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

+ W.P.(C) 7397/2025, CM APPL. 33183/2025 & CM APPL.
33184/2025

KULDIP KAUR LUTHRA

.....Petitioner

Through: Mr. Aditya Kumar and Ms. Ilanath,
Adv.
M: 9871921111
Email: adityakumaradv@gmail.com

versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Through: Mr. Vikas Chopra, Adv. (Through
VC)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
27.05.2025

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1. The present writ petition has been filed for direction to the respondent nos. 1 & 2, to take action against the unauthorized construction by respondent nos. 4 and 5, at the property bearing No. 2-C/25, New Rohtak Road, New Delhi-110005.
2. Learned counsel appearing for the petitioner submits that the petitioner had earlier filed a suit, i.e., CS NO. 2889/2021, which was dismissed by the ASCJ, Central Delhi for not being maintainable. However, he submits that the construction which has been carried out by respondent nos. 4 and 5, is against the sanctioned building plan.
3. Learned counsel appearing for respondent nos. 1 and 2, i.e., Municipal Corporation of Delhi ("MCD"), on advance notice, submits that



the earlier suit filed by the petitioner was dismissed, as the construction was being carried out as per the sanctioned building plan. He draws the attention of this Court to the order dated 18th November, 2022 passed in CS No. 2889/2021, titled as “Kuldip Kaur Luthra Versus North Delhi Municipal Corporation”, wherein, it has been held as follows:

“xxx xxx xxx

10. The plaint does not disclose any violation of easementary rights of air and light by the construction being raised by the defendants nos. 1 to 6. The construction is being carried out as per the sanctioned plan obtained by the said defendants from MCD vide ID No.10091410 dated 09.11.2021. Since plaint is silent regarding violation of any easementary rights and the construction is being carried by obtaining sanctioned site plan from authority/Corporation, in my humble opinion, suit is without any cause of action.

11. Regarding damages to the property of plaintiff, by otherwise a legal and authorized construction, no quantified damages have been claimed/mentioned by the plaintiff. Section 41 of the Specific Relief Act states the circumstances when the injunction is refused. Section 41(h) of the Specific Relief Act, 1963 also says, “An injunction cannot be granted-when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust.” In my humble opinion, the suit is barred under Section 41 (h) of the Specific Relief Act as equal efficacious remedy for the damages is available to the plaintiff.

12. In view of above discussions, the present plaint is rejected under Order 7 Rule 11 (d) CPC. A cost of Rs.1,000/- is imposed upon the plaintiff to be deposited in DLSA Central for filing frivolous and vexatious suit. File after due compliance be consigned to Record Room. Decree sheet be prepared. Dasti to all concerned.”

4. This Court notes that the earlier suit filed by the petitioner herein was dismissed on the ground that there was no violation of easement rights of the petitioner herein, and the construction was being carried out, as per the sanctioned building plan.

5. Learned counsel appearing for the MCD draws the attention of this



Court to the photograph attached as *Annexure P-3* along with the present petition, to submit that the property of the petitioner, is beyond the building line of the respondent nos. 4 and 5, and there seems to be unauthorized extension by the petitioner himself on a public land.

6. The photograph as attached along with the present petition, is reproduced as under:



7. Perusal of the aforesaid photograph shows that the property of the



petitioner, on left hand side, has a building line, which is extended in the front portion beyond the building line of the property of the respondent nos. 4 and 5, which is the property on the right hand side.

8. Learned counsel appearing for the MCD further submits that property of respondent nos. 4 and 5 was inspected and certain deviations were found. He further submits that there seems to be an encroachment in the property of the petitioner, as well.

9. Accordingly, it is directed that the MCD shall inspect the property of the petitioner, as well as of respondent nos. 4 and 5. In case of any deviations/unauthorized construction/encroachment on public land, requisite action shall be taken by the MCD, against the properties of the petitioner and respondent nos. 4 and 5 expeditiously, preferably, within a period of eight weeks, from today, after following the due process of law.

10. In case the petitioner and respondent nos. 4 and 5 are aggrieved by any action taken by the MCD, they shall have liberty to seek their remedies, in accordance with law.

11. Rights and contentions of all the parties are left open.

12. Accordingly, the present writ petition, along with the pending applications, stands disposed of.

MINI PUSHKARNA, J.

MAY 27, 2025/KR