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

% ***Date of Decision: 2nd April, 2025***

+ **CM(M) 604/2025 & CM APPL. 19117/2025**

VEENITA AGGRAWAL

.....Petitioner

Through: Mr. Rahul Madan and Mr. Deevansh,
Advocates.

versus

RAJESH KUMAR & ORS.

.....Respondent

Through: Mr. Aditya Chaudhary, Advocate for
R-7/MCD.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner has filed a suit for damages, permanent and mandatory injunction.
2. He claims himself to be the owner of a first floor shop, situated at Jyoti Market, Delhi and alleged that unauthorized construction had been carried out at third floor of the same property. It is on account of such alleged unauthorized construction that the petitioner has filed the above suit for injunction and damages.
3. The petitioner filed an application under Order XXVI Rule 9 CPC seeking appointment of Local Commissioner before the learned Trial Court and has taken exception to dismissal of such application.
4. I have seen order dated 21.10.2024 which is under challenge.
5. Learned Trial, while dismissing the abovesaid application, has observed that the endeavour of the plaintiff is to get the evidence collected through Court, by seeking appointment of a Local Commissioner.
6. Moreover, admittedly, the suit had been filed in the year 2016 and in



order to make things crystal-clear and to apprise the Court about the exact status of the alleged unauthorized construction as it existed their at the time of the institution of suit, such application should have been moved in the very beginning.

7. While relying on *Rajiv Sikka and Another vs. Ashok Kumar Jain: 2022 SCC OnLine Del 2816*, learned counsel for petitioner submits that there is no embargo in appointing Local Commissioner, even at a later stage.

8. This Court does not dispute the abovesaid proposition but in the above judgment, it has also been, categorically, observed that if a Local Commissioner is to be appointed to ascertain ground-situation, such exercise is to be undertaken as early as possible, so as to avoid the chance of the ground-situation changing during the pendency of the litigation.

9. Therefore, the petitioner cannot dig out any advantage from the aforesaid judgment.

10. Be that as it may, this Court does not find any reason whatsoever to invoke its supervisory powers in the present matter as there is no illegality or perversity in the impugned order.

11. The petition, along with pending application, stands dismissed in *limine*.

(MANOJ JAIN)
JUDGE

APRIL 2, 2025/ss/js