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

+ W.P.(C) 17610/2022 & CM APPL. 56325/2022  
VINAY KUMAR @ VINAYSAHARAWAT & ANR.

.....Petitioners

Through: Mr. Manish Kumar, Adv.  
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versus

MUNICIPAL CORPORATION DELHI THROUGH  
COMMISSIONER & ORS. ....Respondents

Through: Ms.Tajinder Virdi, Standing Counsel  
for R-MCD (Through VC)  
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Ms. Mrinalini Sen and Ms. Rima Rao,  
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Mr. Abhinav Sharma and Mr. Shubham, Advs. for R-GNCTD

**CORAM:**  
**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**ORDER**  
**17.09.2025**

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1. The present writ petition has been filed seeking directions to respondent nos. 1 and 2, to remove the encroachment and the illegal and unauthorized construction carried out in the shape of Tomb and/or Mosque,



falling under *Khasra No. 29*, next to *Sahib Singh Verma Community Hall and Store of MCD*, of village *Sahipur, Shalimar Bagh, Delhi*. There is further prayer for directions to respondent no. 5 to stop any further unauthorized construction.

2. Learned counsel appearing for the petitioners draws the attention of this Court to the reply filed on behalf of respondent no. 5, wherein, it is stated as follows:

7 to 11. That the contents of these paras (7 to 11) of the petition of the petitioners are self-contradictory, false, frivolous, concocted, misconceived and manipulated and very far from the reality, are not at all maintainable, repetition of previous paras, and liable to be rejected and dismissed outrightly, and the contents of the preliminary objections as stated above in this counter affidavit, and the contents of the counter affidavit filed by the R-5 in W.P.(C). 3577/2017, which is disposed off, and the same is annexed with the instant petition itself as Annexure P-6, be read herein as part and parcel as the same are not being repeated herein for the sake of brevity. It is submitted that no encroachment or unauthorized construction of any kind in regard of shops or religious structure is being carried out. It is respectfully submitted that the land / Masjid having area only 40 sq. yd. and the same has been continuously in the possession of the answering respondent since last 52 years, as it will not be out of place to mention here that it was an ~~ancient~~ Muslim graveyard. Hence, it can't



be said that respondent is an encroacher or unauthorized occupant on the meager 40 sq. yd. land as is being portrayed 200 sq. yds. land in the writ petition. Thus, petitioner has concealed vital facts before this Hon'ble court, the records of the statutory bodies / DDA / MCD clearly showing the possession of the answering respondent till date. It is further submitted that the answering respondent has no concern in regard of construction of illegal shops. Hence, vehemently denied. It is submitted that the answering respondent never started any encroachment in the month of January 2017 or raised any illegal construction at the property in question and is also not violating any law of the land. It is respectfully submitted that the acquisition of the land had been completed in the year 1969 and the possession of the land had also been taken by the agencies thereafter and only the 40 sq. yd. Masjid / Mazar graveyard property had been left out since then and the same in possession of the answering respondent last 52 years and the same has been put to use for public utility since last several years apart from this there are several govt. properties are being used by the other communities and the present petition should be dismissed with exemplary cost for abusing the forum of the court.



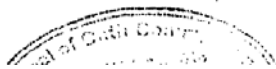
It is further submitted that petitioner No. 01 is not the vice-president of the Sahipur Gram Vikas Welfare Association, as he has already been sacked vide resolution dated 16.02.2021, which is annexed with the instant petition itself as Annexure P-8. It is submitted that the contents of these paras of the petition of the petitioner are the repetition, and the petitioner No. 01 never ever appeared before this Hon'ble Court, since 2017 to till date, in disposed off petition, as well as in the present petition.



3. By referring to the aforesaid, learned counsel appearing for the petitioners submits that it is the case of the respondent no. 5 itself, that the area of the Masjid is 40 sq. yds. Thus, he submits that any construction beyond the aforesaid area, ought to be removed.

