



Del 558, but that has to be done only in exceptional cases. In this regard, learned counsel for petitioners has referred to the application under Order I Rule 10 CPC which led to passing of the impugned order. It is contended by learned counsel for petitioners that there are no exceptional circumstances in this case.

4. Having traversed through the detailed application under Order I Rule 10 CPC, I am unable to agree with the learned counsel for petitioners. Admittedly, the present respondent no. 2 is a neighbour of the petitioners, residing in the same building which is the subject matter of the demolition order passed by the MCD. In the said application, the present respondent no. 2 has described at length the illegal construction carried out by petitioners, which is not only blocking ventilation into the property of the present respondent no. 2 but also has led to seepage on account of hazardous substances stored in the unauthorizedly constructed storeroom, also causing serious threat to the residents of the building. Further, it is alleged by the present respondent no. 2 that the petitioners continue to encroach upon the common area of the building, obstructing easement and other rights of remaining residents. The present respondent no. 2 has also disclosed registration of FIR No. 398/2022 by PS Vasant Kunj (North) against the petitioners in this regard in addition to certain NCR information.

5. Learned counsel for petitioners submits that all those allegations as mentioned in the application under Order I Rule 10 CPC are false and are denied.



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6. It is made clear that the purpose of taking note of above mentioned contents of the impleadment application of respondent no. 2 is only to show that he is not a stranger to the subject matter, intending to blackmail the petitioners. The purpose is to point out that respondent no. 2 is a party affected by the allegedly unauthorized construction carried out and/or being carried out by the petitioners.

7. Learned counsel for petitioners also refers to the judgment of a coordinate bench of this Court in the case of **Madhur Krishan Dhingra vs. D.M.C. North & Ors.** 2017 SCC OnLine Del 13129 and requests for clarification that respondent no. 2 shall be granted only restrictive hearing and not hearing as a party to the proceedings. That is obvious. The basic principle laid down in the case of **Hardayal Singh Mehta (supra)** is that no third party can join the statutory appeal under DMC Act, which appeal is between the aggrieved persons and the MCD, so what is being permitted is only restrictive hearing before the ATMCD.

8. In view of above discussion, I am unable to find any infirmity in the impugned order, so the same is upheld and the petition as well as the accompanying applications are dismissed.

GIRISH
KATHPALIA

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