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

+ **W.P.(C) 6621/2025 & CM APPL. 30093/2025**

VINOD KUMAR

.....Petitioner

Through: Mr. Samrat Nigam, Sr. Adv. with Mr.
Vishal Mann, Ms. Arpita Rawat, Mr.
Kartik Dabas, Advs.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Ms. Vasu Singh Adv Additional
Standing Counsel for MCD
M: 9312236133
Vasusingh0306@gmail.com
Mr. Samman Vardhan Gautam, Adv.
for Intervenor.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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16.05.2025

W.P.(C) 6621/2025

1. The present petition has been filed with prayer for directions to the Appellate Tribunal, Municipal Corporation of Delhi ('ATMCD') to decide the Appeal bearing No. 962/2024, titled as "*Vinod Kumar Versus Municipal Corporation of Delhi*", pending before the ATMCD.
2. Learned Senior Counsel appearing for the petitioner submits that the petitioner herein has challenged the Demolition order dated 06th May, 2024, passed by the MCD before the learned ATMCD.
3. Attention of this Court has been drawn to order dated 01st April, 2025, passed by the ATMCD, in Appeal bearing No. 962/2024, wherein, it has



been recorded as follows:-

“xxx xxx xxx

4. Part arguments heard from Ld. counsel for all the parties on the point of appeal.

5. Ld. counsel for intervener submits that a contempt petition in respect of subject property is also pending before the Hon'ble High Court wherein Hon'ble High Court has called status report from the MCD. He submits that disposal of this appeal at this juncture will have direct bearing on the proceedings pending before the Hon'ble High Court. He also submits that clarifications sought by the appellant vide order dated 11.09.2024 in contempt case No.695/23 were only in respect interim application and not in respect of the appeal.

6. Ld. counsel for MCD also seeks some time to take instructions from the MCD and clarify the issue.

7. Accordingly, put up for clarification on the aforesaid issue raised by the Ld. counsel for intervener as well as further arguments on the point of appeal on 28.05.2025.

Interim orders to continue till the next date of hearing.”

4. By reference to the aforesaid order, learned Senior Counsel appearing for the petitioner submits that in view of the objection raised therein, with regard to the contempt petition pending before this Court, the present petition has been filed seeking clarification, as to whether the said appeal filed on behalf of the petitioner before the ATMCD, can be continued.

5. Attention of this Court has also been drawn to the order dated 12th June, 2023, passed in W.P.(C) 8455/2023, titled as “*Vinod Kumar Versus Municipal Corporation of Delhi*”, wherein, in similar circumstances, the following order came to be passed:-

“1. This is a petition seeking the Appellate Tribunal to decide the stay application of the petitioner in Appeal No. 344/2023 titled “Vinod Kumar vs. Municipal Corporation of Delhi”.

2. It is stated by Ms. Maan, learned counsel for the petitioner that the



order of 29.05.2023 is an order passed by the contempt court and the contempt court could not have gone beyond the order dated 23.09.2022. Hence the order of the ATMCD not entertaining the petitioner's stay application in view of the order of 29.05.2023 passed by the contempt court, is incorrect.

3. Issue notice. Mr. Gupta, learned ASC for respondent accepts notice and states that the petition can be disposed of today itself clarifying the order of ATMCD dated 06.06.2023.

4. The order of 06.06.2023 is clarified and the ATMCD is directed to decide the stay application of the petitioner uninfluenced by the observations of order dated 29.05.2023 passed in Court case No. CONT.CAS(C) 695/2023 as the same only are in respect of the order dated 23.09.2022 passed in W.P.(C) 1218/2021.

5. With these directions, the petition is disposed of.

6. Till the application is not decided by the ATMCD, the respondent shall not take further precipitative steps."

(Emphasis Supplied)

6. By reference to the aforesaid order, learned Senior Counsel appearing for the petitioner, submits that in similar circumstances, this Court has already clarified on previous occasion, that the ATMCD can continue with its proceedings, uninfluenced by the contempt proceedings, pending before this Court.

