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

+ **W.P.(C) 9814/2024**

PADAMJIT SINGH AHLUWALIAPetitioner

Through: Mr. Shekhar Dasi, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI

& ANR.

.....Respondents

Through: Mr. Siddhant Nath, Standing Counsel
with Mr. Bhavishya Makhija and Mr. Amaan
Khan, Advocates with Mr Pankaj Kumar, JSA, for
Respondents/MCD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

29.01.2025

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1. This writ petition is preferred on behalf of Petitioner under Article 226 of the Constitution of India seeking the following reliefs:

“Issue writ of Mandamus thereby directing respondent No.1 herein to mutate the right portion of the property bearing No. A-39, Nizamuddin East, Delhi, in favour of the petitioner herein.

Also issue writ of Mandamus thereby directing respondent No.2 herein to take appropriate disciplinary action against the officials of respondent No.1 for causing unnecessary harassment to the petitioner herein.”

2. It is averred in the writ petition that Petitioner is the owner of right portion of property bearing No. A-39, Nizamuddin East, Delhi. Initially, the entire property was jointly owned by the Petitioner and his brother Sh. Paramjit Singh Ahluwalia. A suit for partition being CS (OS) No. 541/2018 was filed by the Petitioner, which was decreed by this Court on 11.03.2019 and both brothers were declared respective owners of one-half of the property. Brother of the Petitioner challenged the judgment and decree



before the Division Bench in which an order was passed on 06.12.2019 recording that parties had arrived at an amicable settlement on 02.05.2019 and the only issue remaining was implementation of the settlement. Local Commissioner appointed by the Court on 02.05.2019 was directed to divide the property vertically by erecting a wall in the middle from the ground floor upto the terrace floor and cost of construction was to be borne jointly by both the parties in the ratio of 50% each.

3. Grievance of the Petitioner in the present petition is that Respondents have mutated left side of the portion in the name of his brother and therefore cannot decline to mutate the right side of the property in favour of the Petitioner, in light of the judgments/orders of this Court. The insistence by MCD to pay house tax for the years 2004 to 2009 before mutating the property is wholly illegal. Broadly understood, the argument is that till 2019, Petitioner and his brother were joint owners of the property and while the brother of the Petitioner has been assessed only for the years 2004-05 and 2006-07 and has been asked to deposit property tax of Rs.39,292/-, Petitioner is being assessed for the years 2004 to 2009 and has been directed to deposit property tax of Rs.1,25,000/-, which is untenable in law.

4. Mr. Siddhant Nath, learned Standing Counsel for MCD, on instructions, fairly submits that the matter needs to be re-examined in light of the submissions made in the writ petition and the judgment and decree of this Court as also orders of the Division Bench.

5. Accordingly, without entering into merits of the case, this writ petition is disposed of with a direction to the MCD to re-examine the matter treating this writ petition as a representation. Before taking any decision, personal hearing shall be granted to the Petitioner and Sh. Paramjit Singh



Ahluwalia for which time, date and venue will be intimated in advance. A reasoned and speaking order shall be passed by MCD after hearing the parties, which shall be communicated to them. The entire exercise will be completed within 3 months from today.

6. Needless to state, in case of any grievance, Petitioner and his brother will be at liberty to take recourse to legal remedies. No coercive steps shall be taken against the Petitioner, till the decision is taken and for a further period of three weeks, in the event the decision is against the Petitioner.

JYOTI SINGH, J

JANUARY 29, 2025

B.S. Rohella/shivam