

CS No. 2060/22 CNR No.DLCT030042732022
MOHD SHUAIB KHAN Vs. DELHI MUNICIPAL CORPORATION

16.01.2023

Present : None for the plaintiff

Shri Rajiv Garg, ALO for defendant no.1/MCD

Shri Rajesh Singh, ld. proxy counsel for the defendant no.3
with defendant no.3

None for the defendant no.2/SHO PS Sadar Bazar

Status report has been filed on behalf of the MCD along with additional copy. Plaintiff is at liberty to collect the same from court record against proper receiving. Soft copy of the same has been supplied to the defendant no.3.

Be awaited for the plaintiff. Put up at 11.30 am.

(Anuj Kumar Singh)
ASCJ (Central)/Delhi
16.01.2023

At 11.35 AM

Present : Shri S. Bharti, ld. counsel for the plaintiff

Shri Rajiv Garg, ALO for defendant no.1/MCD

Shri Varun Goswami and Shri Rajesh Singh, ld. counsels for
the defendant no.3 with defendant no.3

None for the defendant no.2

Copy of status report has been supplied to the counsel for plaintiff.

As per status report filed on behalf of the MCD, repair work is being carried out at the ground floor of the suit property bearing no.6899, Gali Neem Wali, Ahata Kidara, Bara Hindu Rao, Delhi and unauthorized

construction in the shape of first and second floor of the suit property has been booked vide file no.21/81/B/EE (B)-I/CSPZ/2023 dated 03.01.2023.

It is submitted by the ld. counsel for the defendant no.3 that the suit property consists of only ground floor and there is no first or second floor of the suit property and requested to appoint a local commissioner to ascertain the said fact at the expenses of the defendant no.3. It is further submitted that the defendant no.3 wants to carry out permissible repair work at the ground floor of the suit property.

On the other hand, it is submitted by the counsel for the plaintiff that he has no objection to the appointment of local commissioner at the expenses of the defendant no.3.

Considering the aforesaid submissions, I deem it appropriate to appoint a local commissioner. Accordingly, **Shri Ayush Mittal, Advocate, Chamber No.296, Western Wing, Tis Hazari Courts, Delhi-110054 (Mobile No.9818621176)** is hereby appointed as local commissioner who is directed to physically visit the **suit property bearing bearing no.6899, Gali Neem Wali, Ahata Kidara, Bara Hindu Rao, Delhi-110006** and report as to whether the suit property consists of ground floor only or whether there are existence of first and second floor as well in the suit property. He is further directed to ascertain as to whether due to alleged repair/construction at the suit property, any damages have been caused to the adjoining properties i.e. **House no.6892 and 6897, Gali Neem Wali, Ahata Kidara, Bara Hindu Rao, Delhi.** The said fact be verified from physical inspection and local inquiry. The local commissioner is directed to file a detailed report along with photographs on or before the next date of hearing. **Ld. local commissioner is also directed to do the videography of the status of construction at the suit property during his inspection and the said videography be filed in the Court in the form of pen drive**

along with Certificate under Section 65B of the Indian Evidence Act. The expenses of the photography and videography shall be borne by the defendant no.3. The copy of report be given to the parties at their expense. Ld. local commissioner is also directed to prepare and submit the rough site plan. The parties/their counsels are also directed to remain present at the spot at the time of inspection by local commissioner for assistance/observation. Ld. Local Commissioner is also directed to contact the parties prior to carrying inspection, however, if any party fails to reach in time, he is at liberty to carry inspection in absence of such party. The ld. Local Commissioner is also at liberty to inspect the court file.

As per record, mobile numbers of Shri S. Bharti, ld counsel for the plaintiff is 9899257184 and Shri Varun Goswami, ld. counsel for defendant no.3 is 9810117465.

The expenses of the local commissioner is fixed as **Rs.20,000/-** (Rupees Twenty Thousands only) which is to be borne by the defendant no.3 to be paid in advance. The ld. Local Commissioner is directed to give acknowledgment of the same. A copy of this order be given dasti to all the parties as well as to the learned local commissioner.

Concerned AE and JE, MCD are directed to appear in person on the next date of hearing.

Matter be re-listed for filing report of local commissioner/further proceedings on **22.03.2023**. **In view of status report of MCD filed today, interim order dated 01.09.2022 is modified to the extent that the defendant no.3 may carry out permissible repair work at the ground floor of the suit property.**

(Anuj Kumar Singh)
ASCJ (Central)/Delhi
16.01.2023