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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12485/2025**

GHAZIPUR DAIRY FARM MANDIR SEWADAR SAMITI

.....Petitioner

Through: Mr. Sudhir Naagar, Mr. Manohar Naagar, Mr. Piyush Aggarwal and Mr. Divyansh, Advocates.

versus

DELHI URBAN SHELTER IMPROVEMENT BOARD & ANR.

.....Respondents

Through: Mr. Anuj Chaturvedi, Advocate for R-1/DUSIB with Mr. Ashok Kumar Bhaskar, AE.

Mr. Raghvendra Upadhyay, Penal Counsel for R-2/GNCTD.

Mr. Manu Chaturvedi, Standing Counsel for MCD with Dr. Dinesh Sharma, Dy. Director.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **27.08.2025**

CM APPL. 50953/2025 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

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3. Heard the learned counsel for the parties.
4. This petition filed under Article 226 of the Constitution of India, seeks a prayer to quash the notice dated 13.08.2025 issued by the Executive Engineer C-9, Delhi Urban Shelter Improvement Board (DUSIB), whereby the petitioner has been required to remove the shops/illegal possession from the land in question, failing which the DUSIB will act in accordance with law for which

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the Board shall not be responsible in any manner.

5. Learned counsel representing the DUSIB has furnished a bunch of documents, which are taken on record. The said documents contain a sketch map, according to which in an area of 214.32 sq. mtrs, there exist a temple known as 'Shri Gopal Krishan Mandir'. The sketch further shows that around the said temple there are certain shops, a godown (hall) and another hall/room. The godown (hall) as shown in the sketch map measures 17.70 mtrs x 20.80 mtrs whereas the other hall/rooms measures 17.20 mtrs x 6.80 mtrs. Apart from the said godown (hall) and the other hall/room, there are 14 shops which are shown in the sketch map.

6. Learned counsel representing the petitioner has stated that the notice is illegal for the reason that before taking up any action, the Board was required to issue notice under Section 41 of the Delhi Urban Shelter Improvement Board Act, 2010 (hereinafter as "the Board Act"), specifying the ground on which the proposed order of eviction was to be passed. He has further stated that no such notice has been issued and it is only after determination of illegal encroachment, after issuing such notice under Section 41 of the Act, that any action leading to demolition would be taken by the board. His submission, thus is that in view of the aforesaid, since no notice/determination was issued/taken in terms of Section 41 of the Board Act, the impugned notice directing the petitioner to remove the alleged illegal encroachment is not lawful.

7. No doubt, Section 41 of the Board Act provides for issuance of a notice to show cause against the order of eviction and in terms of Section 42 of the Board Act, if considering the cause, if any shown by the person in unauthorized occupation, the Board is satisfied that public premises are in unauthorized occupation, it may make an order of eviction, however on a query being put to the learned counsel for the petitioner, he could not dispute that the entire piece of land as shown in the sketch map, filed along with bunch of documents by the Board before the Court, is in occupation, without any title documents.



8. He has further stated that so far as the shops are concerned, the petitioner/temple management shall themselves demolish, however the godown (hall) and the other hall/room are part of the temple premises, therefore, the Board may be directed not to demolish the same.

9. We also notice that in document no.1, which is also a sketch map, an area towards the Northern side of shop no.1 and towards the Western side of shops no.6 and 7 has been shown to be 'Shrine Place' which, however in the sketch map enclosed as document no.2 in the bunch of documents filed today by the Board, it has been shown in red colour. We, thus direct that the area shown as 'Shrine Place' in document no.1 shall also not be demolished by the Board.

10. From the aforesaid, especially in view of the fact that petitioner could not establish its title over the entire land shown in the sketch map, issuance of notice under Section 41 of the Board Act would have been an empty formality.

11. The petitioner has not been able to show any material or document to show that the piece of land in question is not in illegal possession. The only plea taken by the petitioner is that the temple and the other constructions have been in existence since long over which petitioner has been in possession.

12. Merely because certain illegal and unauthorized constructions have been in existence since long and in his possession, it will not vest any right in the petitioner. Undisputedly, the entire construction including the one shown in the green colour in the sketch map, is illegal construction. However, having regard to the sentiments of the devotees, the Board has not directed demolition of the portion of the construction depicted in green in the map.

13. Accordingly, we find that the notice issued by the DUSIB for demolition of the illegal construction does not suffer from any illegality or irregularity and, therefore, writ petition does not have any force, which is hereby dismissed.

14. We further direct that the authorities of the Board shall give a week's time to the petitioner/temple management to vacate and take out the articles lying in the shops and also in the godown (hall) and the other hall/room as



shown in the sketch map and, thereafter, the Board shall demolish the same and take possession of the vacant land.

15. Learned counsel for the petitioner, however states that so far as the temple portion, as shown in document no.2 is concerned, the issue is engaging attention of the Religious Committee. Accordingly, we permit the petitioner to take up its case before the Religious Committee, restricted only to the portion as has been shown in green colour in the sketch map in the document no.2.

16. Writ petition alongwith pending application stands disposed of in the aforesaid terms.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

AUGUST 27, 2025

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