 25.09.2024.

8. As noticed above, the grievance of the petitioner is with respect to raising of the construction, but in view of the action being contemplated by MCD, it seems that he is getting much more than what he had prayed before the learned Trial Court.

9. Moreover, it is also not in dispute that prior to the filing of present suit for injunction, the said plaintiffs had filed a suit for possession. Such suit for possession was filed way back in the year 2018 and it is not explained as to why when such suit for possession had already been filed, the plaintiffs did not file any such application seeking injunction in said earlier suit.

10. Be that as it may, merely because the plaintiffs are having a Voter Identity Card which reflects them to be the resident of the suit property would



not *ipso facto* mean that they become entitled to seek injunction in the manner in which it has been sought from the learned Trial Court.

11. Finding no reason to interfere with the impugned order, the petition stands dismissed.

(MANOJ JAIN)
JUDGE

OCTOBER 1, 2024/sw