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

+ **FAO 138/2025**

ABDUL NASIR & ANR.Appellants

Through: **Mr. Rajan Chaudhary, Adv.**

versus

ASJADRespondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **19.05.2025**

CM APPL. 30310/2025 (EXMP.)

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

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3. The appellants, who are the defendants in the suit instituted by the respondent/plaintiff, have preferred this appeal under Section 104 of the Code of Civil Procedure, 1908 (CPC) read with Order XLIII Rule 1 of the CPC, assailing the impugned order dated 18.03.2025 whereby the learned District Judge-03, Tis Hazari Courts, Delhi, has disposed of the application under Order XXXIX Rule 1 & 2 of the CPC, moved on behalf of plaintiff, by directing that the nature and structure of the property under litigation be preserved for effective adjudication of the dispute. Further, the parties have been directed not to change the structure of the property till the disposal of the matter except for conducting minor and necessary repairs so that the property

may not become dangerous and uninhabitable.

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4. No one is present for the respondent despite sending advance notice.
5. Learned counsel for the appellants submits that in view of the fact that the building has already been declared as dangerous under Section 348 of the Delhi Municipal Corporation Act, 1957 and an action is proposed to be taken for demolition of the same in accordance with law, which is the subject matter of another suit, the impugned order may be interpreted as restraining any action for demolition by the MCD in accordance with law.
6. On a careful perusal of the impugned order dated 18.03.2025, it is evident that the learned Trial Court has not passed any direction against the MCD and in view of the fact that the parties have not been able to specify the exact nature and extent of the possession, an interim order has only been passed to preserve the property.
7. In any case, after some arguments, learned counsel for the appellants states that he would move an appropriate application before the learned Trial Court for necessary modification/clarification in this regard.
8. The present appeal is dismissed as withdrawn without prejudice.

DHARMESH SHARMA, J

MAY 19, 2025
Ch/Sa

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