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

+ W.P.(C) 9216/2025

ASHISH KUMAR GUPTA & ANR.

.....Petitioners

Through: Mr. J.K. Sharma with Mr. Sachin Tanwar and Mr. Vinayak Sharma, Advocates.

Petitioner No.1 present in person.

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versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Through: Mr. Gyanendra Kumar, Advocate for MCD.

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Mr. Yugansh Mittal with Mr. Keshav Poonia, Advocates for R-4 & 5.

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Mr. Gaganmeet Singh Sachdeva with Mr. Hridyesh Khanna and Mr. Harshpreet Singh Chadha, Advocates for DDA.

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CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
% 19.09.2025

1. This writ petition has been *inter alia* filed seeking directions to demolish the unauthorized construction at *First Floor of DDA SFS Flat Number B-176, Pocket-B, Mount Kailash, East of Kailash, New Delhi-110065*.
2. Learned counsel appearing for respondent nos. 4 and 5, submits that the present writ petition has been filed since the petitioners have personal disputes with respondent nos. 4 and 5, as the petitioners had intended to purchase the property in question from respondent nos. 4 and 5. He further submits that petitioners stay in Kailash Colony, which is approximately one and a half kilometer away from the property of respondent nos. 4 and 5.
3. Thus, learned counsel appearing for the respondent nos. 4 and 5 submits that the present writ petition has been filed with a view to settle personal scores with respondent nos. 4 and 5.
4. Learned counsel appearing for the respondent no. 1-Municipal Corporation of Delhi ("MCD") draws the attention of this Court to the Status Report dated 13th September, 2025, filed on its behalf, the relevant portions of which, read as under:



3. That vide instant Writ Petition, the petitioner herein has sought appropriate direction for demolishing the illegal / unauthorized construction at First floor, DDA SFS Flat Number B – 176, Pocket –B, Mount Kailash, East of Kailash, New Delhi.
4. That so as to ascertain the status of the subject property / Flat i.e. First floor, DDA SFS, Flat bearing No. B-176, Pocket –B, Mount of Kailash, East of Kailash, New Delhi, the same has been got inspected through area field staff of Building Department –I of South Zone – MCD and also referred to the record maintained and available with the department.

On inspection and referring to the record, the status of action as initiated / taken by the Building Department –I of South Zone – MCD is detailed herein below:

- i. As per record, this property stands booked for unauthorized construction vide U/c file No. 74/UC/B-I/SZ/2025 dated 28/03/2025 in the shape of excess coverage / deviations against Standard DDA Plan in the shape of covering of open courtyard area, for taking the necessary demolition action u/s 343/344 of DMC Act. The mandatory Show Cause Notice vide serial No. 21530 dated 28/03/2025 has also been issued to the owner / occupier with directions to immediately stop the unauthorized construction work and to submit



their reply within 07 days as to why orders of demolition order as required u/s 343 of the Act should not be passed in respect of the unauthorized construction already carried out and the unauthorized construction, if any, carried out after the issuance of the Show Cause Notice. The copy of Show Cause Notice as issued in this regard is annexed herewith as **Annexure –A.**

- ii. Further, in response to the aforesaid Show Cause Notice, a reply has been received with the department vide dated 07/04/2025 from noticee Mrs. Aarti Bansal.
- iii. Moreover, on examining and considering the same, as requested for, in the interest of justice, opportunities of personal hearing have been accorded to the noticee / owner / occupier of the subject property vide dated 22/04/2025 and 26/06/2025.
- iv. During the hearing proceedings, applicant has taken the plea that an application for regularization of existing construction has been submitted. On referring to the record, it has been noticed that the noticee / owner / occupier has infact submitted the application for regularization of the subject property with certain documents with depositing the requisite processing fee. Accordingly, on examining the same and noticing the shortcomings / deficiencies, the same have



also been conveyed to the applicant to the applicant / notice vide letter bearing No. D/619/Bldg-I/SZ/2025 dated 04/07/2025. The copy of the letter dated 04/07/2025 as issued in this regard is annexed herewith as **Annexure – B.**

v. In response to the aforesaid letter, a reply dated 15/07/2025 has also been received by the department on 17/07/2025, stating therein about deposit of the processing fee of Rs. 200/- for regularization and about enclosing therewith desired documents asked by the department. On deposit of the processing fee as per the practice / procedure, the department has allotted the file to the application number as bearing No. 13/RZN /Addl.Alt/B-I/SZ/2025 dated 16/07/2025. The copy of the reply letter dated 15/07/2025 as received on 17/07/2025 is annexed herewith as **Annexure –C.**

vi. Further considering the aforesaid reply, it has also been observed that the noticee / applicant has not complied with all observations of the Department, as required under the policy dated 13/08/2003 of DDA Flats. As a result, the regularization application has been rejected by the Department and the same has also been communicated vide letter dated 12/09/2025, copy annexed herewith as **Annexure –D.**



vii. After rejection of the regularization application, the Competent Authority i.e. Assistant Engineer (Bldg)-I of South Zone – MCD has also passed the reasoned / demolition order vide dated 12/09/2025 in aforementioned demolition proceedings holding therein mainly as follow:-

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Whereas based on the above examination, it can be concluded that the applicant has carried out unauthorised construction in the flat under reference, and the construction booked by the Department is against the Standard Plan of DDA. The contentions of the applicant are not tenable for the aforesaid grounds. Such construction is liable for punitive action as per DMC Act, 1957 until and unless the same is got regularized by the applicant, and as per record, excess permissible construction has not been got regularized so far. Hence, the unauthorised construction in the property is liable for demolition action under Section 343 of DMC Act-1957.

I, Assistant Engineer- Building Department South Zone, Municipal Corporation of Delhi, vested with the powers of the Commissioner-M.C.D. under Section 343 (1) read with Section 491 of DMC Act, hereby order the applicant to demolish the unauthorised construction, as has been booked by the Department, within fifteen days from the receipt of this order, failing which it will be demolished by the M.C.D. at his / her risk and cost.

The copy of the aforementioned reasoned / demolition order has duly communicated to the owner / occupier / noticee vide bearing No. D/-1007/AE(Bldg)-I/South Zone/2025 dated 12/09/2025 is annexed herewith as **Annexure –E.**

5. That further action in respect of the subject property will be taken / carried out, after expiry of



the stipulated time period of 15 days as given in the
aforesaid demolition order, in due course of time,
as per law.

5. Perusal of the aforesaid Status Report file on behalf of the MCD clearly shows that the MCD has passed the Demolition Order dated 12th September, 2025. Further, it is submitted that requisite action shall be taken by the MCD, in accordance with law.
6. At this stage, learned counsel appearing for respondent nos. 4 and 5 submits that he has received the Demolition Order only yesterday, i.e., 18th September, 2025 and that he shall be challenging the same. He further submits that he has already written a letter today, i.e., 19th September, 2025 to the MCD, bringing to notice of the MCD with regard to the various orders passed by this Court.
7. Without commenting on the private disputes between the petitioners and respondent nos. 4 and 5, and other prayers which are sought by the petitioners in the present case, since the MCD has already initiated requisite action against the property in question, it is directed that the MCD shall take action against the unauthorized construction, in accordance with law.
8. However, the rights of respondent nos. 4 and 5 to seek their legal remedies in accordance with law, is reserved.
9. Needless to state that the petitioners are free to seek its civil remedies for the other prayers made in the present writ petition.



10. Accordingly, no further orders are required to be passed in the present writ petition. The present writ petition is accordingly disposed of.

MINI PUSHKARNA, J

SEPTEMBER 19, 2025

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