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

+ **W.P.(C) 4318/2025 & CM APPL. 19986/2025, CM APPL. 34620/2025**

MRS. AMIT KAUR ALIAS AMIT KAUR NARULAPetitioner

Through: Mr. Amit Chadha, Sr. Adv. with Mr. R. K. Kohli, Mr. Rajat Kohli, Ms. Jyoti Kohli, Mr. Harjas Singh, Mr. Dhruv Tomar, Mr. Kartik Shoukeen, Mr. Eeshan Singh, Advocates (M:8130992877)

versus

THE STATE & ORS.Respondents

Through: Mr. Abhinav Singh, Mr. Rishab Mittal, Advocates for GNCTD (M:9999434377)
Ms. Shilpa Ohri, Advocate for R-2 & 4 (M:9871900539)
Mr. Manish Kaushik, Mr. Ankit Batra, Mr. Yashpriya Sahran, Advocates for R-7 to 11 (M:9818218885)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

23.09.2025

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1. The present writ petition has been filed by the owner of ground and mezzanine floors of property bearing No. M-527, *Guru Harkrishan Nagar, District-West, New Delhi-110087*, alleging unauthorized construction on the First Floor, Second Floor and terrace of the Second Floor of the said property.
2. Learned counsel appearing for the respondent-Municipal Corporation of Delhi ("MCD"), has drawn the attention of this Court to the first Status



Report dated 13th May, 2025 filed on behalf of the MCD, relevant portions of which, read as under:

“xxx xxx xxx

5. That it is pertinent to mention here, that the property in question M-527, Guru Harkishan Nagar, Delhi 110087 was inspected by area JE(B) and during the said inspection unapproved/without permission illegal renovation work of first floor, second floor & third floor was found in the shape of renovation of the first floor, second floor and third floor by removing key structural elements/load bearing walls without any sanction/ approved / addition / alteration plan and the same has been booked vide u/c file no. 33/UC/B-11/48/RZ/2025 dated 25.04.2025. That in continuation of the same show cause notice u/s 343 & 344 (1) of the DMC Act 1957, was issued vide printed No. 13311 dated 25.04.2025 to the owner occupier of the subject property. The owner has been given the opportunity of reply, which shall be examined and further action shall be taken as per the provisions of the DMC Act, 1957. That further inspection in the present matter will be taken as per provisions of DMC Act 1957.

6. That it is relevant to mention here, that the petitioner before the Hon'ble Court has himself carried out illegal encroachment of the MCD Park in the form of illegal kitchen / motor connection which have been developed in the MCD Park adjacent to the Plot No. M-527 Guru Harkishan Nagar, Delhi 110087. That for removal of the said encroachment a letter has been issued to Dy. Director Horticulture, Department, Rohini Zone vide letter No. AE(B)II/RZ/2025/56 dated 24.04.2025 for removal of said encroachment from the MCD Park. Copy of the said letter dated 24.04.2025 is hereby annexed as **ANNEXURE-A**. That is the petitioner has not come to the court with clean hands.

xxx xxx xxx”

3. Perusal of the aforesaid Status Report shows that the property in question was inspected by the concerned officials of the MCD, after which, the same was booked for unauthorized construction.

4. Further, the owner/occupier of the aforementioned floors, i.e., respondent nos. 7 to 10, were granted an opportunity of filing reply.

5. Learned counsel for the MCD has handed over to this Court a subsequent Status Report dated 21st September, 2025, which is taken on



record.

6. As per the said Status Report, a speaking order dated 19th September, 2025 has been passed by Assistant Engineer (B)-II, Rohini Zone, MCD, wherein, it is noted that the construction being carried out by the owner/occupier of the First Floor and Second Floor of the property in question, was in the nature of repair and renovation in terms of the Section 6.4.1 of the Unified Building Bye-Laws 2016 (“UBBL-2016”).

