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

+ W.P.(C) 9824/2025

SAVITA KOHLI

.....Petitioner

Through: Mr. Shiv Kumar Gautam, Mr. Rohit Gupta, Mr. Gopal Agonia, Mr. Ayush Kumar Singh and Mr. Shanu Ansari, Advs.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Gyanendra Kumar, Adv.
M: 9560505601

+ W.P.(C) 9825/2025

SHAMMI MADAN

.....Petitioner

Through: Mr. Shiv Kumar Gautam, Mr. Rohit Gupta, Mr. Gopal Agonia, Mr. Ayush Kumar Singh and Mr. Shanu Ansari, Advs.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Kapil Dutta , Mr. Vansh Luthra and Mr. Siddharth Parashar, Advs.
M: 9811135509

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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15.07.2025

1. The present writ petitions have been filed with the prayers that the petitioners be granted some time to avail their legal remedies for challenging the Vacation Notice bearing *no. 627/BLDG.1/SZ/2025* dated 07th July, 2025 in respect of *Flat No. 1, Upper Ground Floor, Property No. B-100, Panchsheel Vihar, New Delhi-110017*, and in respect of *Flat No. 3, Third*



Floor, Property No. B-100, Panchsheel Vihar, New Delhi-110017.

2. Learned counsel appearing for the petitioners draws the attention of this Court to order dated 09th July, 2025, passed in *W.P.(C) 9471/2025, Himangshu Dhali Versus Municipal Corporation of Delhi*, and other connected matters, to submit that in similar cases, directions have been passed in favour of the petitioners therein. Thus, it is prayed that in parity with the orders passed previously by this Court, liberty be granted to the petitioners to approach the Appellate Tribunal, Municipal Corporation of Delhi (“ATMCD”) in order to seek their remedies, in accordance with law.

3. Issue notice. Notice is accepted by learned counsel appearing for the Municipal Corporation of Delhi (“MCD”).

4. Learned counsel appearing for MCD submits that since this Court has only granted liberty to petitioners for seeking their remedies in accordance with law, it may be clarified that this Court has not considered the merits of the case.

5. It may also be noted that the judgment of the Division Bench does not preclude the owners/occupiers of any property to seek their remedies, in accordance with law.

6. Accordingly, this Court proceeds to pass appropriate orders in the present matter.

7. Having heard the learned counsels for the parties, this Court notes that *vide* order dated 09th July, 2025, in *W.P.(C) 9471/2025*, titled as “*Himangshu Dhali Versus Municipal Corporation of Delhi*” and other connected matters, this Court had held as follows:

“xxx xxx xxx

2. *Learned counsel appearing for the petitioners submits that the petitioners, along with their family members, have been residing in their*



respective flats peacefully and that no construction has been carried out by the petitioners in the property in question. Further, there is no ongoing construction in the property in question.

3. It is submitted that on 8th July, 2025, the petitioners saw that the Vacation Notice dated 7th July, 2025, as issued by the Building Department, Municipal Corporation of Delhi ("MCD"), as aforesaid, had been pasted outside the building in question.

4. The said Vacation Notice dated 7th July, 2025, reads as under:

 **MUNICIPAL CORPORATION OF DELHI
(BUILDING DEPARTMENT)-I
SOUTH ZONE: GREEN PARK, NEW DELHI**

No. 649 /Bldg. 1/52/2025, Dated: 07/07/2025

VACATION NOTICE (U/S 349 OF DMC ACT, 1957)

WHEREAS, it has been brought to the notice that premises bearing No. **B-99, B-100, Panchsheel Vihar, New Delhi**, has been occupied in contravention of Section 346 of the DMC Act, 1957 as neither the occupant(s) has/have given notice for completion of the erected building nor the Commissioner, MCD (erstwhile SDMC) has granted permission to occupy the same.

Details of unauthorized construction/deviation:-

Vide File No. 133/UC/B-1/SZ/2024 dt. 26/06/2024 booked as under:

Unauthorized construction in the shape of Ground Floor to Fifth Floor (Ground Floor to Fifth Floor is old and occupied).

WHEREAS, It has been established that unauthorized construction/ deviations have been carried out in the said building, for which order of demolition has already been passed U/s 343 (1) of DMC Act 1957, and the Municipal Corporation has to proceed further in the matter in accordance with the law.

NOW, therefore, the undersigned, U/s 349 of the DMC Act, 1957 call upon you to vacate the aforesaid booked premises/unauthorized construction within three days from the receipt of this letter so that the MCD may take demolition/sealing action against unauthorized construction existing in the aforesaid premises, as detailed above, failing which the demolition/sealing action shall be carried out at the risk and cost of the owner(s)/occupier(s).

Issued under my hand and seal on this _____ day of July, 2025.

**Sd/-
Asstt. Engineer (Bldg.)
South Zone**

**Owner/Occupiers/Residents,
P.No. B-99, B-100, Panchsheel Vihar,
New Delhi.**

Copy to:-

1. SHO, Police Station, Malviya Nagar- with the request to get the Impugned premises vacated, so that action can accordingly be taken.
2. JE(Bldg.)-Concerned.
3. Office Copy.

