



2025:DHC:9059



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 09th October, 2025**+ **W.P.(C) 10306/2025 & CM APPL.- 63258/2025****SMT. SAYRA & ORS.Petitioners****Through: Mohd. Arif, Adv. (Through VC)****versus****MUNICIPAL CORPORATION OF DELHI & ORS.Respondents****Through: Mr. Kunal Rawat, Adv. for R-1/MCD
(Through VC)****Ms. Avshreya Pratap Singh Rudy,
Adv. CGSC with Ms. Usha Jamnal
and Mr. Mohammad Junaid
Mahmood, Advs. for R-UOI****Mob: 9810001315****Email: avshreyarudy@outlook.com****Ms. Deeksha L. Kakar, Ms. Sana
Parveen and Mr. Rashneet Singh,
Advs. for R-3/STF****Mob: 9313119255****Email: deeksha.kakar@scladi.com****Mr. Satyendra Kumar, Mr. Saransh
Attri, Mr. Gaurav and Mr. Kajol
Agarwal, Advs. for R-6****Mob: 9810097131****Email:****satyendrakumar0505@gmail.com****CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J (ORAL):**

1. The present writ petition has been filed seeking directions to respondent nos. 1 to 5, to demolish the illegal and unauthorized construction existing in the property of respondent nos. 6 and 7, bearing property/plot No. 327, land measuring 40 sq. yards, situated at *Azim Dairy, Jamia Nagar*,

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Okhla, New Delhi-110025.

2. Learned counsel appearing for the Municipal Corporation of Delhi ("MCD"), draws the attention of this Court to the Status Report dated 07th September, 2025, filed on behalf of the MCD, wherein, it is stated as follows:

"xxx xxx xxx

2. That the cause of litigation on the part of petitioner relates to construction at Property No. 327, Azim Dairy, Jamia Nagar, Okhla, New Delhi-110025.

3. That so as to ascertain the status of the subject property the area field staff of Building Department-I, Central Zone of MCD has inspected the same and also referred to record maintained in this office. The status of the actions as initiated/ taken against subject properties are detailed herein below:-

i. During inspection by the concerned field staff subject property has been identified as Property No. 327, Azim Dairy, Batta House, Jamia Nagar, New Delhi. During inspection, it has been noticed that the property consists of Ground Floor to part fifth floor and the same is old & occupied. Photograph showing the present status of the property are annexed herewith as Annexure: A.

ii. Demolition Proceedings u/s 343/344 of the DMC

Act:- Upon noticing the above mentioned unauthorized construction at subject property, same was booked u/s 343/344 of the DMC Act vide U/c file No. 307/B/UC/EE(B)-DCNZ/2025 dated 21.07.2025 and accordingly, a Show Cause Notice u/s 344(1) & 343m of the DMC Act bearing printed No. 21429 dated 21.07.2025 was issued in the name of Shri Subbir, Owner/ Occupier of the property with the directions to submit his reply within 15 days, as to why orders for demolition as required u/s 343 of the DMC Act should not be passed in respect of the unauthorized construction already carried out and the



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unauthorised construction, if any carried out after the issuance of present Show Cause Notice. Further the Owner/ Occupier of the property was also requested to attend the personal hearing proceedings on 31.07.2025. Copy of Show Cause Notice dated 21.07.2025 is annexed herewith as **Annexure: B.**

- iii. **Personal hearing & demolition order:-** Pursuant to directions issued vide Show Cause Notice dated 21.07.2025, Shri Mohd. Shabbir claiming to be the Owner of the subject property attended the hearing proceedings. During the proceedings, he stated that subject property is old and occupied. He further submitted that he has nothing more to say and requested to close the hearing proceedings.

The claims and contentions of the petitioner were examined and the same were found untenable, as the applicant has failed to provide any documentary evidence to establish the old status of the property. Presently "The National Capital Territory of Delhi Laws (Special Provisions) Second (Amendments) Act, 2023 is in force, it laid down that status quo as on 01.06.2014 in respect of unauthorized developments shall be maintained till 31.12.2026. The documents filed by the applicant do not establish that alleged booked structures were in existence prior to cut-off date i.e. 01.06.2014. Accordingly, demolition order in the shape of reasoned speaking order was passed vide No. D/46/EE(B)-I/CNZ/2025 dated 20.08.2025. Copy

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of demolition/ speaking order dated 20.08.2025 is annexed herewith as **Annexure: C.**

- iv. **Vacation Notice:-** As the property is occupied, accordingly, a vacation notice u/s 349 of the DMC Act bearing No. D/187/AE(B)-I/CNZ/2025 dated 03.10.2025 has been issued in the name of Owner/ Occupier of the property and a copy of the same has been endorsed to the SHO, PS Jamia Nagar with the request to get the property vacated. Copy of vacation notice dated 3.10.2025 as sent is annexed herewith as **Annexure: D.**

4. That, pursuant to demolition order already stand passed, demolition action against subject property has been planned for 15.10.2025 and the same shall be taken upon availability of Police Force and vacation of the property.