7. The relevant portions of the Status Report dated 21st September, 2025 filed by the MCD, read as under:

5. That it is pertinent to mention here, that subject property i.e., M-527, Guru Harkishan Nagar, Paschim Vihar, Delhi-110087 was booked for unauthorized construction vide u/c file No. 33/UC/B-II/48/RZ/2025 dt. 25.04.2025 that in continuation of the same show cause notice u/s 343 & 344 (1) of the DMC Act, 1957 was issued vide printed No. 13311 dt. 25.04.2025 to the owner/occupier of the subject property. That in response to the show cause notice reply was received vide diary No. 324 dt. 07.05.2025 with a request to grant personal hearing in the present matter accordingly, personal hearing was granted vide No. AE(B)-II/RZ/2025/208 dt. 10.06.2025 and next date of hearing in the same was fixed for 20.06.2025.

6. That in continuation of the same, hearings in the present matter was granted on dt. 20.06.2025, 01.07.2025 and 15.07.2025 and after taking the documents filed by the owner/occupier Sh. Anil Dhingra the hearing in the present matter was closed on dt. 15.07.2025.



8. Along with the aforesaid Status Report, speaking order dated 19th September, 2025 has also been attached, which reads as under:


MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE EXECUTIVE ENGINEER (BLDG.)-II
ROHINI ZONE, SECTOR-V, ROHINI, DELHI

No. AE(B)-II/RZ/2025/ 461- Date: 19-09-2025

ORDER U/S 343 (1) OF THE DMC ACT, 1957 (66 OF 1957)

Ref: Hon'ble High vide W.P (C) No. 4318/2025

Whereas unauthorized construction in the shape of GF, FF, SF & TF was mentioned in u/c file No. 33/UC/B-II/48/RZ/25 dated 25.04.2025 for P. No. M-527, Guru Harkishan Nagar, Paschim Vihar, Delhi.

Whereas a Show Cause Notice u/s 343/344(1) of the DMC Act, 1957 was issued and served upon the owner/builder of the said property vide S. No. 13311 dated 25.04.2025.

Thereafter, Sh. Anil Dhingra, owner of the property No. M-527, First Floor, Second Floor & Terrace, Guru Harkishan Nagar, New Delhi-110063 vide his letter dt. 07.05.2025 vide diary No. 324. Accordingly, an opportunity of personal hearing was granted to him and the personal hearing were fixed for 20.06.2025, 01.07.2025 & 15.07.2025, and during the hearing, he submitted the following documents in support of his contention.

1. Structural Report dt. 03.05.2025.
2. Photographs of the property.
3. Technical report dt. 14.05.2025.
4. Copy House-Tax receipt (First Floor) vide No. 1628149 dt. 28.06.2005.
5. Copy House-Tax receipt (First Floor & Third Floor) vide No. 717096 dt. 29.09.2004.
6. Copy of registered sale deed dt. 09.07.2004 in favour of Dr. Anita Chawla W/o Dr. Anil Dhingra in respect of First Floor, Second Floor with Barsati of the suit property.
7. Copy of registered sale deed dt. 09.07.2004 in respect of Second floor of the suit property.
8. ITR of Smt. Anita Chawla of year 2005-06, 2007-08, 2006-07, 2004-05.
9. Housing Loan ICICI Bank taken in 2004.

AND WHEREAS, on going through the record available on files and on going through the documents submitted by the owner/occupier of said property, it is evident that the property existed prior to the year 2007.

The site was inspected by the undersigned and it has been observed that the owner/occupier is just doing the renovation work and when asked about the structural stability of the renovation, the owner/occupier has produced the structural audit report done by the MCD



empanelled Structural Engineer. There is neither any encroachment on the public land nor there is any facia/fusad being redone now.

Regarding the persistent complaint/hardship being faced by the Ground Floor residents, the owner/occupier has assured to do all the defect/re-correction on the Ground Floor. Regarding seepage and water tank issues of the Ground Floor, the same has been assured by the owner/occupier of First Floor & Second Floor to attend on priority.

Section 6.4.1 of BBL-2016 also allows the owner/occupier of the floors to do the necessary repair/renovation and it has been observed that the said renovation is being done within the boundaries/limitation of the old house and its boundaries within the old premises. The owner/occupier is doing the internal repair/renovation besides ensuring the structure stability.

