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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6512/2025 & CM APPL. 29666/2025, CM APPL.
29667/2025

VIPIN KUMAR

.....Petitioner

Through: Mr. Manish Kumar, Advocate
Mob: 9873950114

versus

THE COMMISSIONER OF MCD & ORS.Respondents

Through: Mr. Rakesh Malhotra and Mr. Bharat
Malhotra, Advocates for R-1.
Mob: 9810239071
Email:
officerakeshmalhotra@gmail.com
Mr. Sanjeev Sabharwal, SPC for UOI
Mob: 9810031680
Email: solicitor6@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
15.05.2025

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1. The present writ petition has been filed seeking demolition of unauthorised and illegal construction on the property bearing no. A-122, *First Floor and Second Floor, Karampura, New Delhi-110015*.
2. Learned counsel appearing for the petitioner has drawn the attention of this Court to *Annexure P-1*, i.e., photographs attached with the present petition, to submit that the unauthorised construction has been made on behalf of respondent no. 5, in the property in question.
3. *Per contra*, learned counsel appearing for respondent no. 1-Municipal



Corporation of Delhi (“MCD”), draws the attention of this Court to Para 26 of the present writ petition, wherein, it has been stated as follows:

“xxx xxx xxx

*26. That the Present petitioner had filed a civil suit SCJ/477/2019 before the Ld. SCJ, Tis Hazari Court for the Cancellation of the lease deed of the Occupie/Lessee of the property No. A-122, Karampura as they have violated the lease deed and before this Ld. Court **the MCD has filed Status report on dated 23.09.2024 that MCD has only demolish the Balcony of the First floor and Second Floor. Further MCD has attached the latest photograph which clearly show that after the demolition of the balcony of the First Floor and Second Floor Occupier/Lessee of the present unauthorized and illegal constructed property had again reconstructed the Balcony of the First and Second floor which is clearly visible in the pictures attached by the MCD and MCD is not taking any action against the same illegal and unauthorized construction. Copy of the status report dated 23.09.2024 is attached as Annexure P-11.***

xxx xxx xxx”

4. By reference to the aforesaid paragraph, learned counsel appearing for respondent no. 1-MCD, submits that the petitioner herein has already filed a civil suit, which is pending before the Tis Hazari Courts, Delhi.
5. Learned counsel appearing for respondent no. 1-MCD, has also handed over to this Court, a copy of the suit filed by the petitioner, which is pending in the Tis Hazari Court.
6. The same is taken on record.
7. The prayer made in the said suit, as filed by the petitioner herein, before Tis Hazari Courts, Delhi, reads as under:

“xxx xxx xxx

a. Pass a decree of mandatory injunction in favour of the plaintiff and against the defendant no. 1 to 3 thereby directing the defendant no. 1 to demolish the illegal construction in the suit property bearing no. A-122, First Floor, Karampura, Delhi and directing defendant no. 2 and 3 to cancel the Lease Deed of the defendant no. 4 with regard to the suit property bearing no. A-122, First Floor, Karampura, Delhi,



more specifically shown as red in the site plan, in the interest of justice.

xxx xxx xxx”

8. A perusal of the aforesaid prayer clearly shows that there is already a prayer by the petitioner herein, in the suit proceedings with respect to the demolition of the illegal construction existing in the property, in question.

9. Attention of this Court has also been drawn to the Status Report filed on behalf of the MCD before the Trial Court, in CS SCJ No. 477/2019, wherein, the MCD has stated, as follows:

“xxx xxx xxx

2. That after considering the reply/documents /allied record of the case it was observed that the property was very old and as per the Self Assessment Return Form for the year-2004-05, 42.2 sqm area at first floor and 39.5 sqm area at second floor was shown constructed in the year-1960 and 1988. Any how the said construction was in existence in the year 2004-05 i.e. prior to 08.02.2007. As such status quo in respect of 42.2 sqm area at first floor and 39.5 sqm area at second floor was required to be maintained upto 31.12.2020 now its extended till 31.12.2026. As per the provisions of The National Capital Territory of Delhi (Special Provisions) Second (Amendment) Act, 2017. The owner of the property had failed to show that the remaining above said construction was authorized. Therefore, a demolition order vide file no. D/AE(B)/KBZ/2018/615 dated 13.04.2018 was passed.

xxx xxx xxx”

10. Attention of this Court has also been drawn to the photographs attached along with the present petition, which clearly show that part action has already been taken by the MCD.

11. Accordingly, when the issue, which is the subject matter of the present petition, is already pending in a civil suit before the learned Trial Court, in a suit which has been filed by the petitioner in the year 2019, this Court finds no reason to entertain a similar petition.



12. Learned counsel appearing for the respondent-MCD has also handed over a copy of Vacation Notice dated 14th May, 2025, issued under Section 349 of the Delhi Municipal Corporation Act, 1957 (“DMC Act, 1957”) Act, issued by the office of Assistant Engineer (Building), Karol Bagh Zone, MCD. The said Vacation Notice is also taken on record.

13. Thus, it is apparent that the MCD is already taking the requisite action, in accordance with law against the unauthorised construction existing in the property.

14. Accordingly, noting the aforesaid, the present writ petition, along with the pending applications, is disposed of.

MINI PUSHKARNA, J

MAY 15, 2025

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