3. Perusal of the aforesaid Status Report shows that the MCD has already passed a Demolition Order dated 20th August, 2025, and that the demolition action in the subject property is planned for 15th October, 2025.

4. At this stage, learned counsel appearing for respondent no. 6 submits that the present writ petition is a misuse and abuse of the process of law, as the petitioners have already filed a suit, which remains pending with similar reliefs, as in the present writ petition.

5. He draws the attention of this Court to the reply filed on behalf of respondent no. 6, and the various documents attached therewith. Perusal of the documents on record shows that *Suit No. 523/2025* is pending in the Court of Senior Civil Judge, South East District, Saket Courts, wherein, the Memo of Parties, reads as follows:



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1. SMT. SAIRA
W/O SH. SABIR
D/O LATE SADDIQ
2. SMT. KASSO
W/O SH. JAHBBO
D/O LATE SADDIQ
3. SMT. FARZANA
W/O SH. SAMEER
D/O LATE SADDIQ
4. SH. SHANU
S/O LATE SADDIQ

ALL R/O
R/O 327, AZIM DAIRY,
JAMIA NAGAR, OKHLA,
NEW DELHI-25

....PLAINTIFFS

VERSUS

1. SH. SHABBIR
S/O SHRI SULEMAN
R/O B-43, AZIM DAIRY
JAMIA NAGAR, NEW DELHI

2. SH. NASIR
S/O NOT KNOWN
R/O 327, AZIM DAIRY,
JAMIA NAGAR, OKHLA,
NEW DELHI-25

3. SOUTH DELHI MUNICIPAL CORPORATION
THROUGH ITS DEPUTY COMMISSIONER
SDMC, CENTRAL ZONE, LAJPAT NAGAR,
NEW DELHI.

...DEFENDANTS

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6. Further, the prayer sought in the aforesaid suit, is reproduced as follows:

“xxx xxx xxx

a. pass a decree of permanent injunction with cost may please be passed in favour of plaintiffs against the defendant no.1 & 2 thereby restraining the defendant and their agents, henchmen, representatives, associates etc, from raising any illegal and unauthorised construction over the property bearing Nol327, Opp. Bano House, Azim Dairy, Jamia Nagar, Okhla, New Delhi which has been more specifically shown in red colour in the site plan annexed,

b. Pass a decree of mandatory injunction in favour of plaintiffs and against the defendants, thereby directing the defendants no. 3 to demolish/ seal/ remove the entire illegal and unauthorised construction as already carried out by defendant no.1 & 2 in property bearing No.327, Opp. Bano House, Azim Dairy, Jamia Nagar, Okhla, New Delhi which has been more specifically shown in red colour in the site plan annexed

c. Any other order, as deemed fit and proper in the circumstances of the case, be also passed in favour of plaintiff and against defendants.

12-10-2025
PLAINTIFF
RAJZAM
ETC

7. Perusal of the aforesaid shows that the petitioners herein, have already

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filed a suit before the District Court Saket, with prayer similar to the present writ petition.

8. Thus, accordingly, when a suit has already been filed with respect to similar prayers, a subsequent writ petition would not be maintainable.

9. Learned counsel appearing for respondent no. 6 herein, who is defendant no. 1 in the aforesaid suit pending before the District Court, Saket, also draws the attention of this Court to the Status Report dated 18th July, 2025, filed on behalf of the MCD, in the District Court, Saket, which reads as under:

STATUS REPORT

The present status report is being filed in compliance of the directions of this Hon'ble court dated 06.05.2025 and the same is as under:-

1. That, during the proceedings on 06.05.2025, it was directed by this Hon'ble Court to file status report qua the suit property on or before the NDOH.
2. That, pursuant to aforesaid directions of this Hon'ble Court, subject property i.e. 327, Azcem Dairy, Batla House, New Delhi has been inspected. During inspection, it has been revealed that the property consists of Ground Floor to Fourth Floor, which is old & occupied.
3. That, photographs showing the present status of the property are enclosed herewith for kind perusal of this Hon'ble Court.

