

# Property renovation can be done without permission of co-owner

Floor-wise ownership allows occupants to make changes in dwellings without co-owners' interference

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**E**xorbitant rise in property prices in the past decade have led to a substantial rise in floor wise sale and purchase transactions. Popular trends in recent times have seen one family or owner occupying one floor in a multi-storey house on a single residential plot. This floor wise ownership of an immovable property constructed on a single plot of land has given rise to various questions of law and the

courts of law have often been approached on various occasions to clarify matters. One such question that the Delhi High Court dealt with was whether the owner of a floor of a property required permission from owners of other floor(s) of the same property to carry out additional construction.

The petitioner who was the owner of the second floor and the entire terrace of a residential property had submitted an application with New Delhi Municipal Corporation (NDMC) for the sanction of plans to carry out additions/alteration works on the terrace of the second floor. The plans were returned by NDMC principally on the ground that the same were not signed by other co-owners of the property (ie owners of other floors). Aggrieved by NDMC's response, the petitioner approached Delhi HC. He contended that there was no provision in law whereby the signatures of owners of other floors were required as a precondition for the grant of sanction for development of one's own property. The contention of NDMC was that the petitioner had 30% undivided share in the property in question and the plot of land had not been subdivided in the records of land and development office. The application for sanction of any construc-

tion was required to be signed by all co-owners.

The Delhi HC upheld a previous judgment of the same court that once the property was segregated into different portions and mutated accordingly, there was no requirement of all the co-owners to sign the building plans. They would only be needed to sign in case the plot and the building were both co-owned. The separation of interest of the different co-owners was recognised by the respondent by mutation of the different portions in individual names of different persons. The state of an individual owner could not be dependent on the signature of a person who happened to be the owner of a different portion of the building. Thus, there was no requirement of signatures of all the co-owners.

The Delhi HC also examined the provisions of the Building Bye-laws, 1983, and said these did not mandate that consent of other owners of other portions of property be obtained for carrying out any construction. It was observed that the person intending to do the construction submit plans to be signed by the owner or an architect or documents of ownership be provided.

Delhi HC also observed that in such cases where the property was separately registered and

recorded in the revenue records, the relevant ownership documents would be taken as evidence of title of the portion of the property on which construction was to be done. Therefore, Delhi HC said it was disputed that the second floor of the property in question and the terrace above the second floor were registered in the name of the petitioner in the revenue records. The construction proposed to be done by the petitioner was clearly on his portion of property in question which was duly recorded in the petitioner's name. Therefore, there would be no occasion for NDMC to insist that the petitioner obtain a NOC from the owners of the other floors.

In conclusion, the parties owning a single plot may demarcate their shares and if the ownership of demarcated shares is accepted by NDMC, there would be no requirement for the owners of demarcated shares to seek an NOC from other co-owners to make changes in the property.

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