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

Date of Decision: 18th May, 2026

+ CM(M) 180/2025, CM APPL. 5446/2025, CM APPL. 8128/2026 &
CM APPL. 8129/2026

NAZIMA & ANR.

.....Petitioners

Through: Mr. Prakash Khandelwal and Mr.
Vinod Kumar, Advocates.

versus

IKRAR KHAN & ANR.

.....Respondents

Through: Ms. Harita Mehta, Adv. For R-2.
(through VC)

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)

Rajneesh Kumar Gupta, J.

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed by the petitioners/ defendant nos. 1 and 2 under Article 227 of the Constitution of India, seeking setting aside of the order dated 25th November, 2024, passed by the learned Trial Court in Civ. Suit No. 253/2019, whereby no opportunity has been granted to the petitioners to cross-examine DW-3.
3. Heard. Record perused.
4. Learned counsel for the petitioners has argued that DW-3 has been summoned as a court witness, and the petitioners being the defendants have a right to cross-examine the said witness. It is further argued that DW-3 has been summoned not only for producing the documents but also for



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ascertaining whether any part of the building is unauthorized. It is contended that the denial of an opportunity to cross-examine DW-3 would cause grave prejudice to the case of the petitioners.

5. *Per contra*, learned counsel for respondent no. 2 has argued that DW-3 is merely an official witness who has only proved the documents, and therefore, there is no need of his cross-examination by the petitioners.

6. *Vide* order dated 23rd October, 2024, an application filed on behalf of the petitioners under Order XVI Rule 14 of Code of Civil Procedure, 1908 has been allowed by the learned Trial Court and the Executive Engineer, North Shahdara, MCD has been summoned as a witness. On 25th November, 2024, Sh. Vikas Meena, Assistant Engineer, MCD has appeared before the learned Trial Court and has been examined as a DW-3. On perusal of the testimony of DW-3 shows that the said witness has produced the summoned record and has proved the documents i.e., sanctioned building plan approved by DDA and Building Bye Laws. Keeping in view nature of documents proved by DW-3, this Court is of the opinion that cross-examination of DW-3 by the petitioners is not required, as the petitioners can advance the final arguments on these documents also without cross-examination of DW-3. Accordingly, no prejudice would be caused to the case of the petitioners. The present petition is dismissed as being devoid of any merits. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

MAY 18, 2026/sds/ik