7. *Per contra*, Mr. Samman Vardhan Gautam, learned counsel appearing for the intervener before the ATMCD, and the petitioner in contempt petition, i.e., CONT.CAS(C) No.695/23, submits that the pendency of the proceedings before this Court in the aforesaid contempt petition, would have a direct bearing on any order that is passed by the learned ATMCD.

8. He draws the attention of this Court to the previous order dated 10th January, 2024, passed by this Court in CONT.CAS(C) No.695/23, and in particular, relies upon paragraph nos. 3, 4, 5 and 6, which are reproduced



hereinbelow:-

“xxx xxx xxx

3. However, this Court notes that in the order dated 01st February, 2021 passed in W.P.(C) 1218/2021 there was a categorical direction by this Court that the MCD shall ensure that no further unauthorized construction is carried out in the subject property bearing Khasra No. 59/15, admeasuring 1 Bigha and ½ Biswa, situated in the revenue estate of village Mehrauli, New Delhi.

4. It is seen that subsequently the said writ petition was disposed of vide order dated 23rd September, 2022, wherein again it had been reiterated that no further construction is carried out, unless in accordance with law.

5. Accordingly, MCD is directed to file an affidavit to the effect as to whether any unauthorized construction had been carried out in the premises in question after passing of the order dated 01st February 2021 in W.P.(C) 1218/2021. Let the affidavit be filed within a period of two weeks.

6. Liberty is also granted to learned counsel for the petitioner to file affidavit along with photographs, showing the extent of construction at the time of passing of the order dated 01st February, 2021 and construction, if any, carried out subsequently.

7. List on 05th April, 2024”

9. He further relies upon the order dated 23rd April, 2025, passed in contempt CONT.CAS(C) No.695/23, wherein, it has been directed as follows:-

“CM APPL. 23595/2025 (seeking directions to MCD/respondent no.1)

1. This application has been filed seeking direction to Municipal Corporation of Delhi (‘MCD’) to comply with orders dated 10th January 2024 passed in the following directions:

5. Accordingly, MCD is directed to file an affidavit to the effect as to whether any unauthorised construction had been carried out in the premises in question after passing of the order dated 01st February, 2021 in W.P.(C) 1218/2021. Let the affidavit be filed within a period of two weeks.



2. *Mr. Sanjeev Sabharwal, Standing Counsel appearing on behalf of MCD, states that they have already taken steps; however, they will file an affidavit in this regard, as had been directed.*

3. *MCD will also indicate in the affidavit as to what delayed the filing of the affidavit, which was directed to be filed within two weeks.*

4. *List on 7th July 2025, the date already fixed.*

5. *Order be uploaded on the website of this Court."*

10. By relying upon the aforesaid orders passed in the contempt proceedings, Mr. Samman Vardhan Gautam, learned counsel appearing for the intervener before the ATMCD, and the petitioner in contempt petition, i.e., *CONT.CAS(C) No.695/23*, submits that despite categorical directions by this Court as to whether any unauthorized construction has been carried out in the premises after passing of the order dated 01st February, 2025 in *W.P.(C) 1218/2021*, no affidavit on that regard has been filed by the MCD till date.

11. In response, learned counsel appearing for the MCD submits that the proceedings before the ATMCD are pending independently and submissions therein are being made on behalf of the MCD.

12. Having heard learned counsels for parties, this Court notes that the issues in the contempt petition, which are pending before this Court, are independent of any proceedings, which are pending before the learned ATMCD.

13. This Court notes that the ATMCD is hearing the appeal in question as per its statutory authority, which is completely separate from any contempt proceedings that may be pending before this Court.

14. Accordingly, it is clarified that the ATMCD can continue with the hearing of the appeal in question before it, which shall be heard and decided



independently, on its own merits.

15. Insofar as the contempt proceedings pending before this Court are concerned, the orders in the same shall be passed on the basis of the submissions made before this Court.

16. Needless to state, that this Court is not precluded from passing any appropriate orders in the contempt proceedings, if need so be, without being affected by any order that may be passed in the proceedings before the ATMCD.

17. Noting the aforesaid, the present petition, along with the pending application, is accordingly disposed of.

MINI PUSHKARNA, J

MAY 16, 2025/neha