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

+ **W.P.(C) 1843/2025**

KAMLESH KUMARI GUPTA

.....Petitioner

Through: Mr. Bhushan Mahendra Oza,
Mr.Amber Dwivedi, Mr. Kuldeep Sharma and
Mr.Himanshu Nayyar, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.....Respondents

Through: Mr. Ashutosh Gupta, ASC and
Mr.Prateek Jain, Advocate for Respondent
No.1/MCD.

Mr. Vaibhav Sinha, Advocate for Respondents
No.3 to 5.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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04.03.2025

CM APPL. 8845/2025

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

W.P.(C) 1843/2025 and CM APPL. 8844/2025 and 12342/2025

3. This writ petition is preferred on behalf of the Petitioner for a direction to MCD to restrain Respondents No.3 to 5 from making any unauthorised construction/renovation/extension of upper floors in property bearing No. 1460A, near Fountain/Chandni Chowk, Delhi, Ground Floor whereof is occupied by the Petitioner for the last 70-80 years.



4. Learned counsel for the Petitioner submits that even earlier a writ petition was filed by the Petitioner being W.P.(C.) No. 9619/2022 for calling upon MCD to stop the unauthorised and illegal construction in the subject property and while in the status report stand was taken by the MCD that subject property was inspected on 17.06.2022 and work stop notice dated 17.06.2022 had been issued to SHO, PS: Kotwali, yet no action has been taken. Writ petition was disposed of on 25.07.2022 recording the stand of MCD that it will be ensured that no unauthorised construction is carried out, but to no avail. The grievance is that private Respondents in connivance with MCD officials are deliberately not taking any action to stop the unauthorised construction.

5. Status report has been filed by MCD on 28.02.2025 stating therein that inspection of the subject property has been freshly carried out on 27.02.2025 and unauthorised construction in the form of Ground Floor, First Floor, Second Floor and Third Floor was noticed. Ground Floor to Second Floor are old and occupied. Unauthorised construction at Third Floor was booked on 27.02.2025 under Sections 344(1) and 343 of the Municipal Corporation of Delhi Act, 1957 ('1957 Act') and show cause notice has been issued on 27.02.2025 to Sh. Ashok Kumar Malhotra/owner/builder to show cause why demolition order be not passed. Work stop notice dated 27.02.2025 was also sent to SHO, PS: Kotwali and further action will be taken expeditiously as per law.

6. Counsel for Respondents No.3 to 5, *per contra*, submits that there is no unauthorised construction on the First and Second Floors. As far as Third Floor is concerned, only a bathroom has been constructed which Respondent No.3 will self-demolish. This position is seriously disputed by counsel for



the Petitioner who submits that the unauthorised construction/deviations are far beyond the statement made by counsel for Respondents No.3 to 5.

7. This writ petition is disposed of directing MCD to reinspect the property in light of the stand of the Petitioner that unauthorised construction/deviations exist in the subject property. Inspection report shall be furnished to the Petitioner and Respondents No.3 to 5. Any further action will be after putting Respondents No.3 to 5 to notice and shall be compliant with applicable statutory provisions and judgment of the Supreme Court in *In Re: Directions in the matter of demolition of structures, 2024 SCC OnLine SC 3291*. In case of any surviving/further grievance, Petitioner may take recourse to appropriate legal remedies. This order is passed without prejudice to the rights and contention of the private Respondents herein.

8. Pending applications stand disposed of.

JYOTI SINGH, J

MARCH 4, 2025

B.S. Rohella