



2025:DHC:11329



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 12th December, 2025**+ **W.P.(C) 1431/2025 & CM APPL. 6948/2025, CM APPL. 19210/2025, CM APPL. 26227/2025, CM APPL. 69195/2025****NISHA MALHOTRA & ANR.**

.....Petitioners

Through: Mr. Kirtiman Singh, Sr. Adv. with
Ms. Kritika Gupta, Ms. Vidushi
Singhania, Advocates
(M:8826331177)

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Mr. Ashutosh Gupta, ASC-MCD
Mr. Lalit Gupta, Ms. Ishita Nautiyal,
Advocates for R-2 and 3
(M:9810355699)**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (ORAL):**

1. The petitioners are the owners of half share of the property measuring 288 sq. yards, out of total area measuring about 576 sq. yards, towards the western side of the property bearing no. 61/22, Ramjas Road, Karol Bagh, New Delhi. The other half share, measuring 288 sq. yards, is towards the eastern side of the said property, belonging to respondent nos. 2 and 3.
2. The petitioners got the property converted from lease hold to free hold and a Conveyance Deed was executed by the Delhi Development Authority ("DDA") in respect of the property in their favour on 08th July, 2007.
3. Subsequently, on 13th July, 2011, the property in question, measuring

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576 sq. yards, was partitioned amongst the co-owners/co sharers in equal share by way of a registered Partition Deed.

4. The main concern raised by the petitioners in the present case is that on the plot, partitioned between the petitioners and respondent nos. 2 and 3, the respondent nos. 2 and 3 have built up their portion by taking up the Floor Area Ratio (“FAR”) and a number of dwelling units, which should not affect the entitlement of the petitioners at the time of construction on the portion belonging to the petitioners.

5. This Court notes that the petitioners had applied for construction on the western side portion of the plot belonging to them, which was rejected by the respondent-Municipal Corporation of Delhi (“MCD”) on the ground that sub-division of the plot in question was not incorporated by the Town Planning Department, MCD.

6. Considering the submissions made before this Court, as far as concerns of the petitioners with regard to apportionment of FAR and dwelling units are concerned, the position is undisputed that the FAR and the number of dwelling units are to be granted to any party as per the norms as laid down in the Master Plan for Delhi, 2021 (“MPD, 2021”) and the unified Building Bye-laws for Delhi, 2016 (“Building Bye-Laws”). Thus, the petitioners shall also be entitled to FAR and number of dwelling units on the basis of the size of the plot, as per the norms laid in the Building Bye-laws as well as the MPD, 2021.

7. As regards the rejection letter dated 11th September, 2025 issued by the MCD, by way of which the MCD has rejected the application of the petitioners for sanction of Building Plan on the basis that sub-division of the plot has not been incorporated by the Town Planning Department, it is



clarified that partition of property between co-sharers, does not in any manner, amount to sub-division of the property.

8. Thus, it is reiterated that the petitioners shall be entitled to the FAR and the number of dwelling units, on the basis of the size of the plot falling in their share, as per the norms laid down in the Building Bye-laws as well as the MPD, 2021.

9. This Court also takes note of the stand of the MCD in the judgment passed by the District and Sessions Judge (Central), Tis Hazari Courts, Delhi, in *Appeal No. 07/2023* dated 08th November, 2024, impugned in the present petition, wherein, it has been recorded as under:

“xxx xxx xxx

*But at present, instead of 4 dwelling units, completion has been taken by respondents no.2 and 3 for 2 dwelling units only. It is also relevant to mention here that during the course of arguments, **Ld. counsel for respondent no. 1 has submitted that whatever plan has been sanctioned for respondents no.2 and 3 for half of the plot on the Eastern side, same could be sanctioned to appellants by Corporation, provided they move an application and complete the required formalities.** In view of these reasons the appellant being aggrieved persons, their right to file the appeal is held intact.*

xxx xxx xxx”

(Emphasis Supplied)

10. Perusal of the aforesaid stand of the MCD clearly shows that the MCD has already sanctioned a Plan for half of the plot on the eastern side in favour of respondent nos. 2 and 3. Therefore, this Court is of the considered view that there is no impediment in sanction of Building Plan in favour of the petitioners, for their portion of the plot in question on the western side, in the same manner, as has been granted to the respondent nos. 2 and 3, and as per the entitlement of the petitioners on the basis of the norms laid down in the Building Bye-laws as well as the MPD, 2021.



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11. It is further clarified that the entitlement of the petitioners for FAR and dwelling units shall not be affected, in any manner, by any construction undertaken by respondent nos. 2 and 3 on the basis of their Sanctioned Plan.
12. Needless to state that the petitioners shall comply with any other direction of the MCD, in case any deficiency is pointed out in the application of the petitioners for sanction of the Building Plan.
13. Accordingly, considering the detailed discussion hereinabove, the order of refusal of sanction dated 11th September, 2025, issued by the Office of Executive Engineer (Building), Karol Bagh Zone, is set aside.
14. The MCD shall consider the application of the petitioners for sanction of Building Plan, in terms of the observations made in the present order.
15. The present writ petition, along with the pending applications, is accordingly, disposed of.

MINI PUSHKARNA, J

DECEMBER 12, 2025/au