4. He further draws the attention of this Court to the Status Report dated 09<sup>th</sup> May, 2017 filed on behalf of the Delhi Development Authority (“DDA”), wherein, it is stated as follows:

3. That the answering respondent further submits that the subject land in question is acquired land falling in Khasra No. 2//13min. village Sahipur which was acquired vide Award No. 2119 dated 28.06.1968 admeasuring 04 bigha 16 biswa. The physical possession of the same has been taken over by the respondent-DDA from Land Acquisition Collector, Govt. of NCT of Delhi on 10.01.1969. The acquired land was utilized by DDA for Shalimar Bagh Residential Scheme and is transferred to erstwhile Municipal Corporation of Delhi for construction of Primary School.



5. Learned counsel for the petitioner, thus, submits that as per the stand of the DDA, the land in question has been transferred to the Municipal Corporation of Delhi (“MCD”).

6. *Per contra*, learned counsel appearing for the MCD draws the attention of this Court to the order dated 25<sup>th</sup> April, 2017, passed in W.P.(C) 3577/2017, titled as “*Sahipur Gram Vikas Welfare Association (Regd.) Versus North Delhi Municipal Corporation and Ors.*”, and relies upon Para 5, which reads as under

“xxx xxx xxx

3. *Relevant portion of the letter dated 16<sup>th</sup> February, 2017 is reproduced hereunder:*

*"During the course of routine inspection of Shalimar Bagh area,*



*it has been found by the field staff that a Mosque is being construed near the MCD Store, Ward No.55, adj. to Dr. Saheb Singh Verma Community Hall Sahipur, Shalimar Bagh, Delhi by way of encroachment on Government land. On enquiry by the field staff it is revealed that the area/land in question falls under the jurisdiction of DDA."*

*(Emphasis supplied)*

xxx xxx xxx

*5. Considering that respondent no. 5 is raising construction on the government land, respondent no.5 is restrained from carrying any further construction in the subject property till the next date of hearing.*

xxx xxx xxx"

7. Thus, by referring to the aforesaid, it is submitted that it had come on record that the land in question falls within the jurisdiction of DDA.

8. Learned counsel appearing for the MCD further relies upon the order dated 12<sup>th</sup> September, 2023, passed in W.P.(C) 3577/2017, and relies upon Para 8 of the order, which reads as under:

"xxx xxx xxx

*8. It is pointed by Ms. Mansi Gupta, learned counsel for the Municipal Corporation of Delhi, that by an interim order dated 25.04.2017, respondent No. 5 had been restrained from carrying out any further construction in the subject property. **Mr. Sarfaraz Hussain, learned counsel for the respondent No. 5, states that no construction on the premises has since been carried out and respondent No. 5 does not intend to carry out any construction on the subject premises.** He submits that if any construction is required to be carried out, respondent No. 5 will do so after obtaining the requisite permissions from the statutory authorities. Respondent No. 5 is bound down to the aforesaid undertaking.*

xxx xxx xxx"

*(Emphasis Supplied)*

9. By referring to the aforesaid order, learned counsel appearing for the MCD submits that respondent no. 5 had already undertaken that he does not intend to carry out any construction on the premises in question.

10. She further draws the attention of this Court to the Joint Inspection



Report, which reads as under:

**MUNICIPAL CORPORATION OF DELHI  
OFFICE OF THE EX. ENGINEER (M-I) KPZ  
C-2 BLOCK, KESHAV PURAM, DELHI-110035**

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**JOINT INSPECTION REPORT**

Subject:- In the matter of W.P. (C) 17610/2022 & CM APPL Nos. 56325-26/2022.

In the matter of:- VINAY KUMAR @

VINAY SAHARAWAT & ANR Vs. Municipal Corporation of Delhi  
through Commissioner & ORS.

With reference to Hon'ble Delhi High Court order on dated 27.09.2024, mentioned in para no. 3 "MCD, DDA and GNCTD are now directed to escalate the matter to the heads of the respective zones, who will ensure that a status report complaint with the order dated 12.09.2023, is filed within four weeks from today." And as per Para No. 04 "Learned Counsel for respondent No. 5 may also file a counter affidavit, within the same period." In compliance of above said order a Joint Inspection was conducted at site in question "Village Sahipur Masjid", which has been enclosed for ready reference.

Hand written report was also typed for clear reading in the office of undersigned, which is as under.

