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

+ LPA 295/2026

AZADPUR TRANSPORT CENTRE ASSOCIATION (REGD.)

.....Appellant

Through: Mr.Rajinder Pal Singh with Mr.Nikhil Panjwani, Mr.Sahil Goel, Ms.Lashika Panjwani, Advs.

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondent

Through: Ms.Shobhana Takiar, S.C. for DDA.
Mr.Vikas Chopra, S.C. with
Mr.Neeraj Kumar, Adv for MCD.
Ms.Avnish Ahlawat, S.C. with
Ms.Aliya Alam, Mr.Mohnish
Sehrawat, Advs for R-6.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **18.05.2026**

CM APPL. 26713/2026

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 26712/2026

3. Having heard the learned counsel for the parties and having regard to



the averments made in the application seeking condonation of delay, the prayer made therein is allowed and the delay in filing the appeal is hereby condoned.

4. The application stands disposed of.

LPA 295/2026

5. Heard the learned counsel for the parties.

6. This intra-Court appeal seeks to challenge the order dated 03.02.2026 passed by the learned Single Judge, whereby the learned Single Judge has referred to the provision of Section 91 of the Code of Civil Procedure (hereinafter referred to as CPC), which contains adequate remedy against public nuisance and other wrongful acts affecting the public by way of instituting a suit to be filed in a representative capacity.

7. The learned Single Judge has also noted the averments made by the respondent no.6 in its affidavit and the submissions made by the learned counsel for the appellant in reply to said submissions made in the counter affidavit filed by the respondent no.6 and has concluded that the dispute raised in the writ petition would require adjudication of various disputed questions of fact including the question as to whether there is any obstructions created by the respondent no.6 by erecting the wall as also as to whether the wall has been erected as per the instructions of the National Human Rights Commission or otherwise etc. The learned Single Judge has also observed that rights of the residents/shopkeepers of the area will also have to be examined and adjudicated on the basis of oral and documentary evidence to be produced by the parties concerned.

8. Having regard to the nature of prayer made in the writ petition, we do not find any flaw in the impugned order dated 03.02.2026. Section 91 of the



CPC provides appropriate remedy in case of public nuisance or any other wrongful act, which affect the public at large by instituting a civil suit in representative capacity. The learned Single Judge after examining the averments made in the counter affidavit filed by the respondent no.6 came to a conclusion that the issue raised before him in the proceedings of the writ would require adjudication of certain factual aspects, which can better be done in a suit, which would be instituted in the representative capacity under Section 91 of the CPC.

9. At this juncture, learned counsel for the appellant has stated that in fact the Delhi Development Authority in its counter affidavit has admitted the presence of nuisance and, therefore, nothing more needs to be adjudicated by the Civil Court in a representative suit to be instituted under Section 91 of the CPC.

10. As a matter of fact, the Delhi Development Authority in its affidavit has clearly stated that it has nothing to do with the issue which engage attention of the learned Single Judge in the writ petition. Having regard to the overall facts and circumstances, we do not find any good ground to interfere in this appeal, for the reason that the appellant has more appropriate remedy available to him by way of instituting a suit in representative capacity under Section 91 of the CPC.

11. Thus, the appeal is hereby dismissed.

12. We, however, may observe that any observation made by us in this order or by the learned Single Judge in the impugned order dated 03.02.2026 will have no bearing of any kind, if any suit is instituted under Section 91 of the CPC in the representative capacity. We further provide that the suit, which may be instituted shall be decided on the basis of the pleadings,



which may be available before the Court concerned in the proceedings of the suit and such suit proceedings will not be influenced by any pleadings made by the parties in the writ petition.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

MAY 18, 2026

S.Rawat