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

+ W.P.(C) 16881/2024

BILAL AHMED AND ANR.

.....Petitioners

Through: Mr. G.M. Farooqui, Adv. (Through
VC)

versus

**MUNICIPAL CORPORATION OF DELHI
AND ORS.**

.....Respondents

Through: Mr. Kapil Dutta, SC with Mr. Vansh
Luthra, Advs.
M: 9811135509
Email: kapilduttamcd@gmail.com
Mr. Gaurav Jain, Adv. for R-4
(Through VC)

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

ORDER
30.04.2025

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1. The present petition has been filed seeking directions to the respondent nos. 1 to 3, for taking action against the illegal and unauthorized construction carried by respondent no. 4, in property bearing No. 4021, *Gali Khan Khana, Urdu Bazar, Jama Masjid, Delhi-110006*.
2. Learned counsel appearing for respondent no. 1/Municipal Corporation of Delhi ("MCD"), has drawn the attention of this Court to the counter affidavit filed on behalf of the MCD. In the said counter affidavit filed on behalf of the MCD, it has been stated, as follows:



“xxx xxx xxx

4. That it is submitted that a sanction building plan bearing No. 20007583 dated 31.01.2024 has been issued in respect of the property bearing No.4021, Ward No.XI, Gali Khin Khana, Urdu Bazar, Jama Masjid, Delhi-110006 by the answering respondent. However, while raising construction, owner of the property has deviated from the sanctioned building plan which has been got acknowledged under Saral Scheme. It is submitted that accordingly MCD has initiated action against unauthorized construction in the shape of deviations/excess coverage against SDP vide I.D. No. 20007583 dated 31.01.2024 at stilt floor and ground floor with projection on municipal land under section 343 & 344 of the DMC vide file no.151/UC/75-N/B-II/CSPZ/2024 dated 08.07.2024 and a show cause notice dated 08.07.2024 has been issued to the owners namely Mst. Samir Sultan. It is submitted that after following the due process of law, demolition order dated 18.07.2024 has been passed by the Quasi Judicial Authority thereby directing the noticee to demolish the unauthorized construction in the shape of deviations/excess coverage against SDP vide I.D. No. 20007583 dated 31.01.2024 at stilt floor,

ground floor and first floor with projection on municipal land in the subject property within 06 days. A copy of the demolition order dated 18.07.2024 is annexed herewith as **Annexure-B**.

5. That MCD has initiated sealing proceedings under section 345-A of the DMC against the unauthorized construction in the shape of deviations/excess coverage against SDP vide I.D. No. 20007583 dated 31.01.2024 at stilt floor and ground floor with projection on municipal land and for this purpose a show cause notice vide No. DC/EE(B)-II/CSPZ/S.C.N./2024/D-462 dated 15.07.2024 has been issued. A copy of show cause notice vide No. DC/EE(B)-II/CSPZ/S.C.N./2024/D-462 dated 15.07.2024 is annexed herewith as **Annexure-C**.

6. That it is respectfully submitted that as per record, a work stop notice bearing no.D-412/AE(B)/CSPZ/2024 dated 18.07.2024 has been issued to the SHO P.S. Jama Masjid to ensure that no unauthorized construction is carried out in the property in question. A copy of work stop notice dated 18.07.2024 is annexed herewith as **Annexure-G**. It is submitted that the said work stop notice dated 18.07.2024 has been issued by way of abundant caution as the building was old and occupied & already constructed above first floor.

7. It is submitted that demolition actions have been taken against the unauthorized construction in the property in question with the assistance of police force from PS Jama Masjid on 24.07.2024, 26.07.2024 and 27.07.2024. It is submitted that in these actions on 24.07.2024, 06 RCC panels were cut / demolished at the roof of stilt, ground floor and first floor.



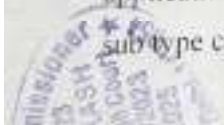


in the covered open area and covered road widening. On 26.07.2024, 01 RCC panel has been cut down at stilt floor and 01 RCC panel at ground floor. On 27.07.2024, 01 RCC panel has been cut down at ground floor and 03 RCC panels at first floor. Photographs of the property taken during demolition action are annexed herewith as **Annexure-D**.

