



2025:DHC:3078



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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% Date of Decision: 28th April, 2025

+ CM(M) 174/2025

MUNICIPAL CORPORATION OF DELHI ORS & ORS.

.....Petitioners

Through: Mr. Manu Chaturvedi, Standing
Counsel, MCD with Mr. Jai Prakash
Mittal and Mr. Ashish Sharma,
Advocates.

versus

DR SHAMBHUJI & ORS. & ORS.Respondents

Through: Respondent No.1 in person.

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

CM(M) 174/2025, CM APPL. 21006/2025 (early hearing) & CM APPL. 24836/2025 (filed by respondent No.1 for directions)

1. When this petition was taken up by this Court on 09.04.2025, it was, *inter alia*, observed as under:-

“1. The petitioners herein are defendant No.7, defendant Nos.1, 2 and 3 respectively, in the suit in question.

2. The issues raised herein are multiple.

3. It is to be seen whether defendant Nos.1, 2 and 3 had ever made any statement before the learned Trial Court that they would be adopting the written statement filed by defendant No.7 (MCD) or whether in view of the order passed by this Court on 11.01.2023 in CM(M) 1522/2018, they had been given independent right to file a separate written statement in their own individual capacity. It is also noticed that during the pendency of the suit, even an application was moved under Order I Rule 10 CPC by defendant Nos. 1, 2 and 3 whereby, they sought for their deletion from array of the parties and they are aggrieved by dismissal of their such request as well.

4. None appears on behalf of plaintiff (respondent No.1 herein) despite service of advance notice.



5. *Learned counsel for petitioner was requested to contact the plaintiff or his counsel. He submitted that when he called up the plaintiff, he was told that plaintiff would appear before the Court only when there is notice with respect to the present petition, and not otherwise.*
6. *Learned counsel for petitioner also seeks time to take instructions from their clients whether defendant Nos.1, 2 and 3 can give up their request with respect to the application moved by them under Order I Rule 10 CPC.”*
2. Learned counsel for the petitioners submits that he has taken requisite instructions in this regard and the petitioners herein (defendant Nos.1, 2 and 3 before the learned Trial Court) are no longer willing to pursue with their request which they had made by moving application under Order I Rule 10 CPC and, therefore, the grievance in the present petition is, merely, with respect to denial of written statement filed by them, in their individual/independent capacity.
3. It is submitted that though the written statement of MCD (defendant No.7) was already before the learned Trial Court, the said officials of MCD wanted their stand to be made amply clear and, therefore, there was necessity of filing separate, *albeit*, consolidated/joint written statement by these three officials of MCD.
4. Learned counsel for the petitioners, in all fairness, admits that if the petitioners were harbouring any uncertainty with respect to the order passed by this Court way back on 11.01.2023, they should have, themselves, come to the Court seeking requisite clarification. However, it is submitted that since their composite written statement was placed on record, *albeit*, belatedly, such written statement be permitted to remain on record.
5. As per impugned order dated 20.01.2024, whereas, the written statement which has been filed by MCD (defendant No.7) is to be read as the written statement on behalf of defendant Nos.1, 2 and 3 also and their



separately filed consolidated written statement has been taken off the record.

6. Respondent No.1 appears in person and submits that there is no ambiguity in order dated 11.01.2023 passed by this Court and this Court, in no uncertain terms, had directed such defendants to submit their written statement within two weeks. It is submitted that the suit has already got delayed considerably and the present petition lacks any merit or substance.

7. This Court has gone through the averments made in the suit as well as joint written statement which has been filed by defendant Nos.1, 2 and 3 before the learned Trial Court.

8. During course of the arguments, e-copy of written statement filed by MCD has been sent on the e-mail of Court Master of this Court.

9. As already noticed above, petitioners herein have given up their prayer in context of deletion of their names from the array of parties.

10. A consolidated written statement of defendant Nos.1, 2 and 3 was, admittedly, filed before the learned Trial Court on 10.10.2023 (sworn on 09.10.2023) and, clearly, there is delay in submitting such written statement. However, it will be in fitness of things that if such written statement is directed to be taken on record, *albeit*, subject to imposition of further cost.

11. Keeping in mind the overall facts and circumstances of the case and to ensure there is no further delay in the suit in question, which was filed way back in year 2005, such joint written statement dated 10.10.2023 (sworn on 09.10.2023) is permitted to remain on record, subject to further cost of Rs.7,000/- each upon the abovesaid three defendants.

12. Let the cost be cleared within one week from today.

13. It is, however, expected that there would not be any further delay from the side of MCD and the abovesaid three defendants and they would give their



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best assistance and cooperation to the learned Trial Court. Since the suit is very old, the learned Trial Court is also requested to make best endeavour to ensure its expeditious disposal.

14. The petition stands disposed of in the aforesaid terms.
15. All the pending applications also stand disposed of accordingly.
16. Copy of the order be given *dasti* under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

APRIL 28, 2025/st/js