With reference to the letter No. F.47(Misc)/Court/AE(P)/NW-I/DDA/2022-23/963 dtd. 26.11.2024 by executive Engineer, NWD-I/DDA, wherein a joint inspection by EE (M-I)/KPZ, MCD, Deputy Director (LM), North West and North Zone DDA, SDM Office, Model Town and Saraswati Vihar and BDO (North) is proposed on 29.11.2024.

With reference to the above mentioned letter, today on 29.11.2024, Officers from DDA (North West and North Zone), MCD/K.P.Zone and SDM (Saraswati Vihar) are present for inspection of Tomb/Mosque adjoining Sahib Singh Verma Community Hall and Store of MCD at Shalimar Bagh area.

During the inspection it was found that the above said Mosque/Tomb falls in the Khasra No. 21/13 of Village Sahipur as per the records made available by the Official of LM (NWZ) DDA. The copy of the letter as provided by the officials of LM (NWZ) DDA i.e. Letter No. 5(17)2017/LM/42/645 dated 25.09.2017 by then Deputy Director/LM (NZ) is annexed for ready reference. The Khasra Number 21/13 of Village Sahipur has also been acquired as per the records vide award No. 2119 by LAC/L&B Deptt in the year 1968-69. The same has been transferred to DDA as per the records available. The necessary records and earlier correspondence are attached herewith for ready reference.

For necessary action please.

*Keshav*

Ex. Engineer (M-I) KPZ

Sh. Tajinder Viridi,  
Advocate, Delhi High Court

11. By referring to the aforesaid, it is stated that the land in question is an



acquired land and has been transferred to the DDA.

12. Learned counsel appearing for the DDA submits that since the land in question falls on the border of two villages, demarcation shall be carried out by the DDA by Total Station Method (“TSM”) and requisite action shall be taken, accordingly.

13. Learned counsel appearing for the DDA also draws the attention of this Court to the Joint Inspection Report dated 25<sup>th</sup> January, 2024, which is reproduced as under:

(Translated from original joint inspection report dt. 25.01.2024)

**Vinay Kumar @ Vinay Saharawat**

**vs.**

**MCD & Ors**

A joint inspection was held on dated 25.01.2024 to above cited case No. W.P.(C) 17610/2022, in presence of Shri Kesham Ved Sharma (EE/MCD) on behalf of MCD department, Shri Hemant Kumar Malav AE NMD-I/DDA, and Shri Anant Chamoli JE/NMD-I/DDA, Sh. Pramod Sing (Tehsildar) LM/NWZ for on-site inspection are giving status report.

In the presence of all the above mentioned attendees, the disputed land of Mauka Masjid was seen and this disputed land of the village does not falls in the village Sahipur but falls in village Peepal Thala. This has been confirmed by all the attendees. The village Sarai Peepalthala, falls under the Jurisdiction of DD/LM/North Zone and SDM Model Town.

14. By referring to the aforesaid, learned counsel appearing for DDA submits that the land in question falls within the jurisdiction of village Peepal Thala, and falls within the jurisdiction of the Sub-Divisional Magistrate (“SDM”) Model Town and DDA. She, thus, submits that requisite action shall be taken accordingly by both the authorities.



15. Accordingly, the DDA and SDM Model Town shall ensure that if further unauthorized construction takes place in the land in question, and in case, any encroachment exists, requisite action shall be taken in accordance with law.

16. Learned counsel appearing for respondent no. 5 submits that no unauthorized construction or any other construction, is being carried out by respondent no. 5. Learned counsel appearing for respondent no. 5 further submits that the structure measuring 40 sq. yds, has been existing since 1969.

17. Thus, this Court notes the aforesaid submission made by learned counsel appearing for respondent no. 5 that respondent no. 5 is not carrying out any further construction.

18. Considering the submissions made before this Court, the DDA along with SDM, Model Town, is directed to ensure that no further unauthorized construction takes place in the area in question. Further, the DDA shall also take requisite action for removal of encroachment, if any, which is found by the DDA, after carrying out the demarcation process.

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

**MINI PUSHKARNA, J**

**SEPTEMBER 17, 2025/SK**