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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 09th July, 2025*

+ CM(M) 1176/2025 & CM APPL. 39619-39620/2025

SUNNY @ NAND KISHORE GANDHI

.....Petitioner

Through: Mr. Aparna Vishal with Mr. Vikrant Dabas, Ms. Ritu Sakarwal and Ms. Prachi Ahuja, Advocates.

versus

GUDDI KHATUN

.....Respondent

Through: Mr. Samidha Jain with Mr. Abhishek, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defending a suit which seeks permanent and mandatory injunction.
2. Petitioner is owner of third floor of the building in question and the floors below are under the ownership and occupation of the plaintiff (respondent herein).
3. Plaintiff has filed suit seeking injunction against the defendant from raising any construction on the roof.
4. Petitioner/defendant moved an application under Order VII Rule 11 CPC submitting therein that there was no cause of action and he, being the owner of the top floor with roof rights, had every right to raise construction. It is also submitted that there is no requirement of obtaining any sanctioned plan from the concerned civic Agency and, therefore, the suit is liable to be dismissed as it does not disclose any cause of action.
5. A copy of the plaint has also been annexed with the present petition.
6. There is no dispute with respect to the fact that, while considering any



such application moved under Order VII Rule 11 CPC, the Court is, merely, required to confine itself to the basic averments made in the plaint.

7. A careful perusal of the plaint would clearly indicate that cause of action is reflected as, according to the plaintiff, not only the defendant was using inferior quality material and that the structure was not meant to bear the extended load of new construction, it also mentions that the *water tanks* and *dish antenna* of the plaintiff have been removed.

8. MCD is also, reportedly, a party.

9. This Court expects that appropriate response from the concerned Corporation shall be taken by the learned Trial Court in order to re-assure itself whether such construction requires any sanction or not.

10. Be that as it may, keeping in mind the averments made in the application, this Court does not find any reason to interfere with the order passed by the learned Trial Court. However, since a very short point is involved in the suit in question, the learned Trial Court would make best endeavor to dispose of the abovesaid suit as expeditiously as possible.

11. Needless to say, both the sides would render due assistance and cooperation in this regard to learned Trial Court.

12. Both the parties are also requested to sit together and find out any possible amicable solution of the dispute in question.

13. Petition stands disposed of in aforesaid terms.

14. All pending applications stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 9, 2025/sw/PB