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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11121/2025, CM APPL. 45741/2025 & CM APPL.
59751/2025

SYEDA GHAZALA NIZAMIPetitioner
Through: Appearance not given.

versus

THE COMMISSIONER MUNICIPAL CORPORATION OF DELHI
& ORS.Respondents

Through: Mr. Rakesh Malhotra, Mr. Bharat
Malhotra and Ms. Smritika Kesri,
Advs.
Mr. Mujeeb Ahmed, Adv. for
intervention application (Through
VC)
Mr. Puneet Yadav, SPC for R-4
(Through VC)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
03.11.2025

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1. The present writ petition has been filed seeking directions to respondent nos. 1 and 2, to take appropriate action against the unauthorized construction existing in the property bearing *No. 121 (New)/ 51/1 (old), Basti Hazrat Nizamuddin, New Delhi-110013*.
2. A Status Report dated 31st October, 2025 has been filed on behalf of respondent-Municipal Corporation of Delhi ("MCD"), relevant portions of which, are reproduced as under:



4. That, pursuant to demolition order already stand passed, demolition action against subject property was planned for 29.10.2025. During the action, upon availability of Police Force, 03 number of RCC panels were demolished on the roof of Second Floor and reinforcement of these panels have also been cut with the help of gas cutter. Photographs showing the action as taken by this answering respondent on 29.10.2025 are annexed herewith as Annexure: A (Colly).

5. That, pursuant to aforesaid demolition action, a letter bearing No. D/221/AE(B)-I/CNZ/2025 dated 29.10.2025 has been sent to the SHO, PS Jamia Nagar with the request to keep strict vigil over the property so that Owner/ Builder may not be able to restore the demolished portion or tamper with the seals affixed by the department. Copy of watch & ward letter as issued is annexed herewith as Annexure: B.

6. That, further action against subject property has been planned for 13.11.2025 and the same shall be taken upon availability of Police Force.

3. Perusal of the aforesaid Status Report shows that part action has already been taken by the MCD and that further action is now planned for 13th November, 2025.

4. Status Report dated 28th October, 2025 on behalf of respondent no. 3, i.e., Archaeological Survey of India ("ASI") has also been filed, relevant

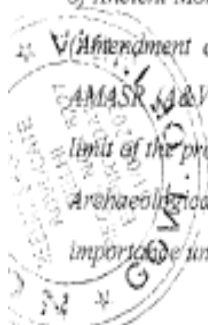


portions of which, are reproduced as under:

2. That the "Tomb of Nizamuddin Olia" has been notified as a Nationally Protected Monument vide Notification No.3925-Education, dated 04 July 1925 published under the Ancient Monuments Preservation Act, 1904 (AMP Act, 1904). A Copy of the Notification is annexed herewith and marked as ANNEXURE-R1 for ready reference.

3. That, it is further submitted that as per the provision of Section 20(A) of Ancient Monument & Archaeological Sites and Remains Act, 1958 (Amendment & Validation) Act 2010, *every area beginning at the limit of the protected area of a protected monument, as the case may be and extended to a distance of one hundred meters in all directions may be the prohibited area in respect of such protected area or protected monument; where no construction or reconstruction is allowed and repair renovation is allowed after necessary permission from the Competent Authority.*

4. That, it is submitted that as per the provisions of Ancient Monument & Archaeological Sites and Remains Act. 1958. Rules. 1959 (Amended & validation) Act 2010 regulated area means *any area specified or declared under Section 20(B) of the Act. Section 20(B) of Ancient Monument & Archaeological Sites and Remains Act 1958 (Amendment & Validation) Act, 2010 (hereinafter referred to as AMASR (A&V) Act, 2010), states that every area beginning at the limit of the prohibited area in respect of every Ancient Monument & Archaeological Sites and Remains, declared as of national importance under sections 3 & 4 and extending to a distance of 200*

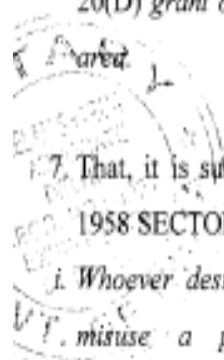




meters in all directions, shall be regulated area in respect of every Ancient Monument & Archaeological Sites and Remains.; where repair renovation, construction– reconstruction are only allowed after necessary permission from the Competent Authority.

5. That, it is submitted that as per the provisions of Sections 20(C) and 20(D) Ancient Monument & Archaeological Sites and Remains Act, 1958, Rules, 1959 (mended & validation) (A&V) Act 2010, it is mandatory to take permission for construction reconstruction from the competent authority in the regulated area and for repair or renovation of existing structure in the prohibited area from Competent Authority, NCT of Delhi.

6. That as per provisions of Section 20(C) *any person, who owns any building or structure, which existed in a prohibited area before the 16th day of June, 1992, or, which had been subsequently constructed with the approval of the Director-General and desires to carry out and repair or renovation of such building or structure, may make an application to the competent authority for carrvine out such repair or renovation as the case may be. And as per provisions of Section 20(D) grant of permission by competent authority within regulated*



7. That, it is submitted that, as per the provisions of AMASR ACT 1958 SECTION 30(1)

i. Whoever destroys, removes, inquires, alters defaces, imperils or misuse a protected monument shall be punishable with



(imprisonment which may extend to two years) or with [fine which may extend to one lakh rupees] or with both.