8. That it is respectfully submitted that apart from the above proceedings under section 338 of the DMC Act for revocation of sanctioned building plan vide I.D. No. 20007583 dated 31.01.2024 have also been initiated and a show cause notice vide no. D/DC/CSPZ/2024/188 dated 22.07.2024 has been issued to Mst. Samar Sultan, Owner and Sh. Raj Kumar, Architect. It is submitted that the said show cause notice has been issued noticing the following discrepancies :-

(a) The subject property falls within the historic area of the city i.e. Shahjahanabad walled city and requires prior approval/clearance from DUAC. As per the relevant circular/office order dated 22.04.2022, the Professionals are empowered to acknowledge the intimation/sanction upto 500 sqm (except the properties categorized in the said circular). As such it is evident that the professional was not empowered to sanction the instant case and that he has trespassed his jurisdiction.

(b) The subject property falls in the special area/walled city and there is no approved layout plan of this area. However, the building plan application has been submitted with the stipulations showing building sub-type category of Village Abadi.





(b) Complete ownership documents have not been uploaded. Moreover, single Entity is also not maintained as required as per the notification dated 17.01.2011.

(d) As per the submitted plan the property in question is effected in 150000 empowered to sanction at his own level and as such, has road widening for such cases, the Architect/Engineer/Supervisor is not empowered to sanction at his own level and as such has trespassed his jurisdiction.

(e) The property abuts on notified Pedestrian Shopping Street Road (PSS) for which power to sanction does not vest with the concerned professionals.

A copy of show cause notice dated 22.07.2024 under section 338 of the DMC Act is annexed herewith as **Annexure-E**.

9. In furtherance of the demolition order dated 18.07.2024 lastly the actions against the unauthorized construction in the property were planned on 13.08.2024, 27.02.2024 and 27.03.2024 but the same could not be executed due to non-availability of police force.

10. That it is respectfully submitted that vide letter bearing no.D/AE(B)-II/CSPZ/2024/135 dated 03.05.2024, Ms. Samar Sultan, owner and Sh. Raj Kumar, Architect were directed to submit the Structure Stability Certificate in respect of property no.4021, Gali Khan Khana, Urdu Bazar, Jama Masjid, Delhi-110006 alongwith detailed submissions as to whether any damage has





been caused in adjoining property no. 4026, Gali Khan Khana, Urdu Bazar, Jama Masjid, Delhi-110006 due to erection of pillars/columns. It is submitted that in response to the said letter dated 03.05.2024 Ms. Sultan, owner has submitted her reply along with a Structure Safety Certificate dated 20.05.2024 in respect of property no.4021, Gali Khan Khana, Urdu Bazar, Jama Masjid, Delhi-110006. In the Structure Safety Certificate, it has been reported that the owner has installed the pillars in her own property and there is no encroachment by the owner on any private or public property. It has been further submitted that no damage has been noticed in any wall or pillars of the property no.4026, Gali Khan Khana, Urdu Bazar, Jama Masjid, Delhi-110006 or any other adjoining properties. A copy of the Structure Safety Certificate dated 20.05.2024 is annexed herewith as **Annexure-F**.

xxx xxx xxx”

