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

+ **EX.P. 62/2018**

MAN MOHAN

.....Decree Holder

Through: Mr.Dinesh Garg, Advocate along
with DH in person.

versus

NARESH KUMAR & ANR.

.....Judgement Debtors

Through: Mr.D.K. Sharma and Mr.Pran Dhar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **04.08.2025**

1. Heard learned counsel appearing on behalf of the parties.
2. On 21.05.2018, the suit was decreed in terms of the final order. The Court in paragraph no.31 of the said order has made following observations:-

“31. In the circumstances, the only final decree for partition which can be passed with respect to property No.5320, Gall No.67, Haridhian Singh Road, Reghar Pura, Karol Bagh, New Delhi is that, if the parties are able to obtain permission from the Municipality for division of the said property in two equal portions by metes and bounds, the property may be divided as such, with the parties retaining the portion of the property which has been in their possession till now; however, if the Municipality does not give permission for such partition, a final decree for partition-is passed of property No.5320, Gali No.67, Haridhian Singh Road, Reghar Pura, Karol Bagh, New Delhi, of sale thereof and of distribution of sale proceeds between the parties as per their shares in the said property as declared in the preliminary decree for partition but before selling the property to any outsider, the parties will hold inter se bids with the party bidding the highest acquiring the share of the other



on payment of the consideration of the share of the other.”

3. In terms of the interim order passed by this Court, an affidavit has been placed on record on behalf of Municipal Corporation of Delhi.

Paragraph nos.3 to 8 of the said affidavit are extracted as under:-

“3. That there is no building plan available in the records w.r.t. property bearing no.5320, Gali No.67, Hardhyan Singh Road, Regharpura, Bagh, New Delhi. The property has been inspected on 30.08.2023 by the concerned area Assistant Engineer (Bldg.) and Junior Engineer (Bldg.). The property comprises of Basement, Ground Floor, First Floor, Second Floor & Third Floor. The Basement and Ground Floor are being used for commercial purposes. First Floor, Second Floor and Third Floor are occupied for residential purposes. There are 07 shops at the Ground Floor constructed in such a way that 03 shops are on the right, 04 shops on the left with a passage in between, when looked inside standing on the road i.e., Hardhyan Singh Road.

4. That section 2.01(d) of the UBBL-2016 states that – Building permit not required: No notice and building permit is required for addition/alterations which do not otherwise violate any provisions regarding building requirements, structural stability, fire safety requirements and involve no change to the cubic contents or to the built up area of the building, as defined in bye laws, for the following: -

(i) Plastering/cladding and patch repairs.

(ii)

(iii) Flooring and re-flooring

(iv)- (vii)

(viii) White washing, painting etc, including erection of false ceiling in any floor at the permissible clear height provided the false ceiling in no way can be put to use as a loft/mezzanine, etc.

(ix)

(x) Erection or re-erection of internal partitions provided the same are within the purview of these bye-laws.

(xi) For erection of lifts in existing buildings in residential plotted development (low-rise) . Change/installation/rearranging/relocating of fixture(r. ;) or equipment/s without hindering other's property/public property shall be permitted.

Note: The liability for any structural flaws or defects in the buildings arising out of such additions/alterations shall rest with the owner/ architect/ engineer/ structural engineer.

5. That therefore, clause 2.01(d) of the UBBL-2016 allows plastering,



patch repairs, flooring/ re-flooring, white washing, erection of lifts, erection or re-erection of internal partition to be carried out in existing buildings in residential plotted development (low-rise) without building permit albeit within the binding provisions of the bye-laws.

6. The section 2.8 of the UBBL-2016 further states that—

Regularization:- Any building or part thereof constructed unauthorizedly with or without obtaining the sanction of building plan and/or OCC, can be regularized, if the same is within the ambit of BBL and MPD provisions by paying requisite fees and charges as per Annexure III & Annexure IV, as per Form D-3.

7. *That this Hon'ble Court vide order dated 17.11.2022 had already clarified that any wall to be constructed in the shop in question is not for the purpose of sub-dividing the property but only for the purposes of partitioning the property so that the two brothers in whose shares the shop has fallen, can enjoy their respective shares independently without hindrance from each other.*

8. *That the owner(s)/occupier(s) shall have to give the structural stability certificate and fire safety certificate w.r.t. the entire building."*

4. A perusal of the affidavit would indicate that there is no building plan available on the record with respect to the property in question.

5. It is the case of the decree-holder that by erecting the wall, the building is not being altered and no addition is being made. This position, according to him has been succinctly been captured by this Court, vide its order dated 17.11.2022, which is extracted as under:-

"7. It is clarified that any wall to be constructed in the shop in question is not for the purposes of sub-dividing the property but only for the purposes of partitioning the property so that the two brothers in whose shares the shop has fallen, can enjoy their respective shares independently without hindrance from each other."

6. It is thus seen that the decree-holder is not seeking any alteration or addition in the building itself, he however, seeks for erection of wall in shop in question for the purpose of partitioning the property, so that the two



brothers in whose shares the shop has fallen, can enjoy their respective shares independently without hindrance from each other.

7. Having considered the overall controversy involved herein and the affidavit filed on behalf of the Corporation, the Court finds that there is no impediment in erecting the wall for the purpose of partitioning the property, so that the two brothers in whose shares the shop has fallen, can enjoy their respective shares independently. The same however, shall be without causing any hindrance to the judgment-debtors.

8. With the aforesaid observations, the instant petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 4, 2025

Nc/sph