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

+ W.P.(C) 12629/2025

HEMA ARYA

.....Petitioner

Through: Ms. Hinu Mahajan and Ms. Manasvi,
Adv.

Email: heenumahajan@gmail.com

versus

MUNICIPAL CORPORATION OF DELHI & ORS.Respondents

Through: Mr. Sanjeev Sabharwal, SPC for UOI
Mr. Aakanksha Kaul, Mr. Harsh
Sethi, Mr. Aman Sahani, Ms. Ashima
Chopra, Mr. Anant Nigam, Mr.
Shashank Sharma Raghav Luthra, Mr.
Ojasvi Arora, Adv. for R-2
Mr. Rakesh Malhotra, Mr. Bharat
Malhotra and Ms. Smritika Kesri,
Adv. for MCD
Email: skesri12@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

12.09.2025

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1. The present writ petition has been filed seeking directions to the respondent no.1, i.e., Municipal Corporation of Delhi ("MCD"), to demolish the illegal and unauthorized construction being raised by respondent no. 2 at second floor of the property bearing No. CA-23/2, Tagore Garden, New Delhi.



2. This Court takes note of the Status Report dated 08th September, 2025, filed on behalf of the Building Department of MCD, wherein, it has been stated as follows:

“xxx xxx xxx

4. That, in compliance of the aforesaid direction, the property of Respondent No. 2 i.e. P.No. CA-23/2, CA-Block, Tagore Garden, New Delhi and the property of Petitioner i.e. P.No. CA-23/1, CA-Block, Tagore Garden, New Delhi were inspected by the concerned field official of this office on 01.09.2025 and it was found that the owner is carrying out unauthorized construction at roof of CA-23/2, Tagore Garden, New Delhi. Accordingly, action u/s 343 & 344 of the DMC Act has been initiated against the said property vide file No. FF(B)-I/W7/U/C/25/137 dated 01.09.2025 for unauthorized construction in the shape of room at roof of CA-23/2. Further, a show cause notice u/s 344(1) & 343 of the DMC Act was issued to the owner/builder on 01.09.2025 with the direction to submit his reply within 15 days. Simultaneously, an opportunity of personal hearing was also given to the owner/builder to explain the facts alongwith supporting documents and the date of hearing has been fixed for 08.09.2025 at 3.00 PM. Copy of the show cause notice dated 01.09.2025 is annexed herewith as **Annexure 'A'**.



5. That, a work stop notice u/s 344(2) of the DMC Act has been also issued to the SHO, PS-Rajouri Garden, New Delhi on 02.09.2025 with the request to stop the ongoing construction activity at site immediately. that the aforesaid unauthorized construction activity be stopped Copy of the work stop notice dated 02.09.2025 is annexed herewith as **Annexure 'B'**.

6. That, during the inspection the existing construction at P.No. CA-23/2 (First Floor), Tagore Garden, New Delhi was also compared with the standard plan of the said area and it was found that unauthorized construction in the shape of deviation/excess coverage against standard plan including projection over the mpl. land at front, side & rear portion of P.No. CA-23/2, Tagore Garden, New Delhi is existing therein. Moreover, as per visual inspection it seems that said deviation/excess coverage is old.

7. That, in compliance of the direction of the Hon'ble Court, the property of Petitioner i.e. P.No. CA-23/1 (Ground Floor), Tagore Garden, New Delhi was also inspected by the concerned field official and it was found in the property of the petitioner that deviation/excess coverage against standard plan alongwith encroachment over the mpl. land at front and side portion is existing therein. Moreover, as per visual inspection it seems that said deviation/excess coverage is old.



8. That, further action against the unauthorized construction booked by this office will be taken as per provisions of DMC Act and in accordance with law, in due course of time after following due process of law.

xxx xxx xxx”

3. Perusal of the aforesaid Status Report shows that it is the stand of the MCD that though there is some deviation/excess coverage in the property of the petitioner, however, the said construction is old.

4. As regards the property of respondent no. 2 is concerned, hearing is going on before the concerned officials of the MCD.

5. This Court is informed that the next date of hearing before the



concerned official of the MCD is 16th September, 2025.

6. Further Status Report has been handed over by learned counsel appearing for the MCD, filed on behalf of the Maintenance Department, which is taken on record.

7. The said Status Report filed on behalf of MCD reads as under:

“xxx xxx xxx

4. That in compliance of said direction the property of respondent No. 2 (property bearing No. CA-23/2, CA-Block, Tagore Garden, New Delhi) was inspected by the field officials of this office and it was noticed that there exists projection on municipal land in the front as well as rear side of the property bearing No. CA-23/2, CA-Block, Tagore Garden, New Delhi. Photographs taken at the time of inspection of this cited property are annexed herewith as **Annexure-‘A’**.

5. That upon inspection of the petitioner's property (No. CA-23/1, CA-Block, Tagore Garden, New Delhi), it was noticed that there exists an encroachment upon government land, wherein the open common space, measuring 12 meters x 3 meters approx. has been illegally occupied. The encroachment involves the installation of iron gates, iron mesh and a boundary wall constructed by brick masonry work with M.S. grill approximately 8 feet in height, as evidenced in the accompanying photograph.

Furthermore, it has been noticed that there is a projection at municipal land both at the front and rear side of the property i.e. property No.CA-23/1, CA-Block, Tagore Garden, New Delhi. The photographs taken during the inspection of property No.CA-23/1, CA-Block, Tagore Garden, New Delhi, are attached herewith as **Annexure-‘B’** for reference.

8. Perusal of the aforesaid Status Report shows that there are projections on Municipal Land by respondent no. 2, while there is encroachment upon



government land by the petitioner.

9. At this stage, learned counsel appearing for respondent no. 2 draws the attention of this Court to the written submissions filed on behalf of respondent no. 2, wherein, it is stated that only some repair work was being carried out by respondent no. 2. She further submits that the construction of the property of respondent no. 2 is protected in terms of National Capital Territory of Delhi Law (Special Provisions) Act, 2011.

10. The aforesaid statement is taken note of, which shall be considered by the MCD, at the time of hearing the parties.

11. Considering the fact that relevant action has already been initiated by the MCD, it is directed that the MCD shall take further action, in accordance with law, after following the due procedure.

12. Since the hearing is being granted to the parties, this Court expects that all the submissions made by the parties shall be taken into account, before any final order is passed.

13. On request of the counsels, it is directed that written submissions, as filed on behalf of respondent on. 2, be supplied to learned counsel appearing for the petitioner as well as MCD on the E-mail which is reflected in today's order.

14. Noting the aforesaid, the present petition, stands disposed of.

MINI PUSHKARNA, J

SEPTEMBER 12, 2025/KR