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

% ***Date of Decision: 24th March, 2025***

+ **CM(M) 536/2025 & CM APPL. 16914-16915/2025**

MUNAWWAR ALI AND ORS

.....Petitioner

Through: Mr. Mohd. Akram and Mr. Mohd.
Talib, Advocates

versus

MOHD DANISH AND ORS

.....Respondent

Through: Mr. Sunil Goay, ASC for MCD/R-4
with Mr. Nitin Kala, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 16915/2025 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 536/2025 & CM APPL. 16914/2025

1. Petitioners are aggrieved by order dated 03.02.2025 whereby their application seeking rejection of plaint under Order VII Rule 11 r/w Section 151 CPC has been dismissed.
2. Copy of plaint filed by Mohd. Danish & Others (respondents herein) has been placed on record.
3. As per averments appearing in the aforesaid suit, respondents/plaintiffs claimed themselves to be the owners of the shops in question, which are situated in Brahampuri, Delhi. They also claimed that they were in exclusive possession of the same for the last several decades. According to them, defendant nos. 1, 2 & 3 (petitioners herein) were taking law in their hands and



were, blatantly, making illegal encroachment and construction. It is in the aforesaid factual backdrop that the aforesaid suit had been filed by them seeking relief of injunction.

4. The grievance of the defendants i.e. petitioners herein is that such suit is without any *cause of action*. According to them, they themselves are rather owners of the suit shops and have already filed a petition under Section 14 (1) (e) of Delhi Rent Control Act, 1958 which is pending adjudication before the learned Rent Controller. According to them, present suit is, merely, a counterblast to the aforesaid eviction petition filed by them and, therefore, the above plaint needs to be rejected which does not even disclose any *cause of action*.

5. It is settled proposition of law that while considering any such application moved under Order VII Rule 11 CPC, the Court is required to confine itself to the basic averments made in the plaint. Court is not even mandated to evaluate whether the averments are correct or false, as such aspect can only be considered and assessed during the trial.

6. Merely because, petitioners herein have already filed an eviction petition and they feel that the present suit is a counterblast, Court cannot allow such application without testing the veracity of the averments during the trial.

7. Moreover, a careful perusal of the averments made in the plaint, actually, indicates *cause of action* and, therefore, also this Court does not find any reason to interfere with the impugned order. Needless to say, the scope and ambit of *eviction petition* and the *suit in question* is totally different. In the aforesaid eviction petition filed by the petitioners herein, they are seeking possession on the ground of bonafide requirement as envisaged under Section 14 (1) (e) of Delhi Rent Control Act, 1958, whereas, in the suit filed by the



respondents herein, they are seeking injunction against the defendants, not to make any illegal and unauthorized construction over the suit shops. Even if it is assumed for a moment that the plaintiffs are tenants and not the owners, they can, still, maintain a suit against their landlords/owners seeking injunction not to make any illegal or unauthorized construction. Fact remains that it cannot be said that suit does not disclose any cause of action.

8. In view of the aforesaid factual matrix, this Court does not find any merit in the present petition.

9. Present petition, along with pending applications, stands dismissed.

(MANOJ JAIN)
JUDGE

MARCH 24, 2025/dr/js