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

+ **W.P.(C) 3749/2025 & CM APPL. 17460/2025**

SH. VIRENDER KUMAR DUA

.....Petitioner

Through: Ms. Ekta Gambhir with Mr. A.K. Sharma and Ms. Anushka Sharma, Advocates.
(M): 9810132179

Email: aksharmaadvocate99@gmail.com

versus

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

Through: Mr. Aditya Chandra, Standing Counsel, MCD with Mr. Utkarsh Bhanu, Advocate for respondent no. 1 and 2.
(M): 9717444444

Email: advocateadityachandra@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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26.03.2025

CM APPL. 17460/2025 (For Exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application is disposed of.

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3. The present writ petition has been filed challenging the order dated 31st January, 2025 passed by the Presiding Officer, Appellate Tribunal, Municipal Corporation of Delhi ("ATMCD) in *Appeal No. 539/2023*, titled as *Vinod Kumar Versus MCD*.



4. Learned counsel appearing for the petitioner submits that the petitioner is the owner of *Flat no. 608, Nimri Colony, Ashok Vihar, Delhi-110052*. The respondent no. 3 is the owner of Flat no. 606 of the same building and has encroached on the common shaft area and has constructed a staircase and a bathroom, in the said encroached area on the second floor, by covering the essential service lines, including, water, sewer and other pipelines of the petitioner.

5. It is submitted that the petitioner herein has already filed a civil suit being *CS No. 1017/2019*, which is pending before the learned Civil Judge, Rohini Courts, Delhi.

6. She further submits that a demolition order dated 07th January, 2020, was passed by the Municipal Corporation of Delhi (“MCD”) against the unauthorized construction done by the respondent no. 3. Against the same, an appeal being *Appeal No. 539/2022* has been filed by respondent no. 3 before the ATMCD.

7. Learned counsel appearing for the petitioner submits that the petitioner being a necessary party in the said appeal had filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (“CPC”), however, the petitioner has not been impleaded in the said appeal before ATMCD. She further submits that on account of the pendency of the present appeal before the ATMCD, the civil suit filed by the petitioner is not progressing properly. She further submits that the MCD has still not filed any Status Report before the learned ATMCD.

8. Learned counsel appearing for respondent nos. 1 and 2 (MCD), appears on advance notice, and submits that he shall ensure that the Status Report is filed before the learned ATMCD expeditiously.



9. He further opposes the present petition on the ground that liberty has already been granted to the petitioner herein to file the requisite documents and make submissions before the learned ATMCD.

10. Having heard the learned counsels appearing for the parties, this Court notes that by the order dated 31st January, 2025, the learned ATMCD has already allowed the petitioner herein, to participate in the proceedings before the learned ATMCD and has further allowed the petitioner herein to file the requisite documents and to make submissions at the time of final arguments.

11. Accordingly, this Court finds no ground for interfering with the order dated 31st January, 2025, passed by the learned ATMCD.

12. As regards the submissions of the petitioner regarding non-filing of the Status Report by the MCD before the learned ATMCD, it is directed that the requisite Status Report shall be filed by the MCD before the learned ATMCD, before the next date of hearing, i.e., 15th April, 2025.

13. It is further directed that some senior official from the MCD shall appear and attend the hearing before the learned ATMCD, to ensure that effective submissions are made on behalf of the MCD, before the learned ATMCD.

14. It is expected that the parties shall cooperate before the learned ATMCD and not take unnecessary adjournments, in order to assist the learned ATMCD, for expeditious disposal of the appeal.

15. With the aforesaid directions, the present petition, stands disposed of.

MINI PUSHKARNA, J

MARCH 26, 2025/c