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

+ **W.P.(C) 1412/2025**

RASHIDUDDIN MALIK

.....Petitioner

Through: Mr. Nazimuddin Ahmad, Mr. Anil Kumar Yadav, Mr. Umesh Kumar and Mr. Afsar, Advocates.

Versus

GOVT OF NCT DELHI AND ORS.

.....Respondents

Through: Ms. Rachita Garg, Mr. Agam Rajput and Ms. Preeti, Advocates for R-1.
Mr. Abhishek Mahajan, Advocate for R-2/MCD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

04.02.2025

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CM APPL. 6839/2025

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

W.P.(C) 1412/2025

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 demolish the illegal construction being constructed in the property of the Petitioner.

ii. It is also requested to direct the respondent to fix the accountability of the ground staff who are posted at the area during the illegal construction and punish them.

iii. It is also requested direct the STF/MCD to demolish the property in question forthwith."



4. Learned counsel appearing on behalf of MCD on advance copy of the writ petition brings to the notice of the Court that Petitioner has already availed the remedy of filing a civil suit being CS DJ 369/2021 titled '*Rashiduddin Malik v. Mohd Shakeel*' with respect to the property which is the subject matter of the present writ petition where *inter alia* he has sought a decree of mandatory injunction in his favour and against Defendant No. 1 for demolishing the alleged unauthorized and illegal construction on Plot bearing No. 40A, Gali No 2, Noor Nagar Extension, Johri Farm, Jamia Nagar, New Delhi ad measuring 200 sq. yards, which is the prayer sought in the present writ petition and therefore, this petition deserves to be dismissed. Copy of the plaint filed before the Civil Court is handed over in Court and is taken on record.

5. Learned counsel for the Petitioner does not dispute that a civil suit has been filed with respect to the same property *albeit* he submits that no relief has been sought for a direction to MCD to demolish the subject property and therefore, this writ petition is maintainable.

6. Issue notice.

7. Counsels, as above, accept notice on behalf of the respective Respondents.

8. A perusal of the plaint filed by the Petitioner before the learned District Judge, Saket Courts, clearly shows that Petitioner has *inter alia* sought a decree of mandatory injunction against Respondent No. 3 herein who is Defendant No. 1 in the suit for demolishing the subject property and therefore, it is incorrect for learned counsel for the Petitioner to urge that similar relief is not sought in the suit. There is no gainsaying that Petitioner cannot pursue two parallel remedies for the same relief.



9. Accordingly, this writ petition is dismissed making it clear that this Court has not expressed any opinion on the merits of the case.

FEBRUARY 04, 2025/shivam

JYOTI SINGH, J