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

+ **W.P.(C) 1916/2025**

RAJESH BHARDAWAJ

.....Petitioner

Through: Ms. Sonia Mathur, Senior Advocate
with Mr. Ritesh Dhir, Ms. Shubhi Bhardwaj and
Mr. Narender, Advocates.

versus

**BRILLIANT ETOILE PRIVATE LIMITED
& ORS.**

.....Respondents

Through: Mr. Niraj Singh, Advocate for
Respondent No.1.

Mr. Manish Vasisht, Senior Advocate with
Mr.Arpit Dwivedi and Mr. Manmeet Nagpal,
Advocates for Respondent No.2.

Mr. Kapil Dutta and Mr. Vansh Luthra, Advocates
for Respondent No.3/MCD.

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

ORDER
14.02.2025

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C.M. APPL. 9022/2025

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

W.P.(C) 1916/2025 and CM APPL. 9021/2025

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

*“a. allow this writ petition and quash the completion cum occupation
certificate issued by Respondent No. 3 dated 30.10.2023.*



b. Restrain Respondent No. 1 and Respondent No.2 to take/effect any further booking or sale of units in the Project till recertification of all violation.

c. Remove all occupants of building till recertification of all deviation.

d. Appoint judicial surveyor to check the deviation and submit the report before this Hon'ble Court for issuance of further direction."

4. Issue notice.

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

6. Ms. Sonia Mathur, learned Senior Counsel appearing on behalf of the Petitioner submits at the outset that Petitioner does not press reliefs sought in prayer clause '(a)', '(b)' and '(c)' but presses relief '(d)', as there are multiple deviations in the subject property which require to be inspected by appointing a Judicial Surveyor and removed by MCD.

7. Mr. Niraj Singh, learned counsel for Respondent No.1 submits that all requisite prior permissions have been taken by Respondent No.1 and the property in question is compliant with the sanction plan. The completion certificate has been issued by MCD only after due inspection. There was an increase in the built-up area, however, compounding was sought and the compounding fee has been deposited with MCD.

8. Mr. Kapil Dutta, learned counsel for Respondent No.3/MCD, on instructions, submits that in respect of the increased area, compounding was sought by Respondent No. 1 and after receiving the requisite fee, compounding was done and completion certificate was issued thereafter. It is further submitted that lay out plan for construction of Group Housing was sanctioned by the Standing Committee of SDMC vide Resolution No.472 dated 16.02.2017 and building plans were sanctioned by MCD on 23.03.2017. Sanction of building plans was revalidated on 30.10.2023 and



occupancy-cum-completion certificate was issued on 30.10.2023. While granting the certificate, it was ensured that approvals/NOCs had been received by Respondent No. 1 from other statutory bodies such as Delhi Fire Service and Delhi Urban Art Commission.

9. It is further submitted that in regard to the additional floor, occupancy-cum-completion certificate was issued only after compounding fee for the excess permissible construction to the extent of 5% as per provisions of MPD-2021, was received. With regard to swimming pool, which is one of the bone of contention of the Petitioner, it is stated that no swimming pool exists in the penthouse at the terrace and at present, there is no additional swimming pool, save and except, one which is as per the sanction plan. The swimming pool referred to in the writ petition is merely a water body and not a pool. This position is also confirmed on behalf of Respondent No. 1 and it is undertaken that no swimming pool in violation of the sanction plan will be made in the subject property.

10. Last but not the least, Mr. Dutta submits that the deviations have been taken into consideration to the extent they were compoundable as per Regulations, have been compounded/regularised. The allegation that there is a separate restaurant is false as there is no separate restaurant and the only restaurant in the club is in consonance with the sanction plan. The ECS/parking norms have been scrupulously followed in the parking area as per MPD-2021 and completion plan. Respondents therefore urge that the writ petition be dismissed.

11. Having heard learned Senior Counsel for the Petitioner and learned counsels for the Respondents, at this stage, no order is required to be passed in the writ petition, save and except, taking the respective stands of the



Respondents on record that the subject property will remain compliant with MPD-2021 and other applicable Regulations and norms. In case of any surviving or further grievance, Petitioner will be at liberty to approach the Special Task Force constituted by the Delhi Development Authority vide Notification dated 25.04.2018 in view of the orders of the Supreme Court in *M.C. Mehta v. Union of India and Others*, (2019) 12 SCC 730 and *M.C. Mehta v. Union of India and Others (Sealing Issue, in Re)*, (2019) 12 SCC 419.

12. Writ petition stands disposed of in the aforesaid terms, along with pending application.

JYOTI SINGH, J

FEBRUARY 14, 2025

B.S. Rohella/shivam