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

+ **W.P.(C) 9991/2023, CM APPL. 38528/2023**

ASHOK KUMAR

.....Petitioner

Through: Mr. Mohit Jolly and Mr. Ayush
Gupta, Ms. Shikha,, Ms. Preerna
Advocates
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versus

MUNICIPAL CORPORATION OF DELHI & ANR.

.....Respondents

Through: Mr. Pritish Sabharwal, Advocate for
MCD.
Mob: 9871878690
Mr. Sachin Mittal and Ms. Bhawna, Mr.
Satyam, Mr. Vishu Mital, Advocates for
R-2.
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CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

20.05.2025

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1. The present petition has been filed seeking directions to respondent no.1 to take action against the illegal and unauthorized construction being raised by respondent no.2 in the property bearing *No. 2088/10-C, Gali No. 19, Prem Nagar, Patel Nagar, New Delhi-110008.*
2. Learned counsel appearing for the petitioner draws the attention of this Court to the order dated 07th October, 2019, passed by the Public Grievances Commission and submits that the unauthorized construction



existed in the property and the property was being misused as the same consisted of four shops which were being run from there.

3. *Per contra*, learned counsel appearing for the respondent no. 2 submits that the property is being used by the respondent no.2 only for residential purposes. He submits that the four shops, which existed earlier, have since been closed and therefore, no commercial activity is being carried out by respondent no. 2 from the premises in question.

4. Learned counsel appearing for the respondent-Municipal Corporation of Delhi (“MCD”), submits that though unauthorized construction exists in the property, however, it is the case of respondent no.2 that the said construction is an old one and the same is protected under the NCT of Delhi Laws (Special Provisions) Second Act, 2011, which is now in force till 31st December, 2026.

5. Learned counsel appearing for the respondent MCD submits that for the purposes of adjudicating whether the construction existing in the property of respondent no. 2 is protected, documents have already been submitted by respondent no. 2. He submits that after the submission of the said documents by respondent no. 2, a clarification has been sought by the respondent-MCD from the concerned Sub-Divisional Magistrate (‘SDM’), with regard to documents submitted by the respondent no. 2.

6. Accordingly, it is directed that the MCD shall issue a Speaking Order after considering the Report of the SDM, and after considering the documents of respondent no. 2.

7. At the time of considering the case, the respondent-MCD shall also assess as to whether there is any encroachment on public land by the respondent no.2.



8. The respondent no. 2 shall be granted a personal hearing before a decision is taken by the MCD. The MCD shall take further action on the basis of its decision.
9. A copy of the decision/Speaking Order passed by the respondent MCD, shall be supplied to learned counsel appearing for the petitioner, as well as learned counsel appearing for respondent no.2, on the emails, which are reflected in today's order.
10. In case, any of the parties are aggrieved by any decision/speaking order passed by the MCD, they shall be at liberty to seek their remedies, in accordance with law.
11. All rights and contentions of the respective parties, on merits, are kept open.
12. It is clarified that the Speaking Order shall be passed by the respondent-MCD, without being affected by any observation made hereinabove.
13. With the aforesaid directions, the present petition, along with the pending application, is accordingly disposed of.

MINI PUSHKARNA, J.

MAY 20, 2025/neha