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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 3rd April, 2025**
+ **CM(M) 402/2025**
CHARANJEET SINGH

.....Petitioner

Through: Mr. Mohd. Faisal with Mr. Abdul Qadir, Advocates.

versus

MUNICIPAL CORPORATION DELHI AND ORS

.....Respondent

Through: Mr. Kunal Rawat, Advocate for R-1 and 2.
Ms. Sangeeta Bharti, SC.
Mr. Ripudaman Bhardwaj with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj and Mr. Amit Kumar, Advocates.
Ms. Sweety Singh with Mr. Sudipta Singh Roy, Advocates.

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. He claimed himself to be the owner and in possession of property bearing Khasra No. 273, Khewt No. 406 situated in the Revenue Estate of Village Sakdarpur, Near Shivaji Park, Shahdara, Delhi.
2. When the above said suit was taken up by the learned Trial Court on 11.09.2024, it directed *status quo* to be maintained, till next date of hearing.
3. However, when the matter was taken up for further consideration on



14.10.2024, one advocate representing RWA, Shivaji Park appeared and expressed its inclination to move an application under Order I Rule 10 CPC seeking their impleadment in the above said suit. It also produced one order passed by this Court on 02.09.2014 in RSA No. 120/2014.

4. Learned Trial Court, while also taking on record submission made by such to the effect that the suit property was a public street, directed vacation of interim order.

5. Such order is under challenge.

6. According to learned counsel for plaintiff/petitioner, the Court has unfettered power to vacate the interim order but his grievance is merely limited to the effect that, the plaintiff should have been, at least, heard before passing any such order.

7. It is also submitted that Khasra No. in question is a big Khasra and the portion in occupation of plaintiff is not part of any public street.

8. Be that as it may, fact remains, when asked learned counsel for the petitioner, in all fairness, submitted that along with the abovesaid suit, the plaintiff has also filed an application under Order XXXIX Rule 1 and 2 read with Section 151 CPC and such application is still pending adjudication.

9. According to learned counsel for MCD, a road is to be constructed over the alleged portion which is stated to be in the occupation of plaintiff and according to MCD said portion is rather part of public street and not his private property.

10. Undoubtedly, before vacating the stay, the learned Trial Court should have assigned some reasons and should have also heard the counsel for the plaintiff. It is also quite apparent that the stay seems to have been vacated merely on the request coming from a stranger to the suit, as such RWA



Shivaji Park has yet not been impleaded as defendant in the abovesaid suit.

11. It is informed that the case is now coming up for further consideration before the learned Trial Court on 15.04.2025.

12. Keeping in mind the overall facts and circumstances of the case, and keeping in mind the stand taken by the parties, the learned Trial Court is requested to take up the above said application moved under Order XXXIX Rule 1 and 2 CPC and to make best endeavour to dispose of the same as expeditiously as possible, after giving due opportunity of hearing to all the sides.

13. Petition stands disposed of in aforesaid terms.

14. It is, however clarified that this Court has not given any observation with respect to the controversy in question i.e. *whether the alleged portion is a public street or not* and it will be entirely upto the learned Trial Court to form appropriate *prima facie* opinion with respect to the above said aspect.

15. Order *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

APRIL 3, 2025/sw/pb