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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 11th July, 2025**+ **W.P.(C) 14072/2021 & CM APPL. 44401/2021****SMT SUNITI MADAN**

.....Petitioner

Through: Ms. Nandita Rao, Sr. Adv. with Mr.
Amit Peswani, Mr. Ankur Raghav,
Advocates (M:99714779575)

versus

NEW DELHI MUNICIPAL COUNCIL

.....Respondent

Through: Mr. Raghvendra Upadhyay, ASC-
NDMC with Mr. Chandra Kishore,
Advocate with Mr. Madhusoodan,
(J.E.-NDMC), Mr. Bhawani, (Estate
II-NDMC) (M:9818720615)**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J (ORAL):**

1. The present writ petition has been filed challenging the Demand Letter dated 01st July, 2021 issued by the respondent-New Delhi Municipal Council ("NDMC"), for shop and flat no. 32, *Khan Market, New Delhi* on account of recovery of outstanding dues.
2. Learned Senior Counsel for the petitioner submits that the impugned Demand Notice dated 01st July, 2021, states that the property in question was being misused for commercial purposes. She submits that, however, the original lease deed itself mentions that the property is for commercial purposes. Thus, any misuse charge on account of this in the impugned



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demand notice, cannot be raised.

3. She further submits that the misuse for enclosing of the verandah, as outlined in the demand notice dated 5th May, 2009, are condonable in terms of Office Order No. 7/83, dated 22nd March 1983, issued by the Ministry of Works and Housing Land & Development Office (“L&DO”), Government of India.

4. She draws the attention of this Court to Office Order No. 7/83 dated 22nd March, 1983, wherein a complete list of condonable breaches, has been given. The same includes, “Enclosing of verandahs”. Thus, she submits that the said enclosure of verandah is also condonable.

5. Learned Senior Counsel for the petitioner further submits that the unauthorized construction alleged for covering of Barsati as per the Notice dated 10th February, 2011, is also condonable in terms of Office Order No. 7/83 dated 22nd March, 1983. She points out to this Court the list of condonable breaches in the aforesaid office order, wherein, at Serial No. 13, it is noted as, “*closing of any side of Barsati*”.

6. She further submits that the damage charged for the excess coverage of the first floor and barsati floor, as per Notice dated 07th April, 2021, for being in excess of the approved sanction plan, would also have to be reassessed. She submits that as per Office Order No. 6/2009, the sanction plan and coverage area may be amended in accordance with the criteria laid down in the 2007 guidelines. For this purpose, she draws the attention of this Court to Office Order No. 6/2009 dated 03rd June, 2009, issued by the Ministry of Urban Development, Land and Development Office, Government of India, which reads as under:



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Government of India
Ministry of Urban Development
Land and Development Office
Nirman Bhawan, New Delhi

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No.F-24020/2/09-CDN/176

Dated 3/6/09

OFFICE ORDER NO. 61 2009

Sub:-Permissible coverage of Condonation of Breaches

With reference to Office Order No 401 dated 15.10.1973 & 7/83 dated 22.3.83 (without giving reference of the permissible coverage), the breaches were condoned by considering the permissible coverage under building bye laws on the date of inspection.

After the issuance of above office orders permissible coverage has considerably increased from time to time i.e. in 1990, 1998 and 2007. Hence for the condonation of breaches as given in the orders the permissible coverage should be taken as on the date of referred office orders, i.e. permissible coverage may be seen on the date of the referred office orders, because when the norms have been changed the lessee has a chance to get the breaches regularized by the local body and get the Sanctioned Building Plan revised.

Yours faithfully,

(Surendra Singh)

Dy. Land and Development Officer

Tel.No.23061325.

Copy to :-

7. Learned Senior Counsel for the petitioner further submits that this Court *vide* order dated 24th January, 2011 passed in *LPA 648/2010*, titled as *Suniti Madan Versus New Delhi Municipal Council*, had granted liberty to the petitioner to move a representation to the respondent for regularization of the staircase or for removal of electricity junction boxes. She submits that



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the representation to the NDMC in this regard, has still not been decided. Thus, she submits that no damages can be levied on that account.

