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

+ W.P.(C) 4627/2025 & CM APPL. 21373/2025, CM APPL. 21374/2025

SHALINI JAIN & ANR.

.....Petitioners

Through: Mr. Saurabh Kushawaha, Mr. Ajay Kr. Sini and Mr. Rohit Arya,
Advocates

versus

NEW DELHI MUNICIPAL COUNCIL

.....Respondent

Through: Mr. Sanjay Sharma, ASC for NDMC

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

09.04.2025

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1. The present writ petition has been filed praying for directions to quash the Demolition Order dated 15th February, 2024, and to restrain the respondent-New Delhi Municipal Council ("NDMC") from taking any coercive action against the petitioners' property bearing no. 10, Bazar Lane, Bengali Market, New Delhi-110001.

2. Learned counsel appearing for the petitioners submits that the petitioners have carried out the construction in the property in accordance with the sanctioned Building Plan.

3. Per contra, learned counsel appearing for the respondent-NDMC draws the attention of this Court to the Stoppage Order under Section 248 of the New Delhi Municipal Council Act, 1994 ("NDMC Act, 1994") dated 14th November, 2023, attached as *Annexure P-4* to the present petition. Learned counsel for the respondent further draws the attention of this Court



to Annexure P-6, which is a Show-Cause-Notice dated 22nd November, 2023, wherein it is clearly stated that the petitioners herein have carried out the construction without obtaining approval from the NDMC, as required under provisions of the NDMC Act, 1994, and the bylaws made thereunder. The Show-Cause-Notice dated 22nd November, 2023, reads as under:-

C/N0.-1231489/2023/EE&R

NEW DELHI MUNICIPAL COUNCIL
(E-BR DEPARTMENT)
PRAGATI BHAWAN: 2ND FLOOR
JAI SINGH ROAD : NEW DELHI.

No. 194/1/EE(E-BR)/2023

Dated: 22/11/2023

Owner /occupier
Premise No.10,
Bazar Lane,
Bengali Market,
New Delhi-110001

SHOW CAUSE NOTICE U/S 247 OF NDMC ACT 1994

It has come to the notice of the New Delhi Municipal Council that you have carried out the erection as described in Schedule "A" given below at premise no. 10, Bazar Lane, Bengali Market, New Delhi-110001, without obtaining the approval from the Chairperson, NDMC as required under provisions of the New Delhi Municipal Council Act, 1994 and the Bye laws made there under:-

Schedule-'A'

1. Carried out Addition/Alteration by demolishing brick walls, doors, kitchen platforms etc. and covering of open space measuring about 2.60m x 3.28m & 6.05m x 2.26m and erection of new brick wall at Ground Floor of Premise no. 10, Bazar Lane, Bengali Market, New Delhi, unauthorizedly without prior approval of NDMC.
2. Carried out Addition/Alteration by demolishing mummy roof including parapet wall and pergola etc. at First Floor of Premise no.10, Bazar Lane, Bengali Market, New Delhi, unauthorizedly without prior approval of NDMC.
3. Carrying out coverage of area measuring about 2.09m x 3.00m, 2.20m x 3.00m and 7.70m x 6.90m with erection of roof slab at First Floor of Premise no.10, Bazar Lane, Bengali Market, New Delhi, unauthorizedly without prior approval of NDMC.

The above violations/deviations are observed with the contravention to the completion plan issued by the Department of Architecture & Environs vide No. CA/BP/10, Bazar Lane/D-2002-2006 dated 18.08.2023.

Whereas, a stoppage order under section 248 of the NDMC Act, 1994 vide no. vide no.192/N/EE(E-BR)/2023 dated: 14.11.2023 was also served upon you for carrying out unauthorized work as described in Schedule "A" without obtaining the approval from the Chairperson, NDMC as required under provisions of the New Delhi Municipal Council Act, 1994 and the Bye laws made there under.

The unauthorized construction as described in schedule-A as above is liable to be demolished being in violation of the provisions of the New Delhi Municipal Council Act, 1994 and the Byelaws made there under.

You are hereby required to show cause within seven days of the receipt of



this notice as to why order for demolition of the aforesaid unauthorized construction be not made. In case you fail to show the cause within the aforesaid time or the cause shown is not to the satisfaction of the Chairperson, NDMC or any other officer authorized by him/her in this behalf, the order of demolition of unauthorized construction aforesaid shall be made without any further notice.

Please note that failure to comply with the order of demolition of unauthorized construction or erection of buildings in contravention of order of demolition is punishable with simple imprisonment up to six months or with fine which may extend to Rs.5,000/- or both.

Signed by Mukesh Sharma

Date: 21-11-2023 14:57:54

Reason: Approved

(Er. Mukesh Sharma)
Executive Engineer (E-BR)

4. Attention of this Court is also drawn to *Annexure P-8*, which is the Demolition Order dated 15th February, 2024, wherein, it has categorically been stated that unauthorized construction has been carried out in the property in question. It is only after following the due process of law that the final Demolition Notice has been issued on 03rd April, 2025, wherein, it has been informed that the demolition action is scheduled from 15th April, 2025 to 17th April, 2025.

5. In response, learned counsel appearing for the petitioners draws the attention of this Court to the letter dated 16th November, 2023, written on behalf of the petitioner no. 1, i.e., Ms. Shalini Jain, wherein, it is simply stated that no construction is presently being carried out in the said building. Further, learned counsel appearing for the petitioner submits that he has received the aforesaid document only recently.

6. Having heard the learned counsel for the parties, this Court notes the very fact that *vide* letter dated 16th November, 2023, the petitioner no. 1 has filed a reply to the work stop notice dated 14th November, 2023 and also filed a reply dated 29th November, 2023 to the Show-Cause-Notice dated 22nd November, 2023, belies the stand of learned counsel appearing for the petitioners that the aforesaid documents were received by the petitioners



only recently.

7. The *Annexures P-5* and *P-7*, which are the replies filed on behalf of the petitioners dated 14th November, 2023 to the stop work order, and reply dated 29th November, 2023, to the Show-Cause-Notice issued by the NDMC, clearly shows that the petitioners have been aware of the various notices issued to the petitioners time and again.

8. It is only now when the Pre-Demolition Notice dated 03rd April, 2025 has been issued by the NDMC for carrying out the demolition action for 15th April, 2025 to 17th April, 2025, that the present writ petition has been filed.

9. Learned counsel appearing for the petitioners submits that since the requisite documents have been provided to the petitioners only recently, therefore, by way of the present writ petition, the petitioners are only praying for some time to file statutory appeal.

10. Since the petitioners have clearly not approached this Court with clean hands and have not brought forth all the requisite facts before this Court, accordingly, no merit is found in the present writ petition.

11. However, liberty is granted to the petitioners to file statutory appeal in accordance with the provisions of the NDMC Act, 1994. It is clarified that this Court has not expressed any opinion on the merits of the case. Further, the issue of limitation, if any, shall be decided by the appropriate authority, in accordance with law.

12. The present writ petition is dismissed, along with the pending applications, in terms of the aforesaid.

MINI PUSHKARNA, J

APRIL 9, 2025

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