8. That the field staff consisting of Sub- Circle In-charge i.e., Conservation Assistant (CA) is the first and responsible official/staff, who works in the field with the help of the monument attendants, who are posted at different monuments for watch and ward duties and who look after many monuments simultaneously. On inspection or noticing any illegal and unauthorized constructions in the prohibited/regulated area by the watch and ward staff, the concerned Sub- Circle In-charge i.e., Conservation Assistant (CA), reports to the concerned SHO Police Station and issues a stop work notice to the Owner/Offender/Encroacher. The same he intimates to the Circle Office along with the inspection report to initiate necessary action. On the basis of the Complaint lodged by the Sub- Circle In-charge i.e., Conservation Assistant (CA), the Circle Office issues Show Cause notice to the owner/offender carrying out the illegal unauthorized construction under intimation to the Dy. Commissioner, MCD, DCP, Competent Authority Delhi NCT and DG-ASI. If no action is taken by the Owner where illegal or unauthorized construction is still continued the same is intimated to D.G., ASI for issuance of notice within the preview of the Ancient Monument & Archaeological Sites and Remains Act, 1958 and Rules therein. Other competent authorities are also informed of the same. On non-compliance of above direction Director General, ASI issues the demolition notice to concerned authorities within the preview of the Ancient Monument & Archaeological Sites and Remains Act, 1958, and Rules therein. It is submitted that the answering Respondent has no authority as per the provision of AMASAR Act



to carry out the demolition on its own. In this regard District Magistrate has the authority to remove the unauthorized construction.

9. That the property No.51/1, Burj E. Hassan, Nizamuddin Basti, New Delhi-110013 is situated within the regulated area of "**Tomb of Nizamuddin Olia**" a **Nationally Protected Monument** vide **Notification No.3925-Education, dated 04 July 1925** published under the Ancient Monuments Preservation Act, 1904 (AMP Act, 1904).
10. The responding defendant wishes to highlight specific events that have transpired. These events form the basis for the forthcoming submissions;
11. On 23.07.2025, unauthorized construction activities were detected by the Staff deployed at the site and on the very same day, the Conservation Assistant, In-charge Humayun's Tomb Sub-Circle under whose jurisdiction the particular monuments comes, issued a **Stop Work Notice** vide letter No.NF/31/HT/2025-26/12380 to the owner of the property, citing provisions under the AMASR Act, 1958 & Rules 1959 (Amendment & Validation) Act 2010, directing an immediate halt to all construction activities. A copy of the Stop Work Notice is annexed herewith and marked as **Annexure:R-2** for ready reference.
12. Despite the Stop Work Notice it was out rightly disregarded, and the unauthorized construction persisted, the owner did not desist from further work, necessitating a formal **complaint to the SHO, PS, Hazrat Nizamuddin, New Delhi-110013** vide letter No. **PC/40/HT/2025-26/07/12399 dated 05.08.2025**. This complaint pertained to the illicit construction in regulated area of the Nationally





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Protected Monument i.e. "Tomb of Nizamuddin Olia". A copy to the SHO PS Hazrat Nizamuddin is annexed herewith and marked as **Annexure-R3** for ready reference.

13. That subsequently, on **08.09.2025**, this office issued a **Show Cause Notice** vide F.No.DC/322/2025-UC-7087 to the owner of the property directing for the removal of the unauthorized construction within the regulated area of the Nationally Protected Monument i.e. "Tomb of Nizamuddin Olia". A copy of the Show Cause Notice is annexed herewith and marked as **Annexure:R-4** for ready reference.
14. That on **08.09.2025**, letters were addressed to the Deputy Commissioner of Municipal Corporation of Delhi (MCD) and the Deputy Commissioner of Police vide letter No's F.No.DC/322/2025-UC-7100 and F.No.DC/322/2025-UC-7099 respectively, requesting therein for immediate enforcement action to stop and remove the unauthorized construction. A copy of the letters are collectively annexed herewith and marked as **(Annexure:R-5 Colly.)** for ready reference.
15. In light of the aforementioned facts and submissions, it is respectfully submitted before this Hon'ble Court that Respondent No.03 is diligently undertaking all necessary measures to safeguard the visual integrity and surroundings of the protected monument as per the provisions of Ancient Monuments and Archaeological Sites and Remains Act (Amendment and Validation) Act, 2010. Furthermore, the authorities empowered to take appropriate action have been duly notified, with a view to initiating necessary steps

against the ongoing unauthorized construction in the specified area. This affidavit is submitted to place on record all relevant facts and to highlight the prompt and proactive actions undertaken by Respondent No.03.



5. As per the said Status Report, the ASI detected unauthorized construction activities in the property in question on 23rd July, 2025, pursuant to which Work Stop Notice dated 28th July, 2025, was also issued and a formal complaint was also lodged with the Station House Officer (“SHO”), Police Station, Hazrat Nizamuddin.
6. Further, Show Cause Notice dated 08th September, 2025 has also been issued by the ASI, thereby, directing removal of the unauthorized construction.
7. Considering the submissions made before this Court, the MCD with the assistance of the SHO, Police Station, Hazrat Nizamuddin, is enjoined upon to take requisite action against further unauthorized construction existing in the property in question.
8. This Court also records the submission of learned counsel appearing for the applicant in *CM APPL. 59751/2025*, who submits that various litigations are pending between the parties.
9. Needless to state the said litigations shall be decided by the respective Courts, in accordance with law.
10. In case, any party is aggrieved by any action or non-action on the party of the MCD, their rights to seek remedies in accordance with law, is reserved.
11. With the aforesaid directions, the present writ petition, along with the pending applications is accordingly, disposed of.

MINI PUSHKARNA, J

NOVEMBER 3, 2025/KR