



\$~39

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

+ **W.P.(C) 1225/2025**

**SUMAN GOGIA (SENIOR CITIZEN)**

.....Petitioner

Through: Mr. N.U. Ahmed, Mr. Anil Kumar Yadav, Mr. Tanveer Khan, Ms. Laxmi Sharma and Mr. Afsar bano, Advocates.

versus

**MUNICIPAL CORPORATION OF DELHI  
AND ORS**

.....Respondents

Through: Mr. Kapil Dutta, Advocate for MCD.  
Mr. Madhav Krishna Dubey, Advocate for R-2.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**31.01.2025**

%

**CM APPL. 6020/2025**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

**W.P.(C) 1225/2025**

3. This writ petition is preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

*i. It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to issue a Writ in the nature of MANDAMUS or any other appropriate Order/Direction of like nature directing the Respondent.1-2, forthwith remove the obstruction/articles from the terrace of the third room constructed in the year 1990 in the property bearing no 70-B LIG DDA flats Prasad Nagar Delhi 110005, allow the petitioner to repair the terrace of third room.*

*ii. It is also requested restrain the Respondent no.3 and 4 not to obstruct/keep article/construct/ damage the terrace of the third room of the property.*



4. Issue notice.
5. Counsels, as above, accept notice on behalf of the respective Respondents.
6. By Petitioner's own showing, Petitioner had approached the Trial Court in a suit bearing CS SCJ 2159/2024 titled '*Suman Gogia v. Chandrakanta*' and vide order dated 11.12.2024, the Trial Court had recorded a separate statement of Defendant No. 1 that he shall remove the articles lying on the roof in question for a period of one week within which Plaintiff may carry out necessary repairs and that he shall not create any obstruction in the repair work. In view of this statement, Petitioner was allowed to carry out necessary permissible repairs as provided under Clause 2.0.1(d) of Unified Building Bye Laws, 2016 with a condition that no fresh construction whatsoever will be carried out on the roof.
7. It is evident from the prayer clause in the present writ petition that a similar relief is sought by the Petitioner before this Court. Learned counsel for MCD is right in his submission that this writ petition cannot be entertained for the same relief, once the Trial Court is seized of the matter and an order has already been passed recording the statement of Defendant No. 1 therein who is Respondent No. 3 herein.
8. Accordingly, this writ petition is dismissed with liberty to the Petitioner to take recourse to appropriate remedies before the appropriate forum, in case she is aggrieved by the action of Respondent No. 3 in not complying with the order of the Trial Court.

**JYOTI SINGH, J**

**JANUARY 31, 2025/shivam**