
(1999) 08 DEL CK 0049
In the Delhi High Court
Case No : Suit No. 1931/91

Nilender Prakash Punj

APPELLANT

Vs

Municipal Corporation

RESPONDENT

Date of Decision : 13-08-1999

Acts Referred:

Citation : (2000) 2 AD 371 : (2000) 85 DLT 342

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Mr. Jagmohan Sabharwal Adv, for the Appellant;

Judgement

Mukul Mudgal, J.—This is a suit filed by the plaintiff in the year 1991, praying for a decree of permanent injunction & declaration.

2. The matter was proceeded exparte against the defendant on 14th August, 1996. Thereafter the petitioner has filed his evidence by way of affidavit.

3. The prayer on behalf of the plaintiff in the present suit as follows :

"a Decree of permanent injunction in favor of the plaintiff and against the defendant thereby restraining the defendant, their employees, officials, officers, agents, etc. from taking any demolition and/or sealing action against the suit property being property No. 5224, Plot No.6, 'O' Block, G.B. Road, Delhi-110006; and a decree of Declaration be also passed declaring that no part of the suit premises is unauthorised."

4. The plaintiff has filed evidence by way of affidavit of Shri Ravi Kumar Nigam, Attorney of the plaintiff. The averments made in the plaint have been supported by the said affidavit. The plaintiff has averred in the above said affidavit that the repairs were carried out strictly in accordance with Bye laws No.6.4.1 of the Building Bye laws, 1983 which require no sanction. The plaintiff accordingly says that the repairs were carried out strictly in accordance with the Building Bye laws. The plaintiff is accordingly entitled to a decree.

5. The plaintiff has averred in Para 11 of the said affidavit that neither the plaintiff nor any other member of his family received any "Show Cause Notice" for demolition or for sealing of the suit premises. The plaintiff has further averred that neither any such Notice was ever served on him nor was he given any opportunity of hearing.

6. Accordingly, the suit is decreed. A Decree of permanent injunction is passed in favor of the plaintiff & against the defendant restraining the defendant, their employees, officials, officers, agents etc. from undertaking any demolition and/or sealing action against the suit property being property No. 5224, Plot No. 6, "O" Block, G.B. Road, Delhi 110006 without following the due process of law and observing the principles of natural justice by giving a hearing to the plaintiff. There shall be no orders as to costs.