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

+ W.P.(C) 6948/2025 & CM APPL. 31449/2025, CM APPL. 31450/2025

RAKESH ABROL

.....Petitioner

Through: Mr. Pankaj Talwar, Mr. Kuldeep Jauhari, Mr. Anubhav Tyagi, Mr. Sahil Ahuja, Advocates  
(M:9811222080)

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Vikramaditya Singh, Advocate  
(M:9810045281)

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**

**21.05.2025**

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1. The present writ petition has been filed challenging the Vacation Notice dated 30<sup>th</sup> April, 2025 issued by the respondent, whereby, the petitioner has been directed to vacate *Shop no. 2303, Ground Floor, Bagga Ram Building, Laxmi Narayan Street, Raj Guru Road, Chuna Mandi, Paharganj, Delhi-110055*.

2. Learned counsel for the petitioner submits that the petitioner has been in possession of the shop in the capacity of a tenant since 1940s. Thus, he submits that the officials of the respondent/Municipal Corporation of Delhi ("MCD"), without following the due procedure, are intending to illegally dispossess and demolish the shop of the petitioner.

3. This Court notes that against the earlier order issued by the MCD dated 11<sup>th</sup> July, 2022, the petitioner herein had filed a civil suit i.e. *OJ No.*



758122 titled as *Rakesh Abrol & Anr. vs. Municipal Corporation of Delhi* for perpetual injunction. Further, the petitioner has also challenged the order declaring the property bearing no. 2303, *Ground Floor, Bagga Ram Building, Laxmi Narayan Street, Raj Guru Road, Chuna Mandi, Paharganj, Delhi-110055*, as dangerous.

4. The main contention of the petitioner is that the building in question may be dangerous, however, the property bearing no. 2303, which is in possession of the petitioner, is not dangerous.

5. It is submitted that the respondent/MCD has already demolished some portion of the building, i.e., Bagga Ram Building. It is submitted that the application of the petitioner under Order XXXIX Rules 1 and 2 Civil Procedure Code, 1908 ('CPC') in the suit filed by the petitioner, has been dismissed. However, it is submitted that no directions could have been given to the MCD to issue fresh notice for the purposes of carrying out any demolition action.

6. He submits that the respondent should not be granted any powers to demolish any property with the use of machinery and bulldozers.

7. *Per contra*, learned counsel appearing for the respondent/MCD submits that the whole building in question is dangerous. He, thus, submits that the Vacation Notice dated 30<sup>th</sup> April, 2025, has rightly been issued, for the purposes of taking demolition action in the building.

8. He submits that the stay application of the petitioner herein already stands dismissed. Thus, he submits that the action taken by the MCD is proper and legal.

9. Having heard learned counsels for the parties, this Court notes that the report of the Structural Engineer from Department of Civil Engineers, Indian



Institute of Technology Delhi (“IIT Delhi”) dated 22<sup>nd</sup> October, 2024, is on record, wherein, it has categorically been stated that the building in question is in poor condition and unsafe for further housing..

10. The report of the Structural Engineer from IIT Delhi dated 22<sup>nd</sup> October, 2024, reads as under:

Department of Civil Engineering  
Indian Institute of Technology Delhi  
Order of Tis Hazari Court of Delhi in CS DJ No. 758/22

Date: 22/Oct/2024

With reference to the order of the Hon'ble Tis Hazari Court of Delhi in CS DJ No. 758/22, in the matter of Rakesh Abrol & Anr Vs MCD & Anr, to Director, IIT Delhi, to carry out the inspection of property Bagga Ram Building bearing Khasra No. 538, 539 and 540 (i.e. property bearing no. 2300), Chuna Mandi, Pahar Ganj, Laxmi Narain Street, Rajguru Road, Delhi, the undersigned faculty members were nominated from the Department of Civil Engineering, IIT Delhi to inspect the above mentioned. A visual inspection of the said property was carried out on 19/Oct/2024. The date and time of the visit were communicated in advance, and representatives of the petitioners and MCD were present at the location at the time of the inspection.

The key observations made at the time of the inspection are listed below.

- Although the exact age of the building under question is not certain, it was informed that it is around 100 years old. The building has load-bearing masonry walls and has one floor above the ground floor. There are some rooms on the second floor as well.
- The property is a corner plot, and part of the corner section has been demolished, with debris left on site. Most areas of the ground, first, and second floors are inaccessible.
- Property bearing number 2303 includes two shops. According to the petitioners, one of these shops has been surrendered to the owners/MCD.
- The structure is presently unoccupied except for one shop on property bearing number 2303. No major cracks or foundation settlement etc. were seen in property bearing number 2303.
- Visual inspection of property 2303 and other sections reveals that the ground floor roof is supported by a series of Jack Arch spans with steel I-section beams. Tie rods are provided at the end spans. The upper floors are supported by steel or timber beams.
- Corrosion was noted in some of the steel beams supporting the Jack Arch spans.
- General signs of deterioration include plaster damage, spalling bricks, and disintegrating mortar joints.

