



\$~29

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

+ **W.P.(C) 11185/2024 and CM APPLs. 46248/2024 and 55591/2024**

ASHOK KUMAR SHARMA

.....Petitioner

Through: Mr. Jasbir Singh Malik and Ms.
Rhythm Bhardwaj, Advocates.

versus

**MUNICIPAL CORPORATION OF DELHI AND
ORS**

.....Respondents

Through: Mr. Ashutosh Gupta ASC for MCD.
Mr. Farman Ali, Advocate for Delhi Police with SI
Om Prakash, PS: MS Park.
Mr. Aditya Kumar and Ms. Ila Nath, Advocates
for R-5 to R-9.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER
31.01.2025**

%

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

“(a) Issue the writ of mandamus or such other suitable writ, order, direction in the like nature thereby directing the Respondent No.1, its Officers, Administrator, Representatives etc. to demolish illegal & unauthorized construction in the shape of multistorey building raised by Respondent No.4 in collaboration with respondent nos.5-9 and in collusion with Respondent Nos.1 to 3 without sanctioned building plan and in violation of Building Bye- Laws and the provisions of The Delhi Municipal Corporation Act, 1957, over two subject properties measuring 1200 sq. yds. [700 + 500 sq. yds.] bearing No.1/2432/3, [Old 603-612] [New No.1/2432] Plot No.3 (known as Nova Rolling Steel Meal), Main Mandoli Road, Ram Nagar, Near Peer, Delhi-110032; and

(b) To issue writ, order or directions against the Respondent Nos. 1-3 thereby directing them to ensure that no further construction in illegal and unauthorized building in violation of the Building Bye-Laws and the



provisions of The Delhi Municipal Corporation Act, 1957 be carried on by Respondent Nos.4 to 9 over two subject properties admeasuring about 1200 sq. yds. [700 + 500 sq. yds.] bearing No. 1/2432/3, [Old 603-612] [New No.1/2432] Plot No.3 (known as Nova Rolling Steel Meal), Main Mandoli Road, Ram Nagar, Near Peer, Delhi-110032; and”

2. Learned Additional Standing Counsel for MCD submits that no action could be taken till date with respect to the alleged unauthorized construction carried out by Respondents No. 4 to 9 in subject property bearing No. 1/2432/3, [Old 603-612] [New No.1/2432] Plot No.3 (known as Nova Rolling Steel Meal), Main Mandoli Road, Ram Nagar, Near Peer, Delhi for the reason that a civil suit being CS No. 82/2024 titled ‘*Sandeep Garg and Anr. v. Municipal Corporation of Delhi*’ was filed before the Trial Court in which stay was granted in favour of the Plaintiffs therein on 10.01.2024, which was extended from time to time and operated till 16.10.2024, when Plaintiffs were granted liberty to approach the Appellate Tribunal, MCD (ATMCD). The interim order was continued for a period of six weeks thereafter. Pursuant to the liberty granted by the Trial Court, Respondents No. 7 and 8 filed a statutory appeal before the ATMCD bearing Appeal Nos. 1026/ATMCD/2024 and 1055/ATMCD/2024. Appeals have been disposed of on 23.12.2024 primarily on the ground that Appellants were not given opportunity to participate in the proceedings before the quasi judicial authority and the sealing and demolition orders were passed without hearing and appreciating their versions. It was further observed by ATMCD that the orders were also not addressed to the Appellants/property owners and did not clearly mention the address of the properties despite the same being available in the MCD record. As per ATMCD, the identity of the property goes to the root of the matter and in light of these observations, direction



was issued to the quasi judicial authority to grant opportunity of hearing to the Appellants and thereafter pass a speaking order.

3. Learned counsel for MCD urges that pursuant to the orders of ATMCD, hearing was granted by the quasi judicial authority on 20.01.2025 and 28.01.2025 and further hearing is scheduled for 03.02.2025 and action, if any, will be taken in accordance with law, depending on the final outcome of the hearing.

4. In light of the submissions made on behalf of MCD and looking to the orders passed by the Civil Court and ATMCD and also considering that the competent quasi judicial authority is giving a hearing to Respondents No. 7 and 8 pursuant to orders of ATMCD, no further order is passed in this writ petition, save and except, directing MCD to take appropriate action depending on the outcome of the hearing. Needless to state any further action will be compliant with statutory provisions and keeping in mind judgment of the Supreme Court in *In Re: Directions in the matter of demolition of structures, 2024 SCC OnLine SC 3291*.

5. This order is passed without prejudice to the rights and contentions of Respondents No. 4 to 9.

6. Writ petition is disposed of in the aforesaid terms along with the pending applications.

7. In case of any surviving/further grievance, Petitioner will be at liberty to take recourse to appropriate remedies available in law.

JYOTI SINGH, J

JANUARY 31, 2025/shivam