

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

+ W.P.(C) 11996/2006

S.N.SINGH Petitioner
Through Mr. V Sudeer, Adv.

versus

M.C.D. & ORS Respondents
Through Mr. Vikas Dudeja for Mr. Rajiv Dawar, Adv.
for MCD

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
09.04.2008

1. The petitioner is owner and occupant of MIG flat no.45 (III floor), Pocket A3, Sector-8, Rohini. He made a number of complaints against illegal constructions in flats no.33, 36, 37, 40, 41, 44 and 48. It is stated in the writ petition that as a result of unauthorized construction in these flats, the petitioner was put to unnecessary inconvenience and harassment as the flats are connected by a common stair case.
2. Pursuant to the report of the Court Commissioner, action was taken by respondent/MCD and unauthorized construction in flat no.41, which is located below the flat of the petitioner was demolished. As a result of the unauthorized construction in flat no.41, an additional room had

been constructed which by default had resulted in an extended balcony over the roof of the room below.

3. It is the case of the petitioner that while demolishing the unauthorized construction including the room constructed by owner of flat no.41, petitioner's flat was deliberately damaged by officers of MCD. Petitioner had filed photographs of the damage caused to his flooring in the original balcony, window and a pillar.
4. Respondent/DDA including its officers have filed a short affidavit stating that demolition action was undertaken pursuant to report submitted by the Court Commissioner and during the said demolition action on 22.6.2006 projection on municipal land was partly removed and RCC slab was punctured making the unauthorized portion unusable.
5. It is stated that unauthorized construction was noticed at ongoing stage in the flat of the petitioner i.e. A-3/45. Sector-8, Rohini and therefore the same was also demolished. This statement made in paragraph 6 of the counter affidavit is vague. It has not been specifically stated as to what was the nature of unauthorized construction, which was going on in the flat of the petitioner. In paragraph 7 it is mentioned that the petitioner had raised parapet wall and the same was unauthorized. Para 6 of the counter affidavit refers to ongoing construction, whereas para 7 of the counter affidavit refers to parapet wall and the same being

unauthorized. Report of the Court Commissioner attached with the counter affidavit does not refer to unauthorized construction in the flat of the petitioner and refers to unauthorized construction in flat no.41. Report submitted by Executive Engineer, Building (Rohini Zone) annexed with the counter affidavit also does not refer to any demolition or to any demolition action on account of unauthorized construction in the flat of the petitioner namely flat no.45, A3, Sector-8, Rohini. The photographs enclosed by the petitioner show that the petitioner in order to protect and secure his flat and belongings had fixed iron grills on the roof of the unauthorized room constructed by owner of flat no.41. In this regard my attention has been drawn to public notice published in newspaper dated 26.6.2006 which make reference to 6.4.1 and permits construction of parapet wall not exceeding one meter. It is also not difficult to appreciate the anxiety and difficulty of the petitioner, as owner of the flat below him, namely flat no.41, had constructed an additional room and the ceiling of the said additional room projected outside the flat of the petitioner. For the purpose of security and safety it is apparent that the petitioner had fixed iron railing. Damage caused to pillar, flooring and window, which is apparent from the photographs enclosed with the petition has not been denied.

6. In view of the facts and circumstances stated above I feel that the petitioner should be awarded costs of Rs.10,000/- for the harassment and inconvenience caused to him because MCD did not take action against unauthorized construction made by owner of house no.41, A3, Sector-8, Rohini and also for causing damage to the floor, pillar and the window in the premises of the petitioner. MCD will pay aforesaid cost within 4 weeks from today by sending a cheque to the petitioner by post. In case, the aforesaid costs are not paid within 4 weeks, petitioner will be entitled to interest at the rate of 10% p.a. from the date of this order till payment.

The writ petition is accordingly disposed of.

Dasti.

SANJIV KHANNA, J.

APRIL 09, 2008.
Vld/P