MA Report is submitted please.

10. By referring to the aforesaid Status Report, learned counsel appearing for respondent no. 6 submits that it is the stand of the MCD before the District Court, Saket, that the property in question of respondent no. 6 is old



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and occupied. He also draws the attention of this Court to the Show Cause Notice dated 21st July, 2025, issued by the MCD, wherein again, the property of respondent no. 6 has been referred as being old and occupied. The said Show Cause Notice is reproduced as under:

Municipal Corporation of Delhi
BUILDING DEPARTMENT

21429

Unauthorized Construction File No. 307/8/UC/EE/20-2/2025 Date 21/07/2025

Show Cause Notice under Section 344(1) & 343 of DMC Act, 1957 (86 of 1957)

Whereas you Shri MR. Sabbir / owner / occupier
R/o P.N. 323, Azim Bury, Bath House, Jamia Nagar N.B. have
started/completed/carrying out the unauthorized construction work, as given hereunder, in Property
No. 323, Azim Bury, Bath House, Jamia Nagar, New Delhi

without obtaining necessary permission as required under Section 332 of the Delhi Municipal Corporation Act (DMC), 1957, or in contravention of sanction as granted under Section 336 of the Act.

Details of unauthorized construction: U/c in the shape of Ground Floor, First Floor, Second Floor, Third Floor, Fourth Floor & Fifth
Sanctioned Building Plan/Online ID No., if any: None Partly (old/occupied)

S. No.	Floor	Details of Unauthorized Construction/ Deviation from Sanctioned Building Plan	Details of Non-Compoundable Construction
(1)	Ground	<u>U/c in the shape of entire structure</u>	
(2)	First	<u>do</u>	} <u>old/occupied</u>
(3)	Second	<u>do</u>	
(4)	Third	<u>do</u>	
(5)	Fourth	<u>do</u>	
(6)	Fifth Floor	<u>U/c in the shape of Fifth Floor Partly</u>	

Rough Sketch Plan of Site and Unauthorized Construction:

Further, you are also requested to attend the personal hearing on 21/07/2025 at 11:00 AM, in the office of undersigned at Room No. 207, Zonal Office Building, Lajpat Nagar, Central Zone, with the following documents i.e. Sanction Plan, Address Proof, Identity Proof, Complete Chain of ownership documents, Electricity Bill, House Tax Records and other relevant documents in support of existence of structure.

Now, I, Assistant Engineer (Bldg.)—Municipal Corporation of Delhi, having been duly authorized and directed by Commissioner, M.C.D. under Section 481 of the said Act, do hereby direct as follows:—

1. The unauthorized construction work in the above premises be stopped immediately.
2. In case unauthorized construction work is not stopped on receipt of this notice, then action under Section 343 of the Act along with action under Section 344(2) & of 344 (4) of the Act will be taken against you without any further information to you.
3. You are hereby directed to submit your reply within 15 days, as to why orders of demolition as required under Section 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 issue of this show cause notice.
4. Simultaneously, you are also hereby given an opportunity to submit a formal application within 15 days for regularization of permissible/compoundable construction after demolition of non-compoundable deviations along with requisite documents, E-Undertakings, Drawings, etc., as mandated under the Unified Building Bye-Laws-2016.
** (Applicable/Not-Applicable)

In case you fail to submit necessary reply within the stipulated time period, it will be presumed that you have nothing to say in the matter and the case will be decided accordingly.

To Shri MR. Sabbir / owner / occupier
P.N. 323, Azim Bury, Bath House,
Jamia Nagar, New Delhi 25

Name Anil Bansal
Assistant Engineer (Bldg.)
Central Zone

New Delhi

True Copy
S. K.

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11. Accordingly, considering the aforesaid facts, it is clear that the present writ petition would not be maintainable, since the petitioners have already filed a substantive suit with similar prayer, which is pending before the District Court, Saket.

12. As regards the contradictory stand taken by the MCD in the Status Report dated 07th September, 2025, filed before this Court and the Status Report dated 18th July, 2025, filed before the District Court, Saket, it is directed that the concerned officials of the MCD, shall grant a hearing to the respondent no. 6 herein, and pass appropriate orders, accordingly.

13. It is further directed that till the requisite hearing is granted to respondent no. 6, and appropriate orders are passed by the MCD, no coercive action shall be taken against the property of respondent no. 6.

14. Let the hearing be granted and requisite orders be passed by the MCD, expeditiously, in a time bound manner, within a period of six weeks, from today.

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

MINI PUSHKARNA, J

OCTOBER 9, 2025/SK