8. *Per contra*, learned counsel appearing for respondent-NDMC submits that the various breaches, that are existing in the property in question, with regard to covering of the verandah for commercial purposes, enclosing of verandah, covering of barsati and the issue with regard to staircase, may be condonable. However, he submits that for the said purpose, misuse charges have to be paid. He submits that without payment of such misuse charges, such breaches cannot be condoned.

9. At this stage, learned Senior Counsel for the petitioner submits that the petitioner is ready to pay the requisite charges. However, she submits that since the lease of the property itself states the same to be for commercial purposes, in case the breaches are condonable, the rates which are to be levied for such misuse, has to be in the nature of misuse charges and not damage charges.

10. She submits that for the purposes of misuse charges/charges for condonation of any deviations, separate charges would be leviable as per the policy of the NDMC for condoning any breaches.

11. She further submits that nothing has been brought before this Court as regards to the policy of the NDMC regarding the rates which are applicable for condonation of the breaches. She, thus, submits that the charges which have been levied upon the petitioner *vide* the demand letter dated 01st July, 2021, are in excess and the various charges as raised by the respondent-NDMC upon the petitioner, need to be reconciled.

12. Considering the submissions made before this Court, this Court notes



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that the various breaches in the property of the petitioner, as have been pointed out by the NDMC, are condonable in nature. Further, the representation of the petitioner with regard to unauthorized construction of the staircase in the front portion of the property is pending before the NDMC, in which final order is yet to be passed.

13. Further, as per the stand of the NDMC before this Court, the petitioner is required to produce the sanction plan for the purposes of considering the case of the petitioner for condoning the breaches in terms of Office Order No. 6/2009 dated 03rd June, 2009.

14. Accordingly, the matter is remanded back to the NDMC to reconcile the various charges that have been levied upon the petitioner. Further, the basis of levy of the charges, as demanded from the petitioner, shall be intimated to the petitioner. The petitioner or her authorized representative shall be given an opportunity of personal hearing, so that the petitioner is able to make her submissions as regards the charges payable by the petitioner.

15. Upon reconciliation of the accounts, in case the respondent-NDMC is of the view that the charges leviable as per demand letter dated 01st July, 2021, need to be rectified, the same shall be done by the NDMC. However, in case after reconciliation of the accounts, the charges as per the demand letter dated 01st July, 2021, are found to be correct, as per the policy of the NDMC, the petitioner shall be bound to pay the said charges, forthwith.

16. This Court notes the submission of learned Senior Counsel for the petitioner that the present petition has been pending for long since the year 2021, without any culpability on the part of the petitioner, in that regard.



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17. Considering the fact that the present writ petition has been pending before this Court since the year 2021 and interim protection was operating in favour of the petitioner, it is directed that the interest for the period during the pendency of writ petition, shall be condoned by the NDMC, at the time of reconciliation of the accounts.

18. It is clarified that this Court has not set aside the Demand Letter dated 01st July, 2021. The matter is being remanded to the NDMC only for reconciliation of the accounts, in order to assess the quantum of charges payable by the petitioner, in view of the submissions, as noted above.

19. After reconciliation of the accounts and after payment of the requisite amount by the petitioner, the petitioner is at liberty to file a representation with the respondent-NDMC with regard to its Prayer 'ii' of the present writ petition, for conversion of the property to freehold.

20. Accordingly, it is directed that the petitioner or her authorized representative shall appear before the Deputy Director, Estate-II Department, NDMC, Palika Kendra, New Delhi, on 28th July, 2025 at 3:00 PM.

21. With the aforesaid directions, the present writ petition, along with pending application, is accordingly, disposed of.

MINI PUSHKARNA, J

JULY 11, 2025

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