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

+ W.P.(C) 8210/2025 & CM APPL. 35913/2025

JAMIA ARABIA NIZAMIA WELFARE EDUCATION SOCIETY

.....Petitioner

Through: Mr. Rakesh Lakra, Mr. Bhavya
Sharma, Advocates

Mob: 7206155557

Email: bhavya@auriclaw.com

versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Through: Mr. Kapil Dutta, Mr. Vansh Luthra,
Advocates for MCD

Mob: 9811135509

Email: kapilduttamcd@gmail.com

Ms. Radhika Bishwajit Dubey, CGSC
with Ms. Gurleen Kaur, Mr. Kritarth
Upadhyay, Advocates and SI
Sikander, PS Hazrat Nizamuddin for
R-3 and R-4

Mob: 9026894805

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

30.05.2025

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1. The present writ petition has been filed seeking directions to the respondents to take immediate and urgent steps to stop illegal construction and demolish the unauthorized construction at *Bungalow No. 10, Nizamuddin East, New Delhi – 110013*.

2. *Per contra*, learned counsel appearing for respondent no. 1 – Municipal Corporation of Delhi (“MCD”), submits that the petitioner’s property is not in the vicinity of the property in question.



3. Thus, he submits that the petitioner has no locus to file the present writ petition.

4. Learned counsel appearing for the said respondent further has handed over to this Court a letter dated 4th October, 2023, issued by the Archaeological Survey of India ("ASI"), thereby, granting permission for repair and renovation in the property in question. The said letter dated 4th October, 2023, as handed over by learned counsel appearing for the MCD, is reproduced as under:

F.No. 12/876/2023/CA/Delhi/UID:2235 - 544
COMPETENT AUTHORITY
NCT of Delhi
Parvatya Bhawan,
Block -B- 1st floor,
INA, New Delhi - 110 023

To
Mrs. Renu Khuller,
F-23, Nizamuddin West,
New Delhi

Dated: 04/10/2023

Sub: Grant of Permission for repair/renovation in respect of Plot No. BP-10, Nizamuddin East, New Delhi-regarding.

Sir,

Please refer to your application in Form - 1 under Rule 5 of the Ancient Monuments and Archaeological Sites and Remains (Framing of Heritage Bye-laws and Other Functions of the Competent Authority) Rules, 2011, please find enclosed the Grant of permission in Form-III for undertaking repair/renovation [re-flooring, re-tiling, re-plastering, painting & white washing, minor electrical work & plumbing work without digging, repair/replacement of the existing doors & windows (without changing its dimensions), repairing of railings, fresh water proofing of the roof] of existing GF + 2 Floors in respect of Plot No. BP-10, Nizamuddin East, New Delhi which falls in prohibited area of CPM i.e. "Tomb of Khan Khanan", a Centrally Protected Monument at a distance of approx. 54.00mtrs. The permission is only for repair/ renovation *without changing exterior limits of the existing structure, both vertically and horizontally* as per building plan & elevation submitted by the owner in the area indicated in red outline on the plan attached hereto. Kindly note that no new construction is allowed. Further, no permission is accorded to demolish any structure since it does not fall in the mandate of the Competent Authority. However, you are requested to seek advice/ permission of civic agencies for demolition of existing structures or any portion of the same, keeping in view safety and security aspects. Further, it is to inform you that this permission is neither for regularization of any unauthorized construction made and nor for any new construction.

Your attention is also drawn to the Section 30A of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 which reads as follows:

"30A. Punishment for construction, etc., in prohibited area. - Whoever raises, on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President (29th March, 2010) any construction in the prohibited area, shall be punishable with imprisonment not exceeding two years or with fine which may extend to one lakh rupees or with both."

Yours faithfully,

(Arvin Mittal)
J.D (North) & Competent Authority
NCT of Delhi



5. Learned counsel appearing for respondent – MCD, submits that the complaint was made by the petitioner way back on 31st December, 2024, whereas, the present petition has been filed only now.
6. *Per contra*, learned counsel appearing for the petitioner draws the attention of this Court to the letter dated 17th January, 2025, received from the ASI, wherein, it is stated that as per the available record, no permission for carrying out repair or renovation, has been issued with respect to the property in question.
7. Learned counsel appearing for ASI submits that he shall take up the matter with the department, and assess the factual position.
8. Accordingly, it is directed that the ASI shall consider its documents and shall also inspect the property in question.
9. The ASI shall consider whether any permission has been granted by it for any renovation work, in the property in question. The ASI shall also upon inspection assess as to whether the renovation work carried out in the property in question, is in terms of the permission granted by the ASI.
10. In case of any unauthorized construction having been carried out in the property in question, the ASI shall be at liberty to take action, in accordance with law, after following the due procedure.
11. With the aforesaid directions, the present petition along with the pending application, is disposed of.

MINI PUSHKARNA, J

MAY 30, 2025

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