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

+ W.P.(C) 5413/2019, CM APPL. 40012/2024, CM APPL. 40454/2024,
CM APPL. 41912/2024, CM APPL. 47611/2024, CM APPL.
47616/2024, CM APPL. 60331/2024 & CM APPL. 75196/2024
JAMIA ARABIA NIZAMIA WELFARE EDUCATION
SOCIETY

.....Petitioner

Through: Mr. Rakesh Lakra, Ms. Shivani Kher,
Mr. Bhavya Sharma and Ms. Kanika
Sharma, Advs. (Through VC)
M: 7206155557

versus

SOUTH DELHI MUNICIPAL CORPORATION
& ORS.

.....Respondents

Through: Mr. Jivesh Kumar Tiwari, Sr. Panel
Counsel with Mr. Vinod Tiwari, GP
and Ms. Samiksha, Adv. for R-2 and
3. (Through VC)
Mr. Tushar Sannu, SC with Mr.
Shivraj Singh Tomar, Adv. for MCD.
M: 9911991166
Email: adv.tusharsannu@gmail.com
Ms. Shobhana Takiar, SC with Mr.
Kuljeet Singh, Mr. Prateek Dhir and
Mr. Shivam Takiar, Advs. for DDA.
M: 9810962950
Mr. Rajat Aneja and Mr. Abhinav
Chauhan, Advs. for applicant.
M: 8279855830
SI Sikander, P.S. H.N. Din
Mr. Anurag Ahluwalia, Sr. Adv. with
Mr. Tanishq Panwar, Adv. for R-9
M: 9560856793

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
26.03.2025

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1. The present writ petition has been filed for directions to the



respondents to forthwith remove the encroachment in the form of unauthorized buildings constructed in the Municipal Corporation of Delhi (“MCD”) Park, *opposite G and B Block of Hazrat Nizamudin West*, and make the park free from encroachment.

2. This Court notes that the present writ petition has been pending since the year 2019, and various orders have been passed by this Court, time and again.

3. During the course of hearing, it has come to the fore that the land in question belongs to the Land and Development Office (“L&DO”), Government of India.

4. This Court notes that in its Affidavit of Compliance dated 14th July, 2023, the UOI, has stated as follows:

“xxx xxx xxx

2. That as per the direction of Hon'ble Court, CPWD was requested to carry out the demarcation in terms of the TSM method and submit the report to this Office. CPWD has carried out the TSS of the said site on 22-05-2023 in presence of Survey Officer from L&DO, MCD (Horticulture), Archeological Survey of India, AE (CPWD),

3. As per TSS there is encroachment in both the Park. The encroached area is as below:

Park 1:		Park 2 :- Gali No- 4 = 38.06 sq.m
Gali No-1 = 60.84 sq.m		
Gali No-2 = 5.34 sq.m		
Gali No-3 = 30.15 sq.m		
Encroachment by = 531.38 sq.m by illegal pucca structure,		Encroachment by = 22.89 sq.m by illegal pucca structure,

Total of Park-1 = 657.71 sq.m (A)

Total of Park 2 = 60.95 sq.m (B)

Total encroachment in Park = (A) + (B) = 718.66 Sq.m

Total Park area i/e encroached area = Park 1+ Park 2 = 1384.70 sqm + 229.33 sq.m = 1614.03 sq.m

xxx xxx xxx”



5. Perusal of the aforesaid report shows that it is the stand of the Government of India that the land in question is a public land.

6. Attention of this Court has been drawn to the order dated 20th August, 2024, wherein, it has been directed as follows:

“xxx xxx xxx

CM APPL 41912/2024 & CM APPL 47616/2024

.....

3. Keeping in mind the aforesaid submissions, the Court finds that before recording any conclusion in the order dated 12.08.2024, the applicants ought to have been extended an opportunity of hearing. It can be prima facie noted from the averments made in the application being CM APPL 41912/2024, that the applicants appear to be in possession of the land in question for quite a long time.

4. In view of the aforesaid, the respondent-L&DO is directed to provide all necessary documents to the applicants within seven working days from today. The applicants, thereafter, on receipt of the documents/record etc. shall be at liberty to file representation/application within a period of seven days, thereafter. The respondent MCD/L&DO shall then pass a speaking order, thereafter.

5. In view of the above, the hearing of applications being CM APPL 41912/2024 and CM APPL 47616/2024 is deferred for two weeks.

6. During the pendency of these two applications, no action for demolition shall be proceeded against these two applicants, namely, Mr. Syed Fuzail Ali Nizami and Mr. Syed Mehboobul Islam Nizami.

xxx xxx xxx

W.P.(C) 5413/2019 & CM APPL. 40012/2024

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2. In view of the Status Report filed by the respondent-Corporation, learned counsel appearing on behalf of the respondent-L&DO is directed to take instructions and place on record its stand with respect to the alleged encroachment by the petitioner over the L&DO's land. The respondent- L&DO shall be at liberty to carry out the inspection.

3. Learned counsel for the petitioner undertakes to cooperate with the same and the respondent-Corporation is also directed to assist the L&DO in getting the land identified/demarcated.



5. The petitioner has also placed on record an affidavit on 16.08.2024. Let a copy of the same be supplied to all learned counsels appearing on behalf of the parties during the course of the day. Thereafter, learned counsel for the parties will be at liberty to place their comments on record in view of the affidavit filed by the petitioner.

xxx xxx xxx”

7. Reading of the aforesaid order shows that the various private parties, who are occupying the land in question, have been directed to be given a hearing by the L&DO, by this Court.

8. Learned counsel appearing for Union of India (“UOI”) submits that the representations of various private persons occupying the land in question, are being taken up by the L&DO and that the aforesaid exercise is being undertaken regularly.

9. Learned counsel appearing for UOI further submits that the area in question is a heavily populated area and therefore, the UOI is in the process of considering the documents of the various occupants of the land before taking any action. He further submits that requisite action shall be taken after granting hearing to all the requisite parties, in accordance with law.

10. Learned counsel appearing for UOI has handed over a copy of the letter dated 07th March, 2025, which has been written by the L&DO to the Vice Chairman, Delhi Development Authority (“DDA”) requesting for comments and replies on the representations of the various applicants. The said letter is reproduced as under:

“xxx xxx xxx





documents are genuine and authentic.

15. It is further directed that till speaking orders are passed by the L&DO after due hearing to the private persons, and after consideration of documents, no action shall be taken during the pendency of the hearing before the L&DO.

16. It is expected that the UOI shall complete the hearing expeditiously, preferably, within a period of six months from today.

17. It is directed that the protection to the private parties shall continue for a period of two weeks, after the passing of the speaking order by the L&DO, in case the speaking order, is adverse to the interests of the private persons.

18. Requisite action shall be taken by the L&DO, in accordance with law.

19. It is clarified that this Court has not expressed any opinion on the merits of the case, as regards the claims of the parties with respect to their right, title or interest over the land in question, which question is before the UOI.

20. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MARCH 26, 2025/kr