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

% ***Date of Decision: 17th July, 2025***

+ CM(M) 1247/2025, CM APPL. 41967/2025 & CM APPL. 41968/2025

PIYUSH GOYALPetitioner

Through: Mr. Bharat Bagga and Ms. Mansi
Asija, Advocates

versus

OM PRAKASH & ANR.Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The situation in the present petition is unusual.
2. A suit was filed by one Mr. Om Prakash (respondent No.1 herein) for permanent and mandatory injunction. He was aggrieved that defendant (petitioner herein) was raising unauthorized construction, without having any sanctioned plan from MCD.
3. When the aforesaid suit was taken up by learned Trial Court on 24.08.2024, learned Trial Court wondered as to how any of his civil rights were infringed by the alleged unauthorized construction and, resultantly, the suit was rejected for non-disclosing of any *cause of action* and being barred by law. Undoubtedly, while rejecting the suit, learned Trial Court also observed that it will be open to MCD to take appropriate action against such defendant in respect of alleged illegal construction.
4. Fact, however, remains that the suit was rejected.
5. Against such rejection of his suit, the plaintiff filed an appeal.
6. Such appeal is pending adjudication.



7. However, when the aforesaid appeal was taken up by the learned First Appellate Court on 16.04.2025, the matter was, though, adjourned for arguments, the learned First Appellate Court also sought status report from MCD.
8. The grievance in the present petition is merely with respect to the aforesaid direction whereby the MCD has been asked to give status report.
9. Learned counsel for petitioner (defendant) submits that the suit had been rejected and the learned First Appellate Court is merely required to adjudicate whether such rejection was appropriate or not and instead of deciding the same, it has called for the report from MCD which has resulted in serious prejudice.
10. It is also submitted that plaintiff is a habitual litigant and has filed many suits in similar manner and perhaps, his intention and objective is to extort money.
11. The question whether the construction is authorized or not would be secondary in the present context.
12. The prime and foremost aspect which the learned First Appellate Court is required to adjudicate is whether the rejection was appropriate or not.
13. Next date in the aforesaid appeal is stated to be 14.10.2025.
14. None appears on behalf of the respondents dispute advance notice.
15. Since point raised in the present petition is very short one, the present petition is disposed of with request to learned First Appellate Court to decide the aforesaid appeal filed by the plaintiff and the aspect of seeking any report from MCD would arise only once such appeal is, eventually, allowed by the learned First Appellate Court.
16. Petition stands disposed of in the aforesaid terms.



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17. This Court, however, clarifies that there is no observation on the merits of the appeal as such and, therefore, learned First Appellate Court would decide the appeal without getting influenced by any of the observation appearing herein.

18. Pending applications are also disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 17, 2025/dr/shs