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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11650/2025, CM APPL. 47653/2025 & CM APPL.
47654/2025

PHERAN SINGH YADAV & ANR.Petitioners

Through: Mr. Saquid Meshol, Adv.
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deepakpathakadvocate@gmail.com

versus

MCDRespondent
Through: Mr. Manoj K. Shharma, Addl.
Standing Counsel
Mob: 9811139236
Email: adv.manoj.s@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
05.08.2025

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1. The present writ petition has been filed challenging the Vacation Notice dated 18th July, 2025, received by the petitioners on 22nd July, 2025, issued by the Municipal Corporation of Delhi ("MCD"), Office of the Executive Engineer (Building)-II, Rohini Zone, under Section 349 of the Delhi Municipal Corporation Act, 1957 ("DMC Act").
2. The said Notice pertains to the property bearing *Plot No. A-150, Hind Vihar, Prem Nagar-III, Delhi*, alleging unauthorized construction/deviations carried out by the petitioner.



3. Learned counsel appearing for the petitioners submits that the plot in question was purchased in the year 1993 and a four floor building was constructed between the period from 1993 to 1998. Thus, it is submitted that the construction in the property is protected under the National Capital Territory of Delhi Laws (Special Provisions) Act of 2007 and 2011 (“Delhi Special Laws of 2007 and 2011”), as it predates the cut off date of 31st December, 2006.

4. Along with the present writ petition, the documents like General Power of Attorney (“GPA”), ration card, election card, and electricity bills of the year 2006 have been attached.

5. Learned counsel appearing for the petitioners submits that the Vacation Notice is by way of a retaliatory action, since the petitioners had filed an earlier writ petition being W.P.(C) 1479/2013, titled as “*Pheran Singh Yadav and Anr. Versus Government of NCT of Delhi & Ors.*”, wherein, this Court vide order dated 05th May, 2025 had issued the following directions:

“1. By way of present application, the petitioners seek directions to respondent No.2/MCD and respondent No.5 to initiate action against the ongoing unauthorized construction at the public land/subject property bearing Khasra No. 21/25/1, 22/1, in the revenue estate of Village Mundka, Hind Vihar, Prem Nagar, New Delhi.

2. Learned counsel for the petitioners submits that the unauthorized construction in the aforesaid property is in complete defiance of the orders dated 05.03.2013 and 31.10.2023 wherein status quo directions have been passed. Qua the unauthorized construction, a Show Cause Notice was also issued way back on 24.07.2012 by the concerned SDM, inasmuch as, restraint order was also passed on 29.11.2012 under Section 133 Cr.P.C.

3. Mr. Kapil, Ld. Counsel for respondent No.2, on instructions, submits that an inspection was carried out on 02.05.2025 by the concerned officials wherein unauthorized construction was found to



be carried out at the subject property. He seeks time to file a Status Report in this regard.

4. Learned counsels for the petitioners as well as MCD state that the present action of the respondent No. 6 tantamount to willful disobedience of the orders passed by this Court.

5. Learned counsel for the respondent No.6 has also joined the proceedings through V.C. Let respondent No. 6 appear in person in Court on the next date of hearing.

6. Re-list on the date already fixed i.e. 28.07.2025.

7. Needless to state that all the parties shall ensure that status quo, as directed previously, is maintained with respect to subject property till further orders.”

6. Thus, it is submitted, since the petitioner had filed a writ petition against an unauthorized construction in another property, the present Vacation Notice has been issued against the petitioners.

7. It is submitted that the petitioners received no prior notices under Section 343 of the DMC Act, which is violative of the mandatory procedural requirements and thereby, renders the present Vacation Notice as illegal.

8. It is further submitted that since the property was built before the year 2006, no action can be taken by the MCD as the construction is protected under the Delhi Special Laws of 2007 and 2011.

9. It is further submitted that the petitioners have not carried out any construction after 31st December, 2006 and in the absence of any prior notices, under Sections 343 and 346 of the DMC Act, the present Vacation Notice dated 18th July, 2025, is totally improper and is liable to be set aside.

10. Issue notice. Notice is accepted by learned counsel appearing for the respondent, who has handed over copies of certain documents of the year 2015, which are taken on record.



11. As per the documents handed over by the respondent, a Show Cause Notice was issued on 03rd February, 2015, against the property in question of the petitioners.

12. Thereafter, *vide* order dated 09th February, 2015, a Demolition Order was passed. Thus, learned counsel appearing for the respondent submits that since the property was occupied during the period, therefore, no action had been taken earlier. Consequently, Vacation Notice dated 18th July, 2025 has now been issued by the MCD.

13. This Court had taken a very serious view of the present matter, wherein, a Demolition Order, having been passed way back in the year 2015, on the basis that no reply has been filed by the owners/occupiers of the property in question, is sought to be implemented now in this manner, after more than ten years.

14. This Court takes into account the submissions of learned counsel appearing for the petitioners that the present Vacation Notice is more in the nature of retaliatory action by the MCD, at the behest of the respondent in *W.P.(C) 1479/2013*, against whom the petitioners had filed the said writ petition, wherein directions had been issued to take action against the said unauthorized construction in the property, existing near the property of the petitioners herein.

15. The MCD, being the statutory authority, its officials are not expected to act in such manner. There is no plausible explanation as to how after more than ten years, the respondent-MCD has sought to issue the Vacation Notice dated 18th July, 2025, on the basis of a Demolition Order passed on 03rd February, 2015. This Court deprecates the action of the officials of the respondent-MCD undertaken in such a manner.



16. Accordingly, considering the fact that the earlier Demolition Order was also passed on the basis that there is no reply filed by the owners/occupiers, it is apparent that the earlier Demolition Order was passed without service of any requisite Show Cause Notice to the owners/occupiers of the property in question, i.e., the petitioners herein.

17. Accordingly, the Vacation Notice dated 18th July, 2025, is hereby set aside.

18. Considering the facts and circumstances of the present case, the present matter is referred to the Commissioner, MCD. The Commissioner shall call the concerned officials of the MCD to seek explanation as to in what circumstances the Vacation Notice has been issued after more than ten years, when apparently the earlier demolition order has been passed within days of issuing Show Cause Notice, to which no reply was received, and accordingly, no hearing in that regard was granted.

19. The Commissioner, MCD is at liberty to pass appropriate orders, accordingly.

20. Further, the Commissioner, MCD is also at liberty to assess as to whether any action is required to be taken against the property, which forms the subject matter of the present writ petition.

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

22. A copy of this order shall be sent by the Registry of this Court to the Commissioner, MCD, forthwith.

MINI PUSHKARNA, J

AUGUST 5, 2025/SK