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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 96/2018**
MR. SANJIT CHATTERJEE & ANR

..... Plaintiff

Through Mr. Ginny J. Rautray, Adv.

versus

ALOK K. BAGCHI

..... Defendant

Through Mr. Amanullah, Adv.
Mr. Sunil Goel, Adv. for SDMC.

CORAM:

SANJAY JINDAL (DHJS), JOINT REGISTRAR (JUDICIAL)

ORDER

% **20.07.2018**

IA No. 3893/2018 u/O I R 10(2) r/w section 151 CPC moved by plaintiff.

No reply filed. Learned counsel for defendant and proposed defendant are ready to argue.

Arguments heard.

By way of present application, the plaintiff seeks to implead South Delhi Municipal Corporation (SDMC) in array of parties. It is contended that the present suit is for permanent and mandatory injunction for restraining the defendant from undertaking construction of additional floors and from constructing a lift blocking the plaintiff's balcony. It is stated that a letter dated 06.02.2018 was

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written to SDMC by the plaintiff and the SDMC issued a show cause notice to defendant on 08.02.2018. It is argued that SDMC is a proper party being the competent authority in respect of the construction over the suit property.

The application is opposed by the learned counsel for the defendant as well as by the learned counsel for proposed defendant. It is argued that no relief is proposed to be sought against the SDMC and there is no such requirement of them in array of parties.

I have carefully perused the record in light of submissions made before me.

The relief sought in the plaint include the relief of permanent injunction in respect of construction of lift and construction of additional floor etc. in the given property. It is not disputed that the South Delhi Municipal Corporation i.e. the proposed defendant is the competent authority to look after the legality and validity of construction in the concerned area. In these circumstances, it cannot be denied that the SDMC is a proper party for just decision in the present suit being the competent authority.

Hence, with these observations, the present application is found to be bonafide one and the same is accordingly allowed. The SDMC is impleaded as defendant no. 2 in array of parties. Let amended memo of parties be filed by the plaintiff.

IA stands disposed of.

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IA No. 9423/2018 u/sec. 5 of the Limitation Act filed by plaintiff for condonation of delay in filing of replication.

Copy already received by learned counsel for defendant who seeks time to file reply. Let reply be filed within two weeks with advance copy to learned counsel for plaintiff who may file rejoinder within one week thereafter with advance copy.

Put up for completion of pleadings on next date of hearing.

CS(OS) 96/2018

The pleadings qua defendant (now defendant no. 1) are complete but subject to outcome of IA No. 9423/2018.

Let copy of plaint and documents be supplied to learned counsel for newly added defendant no. 2 against due acknowledgement and thereafter written statement, if any may be filed by them within two weeks with copy to learned counsel for plaintiff who may file replication within one week thereafter with advance copy.

Parties to file their affidavit of admission/denial as per directions dated 16.03.2018 of the Hon'ble Court.

Put up for completion of pleadings and admission/denial on 14.08.2018.

**SANJAY JINDAL (DHJS)
JOINT REGISTRAR (JUDICIAL)**

JULY 20, 2018/pk