Photographs from before the time of the demolition were provided by representatives of the



MCD through Legal Cell, IIT Delhi. The key observations made from the photographs are listed below.

- Loose segments, some of which had fallen, were observed in the projection towards the road in the front of the building.
- Extensive vegetation growth, especially peepal trees, was seen along the walls and roof.
- Corrosion was noted in beams supporting the floors, some parts of the roof had collapsed, and cracks were visible in the floors, though the exact location of these failures couldn't be determined.

On the basis of the visual inspection, it is the opinion of the undersigned that the property in question is in a poor condition and is unsafe for further use. The poor condition of the roofing and brickwork makes it difficult to carry out satisfactory repairs without having to dismantle most of the existing building. It is, therefore, the opinion of the undersigned that the building in question must be evacuated, and demolished.

With regards to property bearing number 2303, it is the opinion of the undersigned that while no structural distress signs were visible, the condition of the roof is concerning due to corrosion of steel beams supporting the Jack Arch spans. Furthermore, the property bearing number 2303 will become structurally unstable if the remaining parts of the building are demolished.

Prof. Sahil Bansal

*[Signature]* 22/10/24

Prof. Prashanth Vangla

*[Signature]*

Prof. Sahil Garg

*[Signature]*

T. Chak 22/10/24

- Through Head, Civil Engineering Department
- DR Legal for forwarding to Hon'ble Tis Hazari Court of Delhi and providing a copy of the above report to the parties involved.

11. Further, this Court notes the order dated 22<sup>nd</sup> April, 2025, passed by the Court of District Judge, Tis Hazari Courts in CS DJ No. 758/22, wherein, it has been stated as follows:

“xxx xxx xxx

*(13) Balance of Convenience: The plaintiff has argued that demolition of Shop No. 2303 would jeopardize his livelihood, a right protected under Articles 19(1)(g) and 21 of the Constitution. While the*



right to carry on business is indeed a fundamental right, it is subject to reasonable restrictions imposed in the interest of the general public, including public safety. The inspection report prepared by IIT Delhi lends credence to the MCD's position, highlighting corrosion in the roofing structure of Property No. 2303 and cautioning that the demolition of adjoining parts may compromise the stability of the shop in question. In such a scenario, restraining MCD could endanger the lives of residents and passers-by, an eventuality the Court cannot disregard. Hence, the **balance of convenience tilts in favour of the defendant/ MCD and public safety.**

**(14) Irreparable Injury-** It is trite law that irreparable injury must be such as cannot be compensated in monetary terms. While the plaintiff asserts that the demolition will cause irreparable harm to his livelihood, it is important to note that the MCD's demolition is aimed at preventing a greater risk to life and property. The potential collapse of an unsafe building entails risk to human life, which clearly outweighs the interest of the plaintiff. **No irreparable injury has been demonstrated by Plaintiff that would justify injunctive relief.**

**(15) Offer of Partial Self Demolition:** The plaintiff's proposal to undertake partial demolition at his own cost is neither practicable nor legally tenable. Plaintiff cannot substitute the authority of MCD, which is vested with the statutory and technical mandate to regulate demolition in a safe and coordinated manner. Additionally, it is not possible for the Court to supervise an act which involves the performance of continuous duty, therefore, this Court cannot permit an arrangement that carries potential hazards and undermines institutional procedure.

xxx xxx xxx

**(17) Conclusion-** It is not in dispute that the Plaintiff derives his livelihood from the subject shop, however, the source of livelihood cannot be weighed above the right to life and safety of individuals and the community at large. Upon consideration of the pleadings, oral admissions, citations, IIT Delhi's Inspection report, and applicable legal principles, this Court finds that Plaintiff has not made out a prima facie case; The balance of convenience lies with the defendant MCD, which is acting to safeguard public safety; No irreparable injury has been demonstrated by Plaintiff that would justify injunctive relief. **Accordingly, the plaintiff's application under Order XXXIX Rules 1 and 2 CPC stands dismissed.**

xxx xxx xxx"

12. Perusal of the order clearly shows that there is a categorical finding by



the Trial Court that the balance of convenience is in favour of the MCD and public safety.

13. Further, no irreparable injury has been demonstrated by the petitioner i.e. plaintiff in the suit.

14. This Court notes that the challenge to legality of the order dated 22<sup>nd</sup> April, 2025 is not before this Court.

15. Considering the submissions made before this Court and the documents on record, this Court finds no error in the action of the MCD in issuing Vacation Notice dated 30<sup>th</sup> April, 2025, for the purposes of carrying out demolition action, pursuant to the building in question being as dangerous.

16. However, it is clarified that the mere fact that action is being taken against the portion, which is occupied by the petitioner as a tenant, will not be construed as eviction of the petitioner from the premises in question.

17. Rights of the petitioner as a tenant shall remain in the premises, which shall be decided in appropriate civil proceedings.

18. At request of learned counsel for the petitioner, the petitioner is given five days time to vacate the premises.

19. With the aforesaid directions, the present petition, along with pending applications, is dismissed.

**MINI PUSHKARNA, J.**

**MAY 21, 2025/au**