The assurances to attend the difficulties being faced by the Ground Floor residents has also been given by the owner/occupier and both the parties have to resolve mutually and in case of non-compliance of assurance to removal any damage/difficulty is not complied, the MCD shall be at liberty to take necessary action.

In view of the above and in view of the assurance given by the residents of First Floor & Second Floor, the owner/occupier show cause notice issued vide No. 13311 dt. 25.04.2025 is withdrawn.

Moreover, the occupancy/completion certificate documents obtained from the Najafgarh Zone reveals that in the year 22.02.1990, the occupancy certification was taken. Both the Ground Floor & First Floor residents are directed to get the property regularized as per BBL-2016 to avoid any further hardship for the action under DMC Act, 1957 even though the National Capital Territory Laws (Special Provisions) Second (Amendment) Act, 2011 grants protection from any coercive action till further orders.

However, both the parties have to live in tandem with each other.

Issued under my hand on this 19 day of September, 2025.

Assistant Engineer(B)-II
Rohini Zone

Sh. Anil Dhingra
P. No. M-527, Guru Harkishan Nagar,
Paschim Vihar, Delhi

Copy to:-

1. EE(B)-II/RZ for kind information please.
2. JE(B)/RZ to pursue the matter.
3. O.I(B)-II/RZ for keep in record.
4. O/c.

Assistant Engineer(B)-II
Rohini Zone
Municipal Corporation of Delhi
Rohini Zone

9. Perusal of the aforesaid Status Report and the speaking order shows that the MCD has categorically stated that the renovation activity is being done within the boundaries/limitation of the old house/premises. Further, the



owner/occupier of the First and Second Floors of the property in question is doing the internal repair/renovation work, besides ensuring the structural stability.

10. Further, the residents of both the Ground Floor as well as the First Floor were also directed to get their properties regularized, in case of any excess coverage.

11. This Court also takes note of the submission made by learned Senior Counsel appearing for the petitioner that the MCD itself had issued a Work Stop Notice dated 15th April, 2025 to the Station House Officer (“SHO”), Police Station–Paschim Vihar West, Delhi. He, thus, submits that when it was the own stand of the MCD that there was unauthorized construction, the MCD cannot, at a later stage, change its stand.

12. However, this Court takes note of the submission made by learned counsel for the respondent-MCD, upon instructions from the Assistant Engineer (B)-II, Rohini Zone, who is present in Court, that the MCD, in view of its speaking order dated 19th September, 2025, has already withdrawn the earlier Show Cause Notice issued by it.

13. Having heard learned counsels for the parties, once it is the clear stand of the MCD that the construction work being carried out in the property in question on the First and Second Floors, and on the terrace of the Second Floor, was only in the nature of renovation/repair, no orders are required to be passed by this Court.

14. This Court also takes note of the stand of the MCD that in case of any compoundable excess coverage, the property in question, can be regularized.

15. Accordingly, the respondent nos. 7 to 11, are directed to file an application for regularization with the MCD, within a period of four weeks, from today.



16. Upon the application being filed by the respondent nos. 7 to 11, the same shall be decided with by the MCD.
17. In case of any non-compoundable deviations/excess coverage, the same shall be duly removed by the said respondents.
18. In case, the said non-compoundable deviations/excess coverage are not removed by the said respondents, the MCD shall be at liberty to take action, in accordance with law.
19. Likewise, owner/occupier of the Ground Floor of the property in question is also directed to file an application for regularization with the MCD. In case of any non-compoundable deviations/excess coverage, the same shall be duly removed by the owner/occupier of the Ground Floor.
20. In case, the requisite action is not taken by the owner/occupier of the Ground Floor, the MCD shall be at liberty to take action, in accordance with law.
21. After the non-compoundable deviations/excess coverage, are removed by the respective parties, i.e., the petitioner and the respondent nos. 7 to 11, the MCD shall inspect the whole property.
22. In case, the MCD is satisfied that no excess coverage or non-compoundable deviations exist in the property in question, the MCD shall proceed to pass orders for regularization of the property.
23. With the aforesaid directions, the present writ petition, along with the pending applications, is disposed of.

MINI PUSHKARNA, J

SEPTEMBER 23, 2025/au