**Asstt. Engineer (Bldg.)
South Zone**

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5. It is the contention on behalf of the petitioners that it is only now for the first time, that the fact of issuance of a Vacation Notice, has come to the knowledge of the petitioners.
6. It is submitted that no Show Cause Notice or any Demolition order has ever been received by the petitioners with respect to any unauthorised construction the property in question.
7. It is submitted that the petitioners have not been granted any opportunity by the respondent - MCD to put forth their defence. Thus, it is submitted that any action by the respondent – MCD, is in violation of the Principles of Natural Justice.
8. Issue notice. Notice is accepted by learned counsel appearing for the respondent-MCD.
9. Learned counsel appearing for the respondent hands over a copy of the judgment dated 20th October, 2023, passed by Division Bench of this Court in W.P.(C) 14313/2022, titled as Universal Human Rights Foundation Versus Govt. of NCT of Delhi and Ors.
10. He submits that the action is being undertaken by the MCD pursuant to the various orders passed by this Court, as well as Special Task Force (“STF”).
11. He submits that rampant unauthorised construction exists in the area in question, i.e., Panchsheel Vihar, Malviya Nagar, New Delhi-110017. Thus, it is submitted that the action taken by the MCD, is proper and in accordance with law.
12. Learned counsel appearing for the respondent-MCD further submits that all the requisite notices were issued to the petitioners in consonance with the Principles of Natural Justice.
13. Having heard learned counsel appearing for the parties, this Court notes that the judgment dated 20th October, 2023, passed in W.P.(C) 14313/2022, as relied upon by learned counsel appearing for the respondent, itself clearly states that any action undertaken by the MCD, shall be subject to the proceedings pending before the Appellate Tribunal, MCD, (“ATMCD”).
14. The relevant portion of the said judgment, pertaining to some other property in the same area, reads as under:

“xxx xxx xxx

8. In our considered opinion, further action by the MCD in respect of the properties bearing Nos. B-106 and B-104, Panchsheel Vihar, New Delhi, would have to abide by the outcome of the proceedings before the Appellate Tribunal, MCD. The MCD is directed to ensure all steps are taken in accordance with the directions recorded by the Appellate Tribunal, MCD. In respect of other properties which are subject matter of the present petition, the report points out that demolition stands scheduled for 29th September, 2023,



which will be carried out upon availability of police force. Considering the above, the MCD is directed to ensure that the demolition action of the other properties is completed at the earliest and if not already done, should be completed within a period of two weeks from the date of uploading of this judgment. The Delhi Police, including the concerned SHO of the area, and other concerned agencies, are directed to render assistance in the demolition action.

xxx xxx xxx”

(Emphasis Supplied)

15. At this stage, this Court notes the submission of learned counsel appearing for the petitioners in the present petitions that they may also be granted an opportunity to seek their remedies in accordance with law.

16. Since, it is the case of the petitioners that Principles of Natural Justice have not been followed, this Court considers it fit to grant appropriate opportunity to the petitioners to challenge the action of the MCD before the proper forum, i.e., ATMCD.

17. Accordingly, though it is the case of the respondent-MCD that requisite notices have already been supplied to the petitioners, considering the submissions made before this Court, learned counsel appearing for the respondent-MCD, is directed to supply copy of all the notices/documents to learned counsel appearing for the petitioners, on the E-mail, which is reflected in today's order.

18. Let the needful be done by learned counsel appearing for the MCD by today itself.

19. Liberty is granted to the petitioners to approach the ATMCD, in order to seek their remedies in accordance with law.

20. In order to allow the petitioners to approach the ATMCD, it is directed that no coercive action shall be taken against the property of the petitioners, for a period of four weeks from today.

21. It is clarified that, in case, the petitioners do not file appeal before the ATMCD within a period of four weeks from today, the interim protection granted to the petitioners by today's order, shall automatically lapse.

xxx xxx xxx”

8. Considering the fact that on previous occasions, this Court has already granted liberty to the petitioners to approach the ATMCD, this Court finds no reason to take a different view in the present petitions.



9. Accordingly, in parity with the orders passed by this Court on previous occasions, this Court is of the view that a similar liberty ought to be given to the petitioners in the present matters, as well.

10. Accordingly, liberty is granted to the petitioners to approach the ATMCD, in order to seek their remedies in accordance with law.

11. In order to allow the petitioners to approach the ATMCD, it is directed that no coercive action shall be taken against the properties of the petitioners, for a period of four weeks from today.

12. It is clarified that, in case, the petitioners do not file their respective appeals before the ATMCD, within a period of four weeks from today, the interim protection granted to the petitioners by today's order, shall automatically lapse.

13. It is further clarified that this Court has not considered the merits of the case.

14. Upon the petitioners filing their respective appeals before the ATMCD, the same shall be considered by the ATMCD on their own merits and in accordance with law.

15. Needless to state that the rights and contentions of the parties are left open.

16. Accordingly, with the aforesaid directions, the present writ petitions are disposed of.

MINI PUSHKARNA, J

JULY 15, 2025/KR