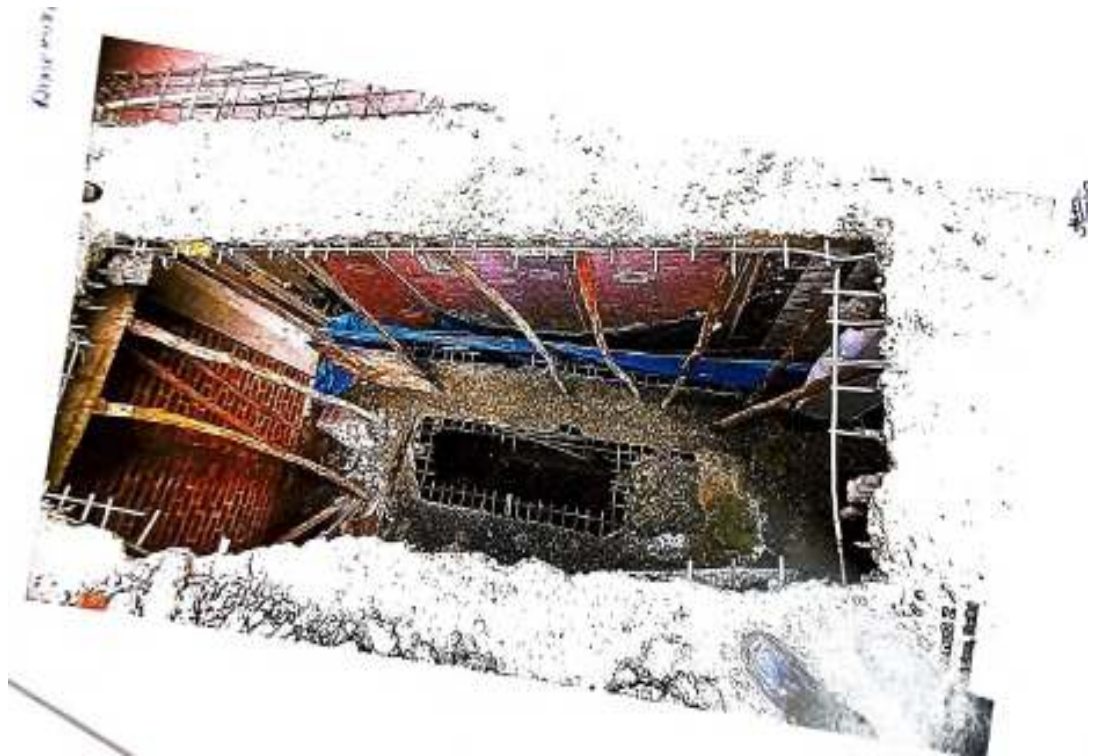
3. A perusal of the aforesaid counter affidavit shows that construction in the property in question, was earlier being done, as per the sanctioned building plan, which had been taken under the *Saral Scheme*. Subsequently, deviations were found in the construction. Thus, an action was initiated by the MCD against the unauthorized construction, which constituted the said deviations from the sanctioned building plan.
4. Accordingly, the Show Cause Notice dated 08th July, 2024, was issued to respondent no.4, i.e., the owner of the property in question. Subsequently, a Demolition Order dated 18th July, 2024, was also passed.
5. Simultaneously, sealing proceedings were also initiated by the MCD by issuance of a Show Cause Notice dated 15th July, 2024.
6. Further a Work Stop Notice was also issued to the Station House Officer (“SHO”) of the Police Station Jama Masjid, Delhi on 18th July, 2024, with a request to ensure that the unauthorized construction in the property, is



not carried out any further.

7. Learned counsel appearing for the respondent-MCD submits that demolition action has been taken by the MCD on 24th July, 2024, 26th July, 2024 and 27th July, 2024.

8. Learned counsel appearing for the respondent has also drawn the attention of this Court to the photographs showing the action taken by the MCD. Two photographs, out of many photographs, as attached along with the counter affidavit, are reproduced as under:





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24/07/24
JE(8)

9. This Court further notes the submission made on behalf of learned counsel appearing for the respondent/MCD that subsequently, proceedings, with regard to revocation of the sanctioned building plan of respondent no.4, are also under adjudication. He submits that further action shall be taken by



the MCD, after finalization of the said proceedings.

10. At this stage, learned counsel appearing for the petitioners submits that he has not been served with a copy of the counter affidavit filed on behalf of MCD.

11. However, this Court notes that the proof of service, which is on record, clearly shows that the petitioners' counsel has been served on his Email.

12. On a pointed query, learned counsel appearing for the petitioners have confirmed that the Email in question, where the mail has been sent by the respondent/MCD, is the mail ID of the counsel for the petitioners.

13. Learned counsel appearing for the respondent no. 4 submits that no construction is going on in the property in question, at present.

14. The aforesaid statement is taken note of.

15. Considering the submissions made before this Court, it is directed that the MCD shall finalize the proceedings, with regard to revocation of the sanctioned building plan of respondent no. 4, expeditiously, and preferably, within a period of two months, from today.

16. Further, action against the unauthorized construction shall be taken by the MCD in accordance with law, subject to the outcome of the revocation proceedings, of the sanctioned building plan.

17. It is further directed that in case the petitioner is aggrieved by any non-action on the part of the MCD, the petitioner shall be at liberty to approach the Special Task Force ("STF"), as constituted by the Supreme Court, in terms of the orders passed by the Division Bench of this Court, in the case of ***Devender Versus Govt. of NCT of Delhi and Ors.***, in ***W.P.(C) 1807/2018*** and ***Fazruddin Versus DDA and Ors.***, in ***W.P.(C) 4649/2017***.



18. The MCD is further directed to ensure that no further unauthorized construction of any sort, takes place in the property in question.
19. Rights and contentions of parties are left open.
20. Accordingly, the present writ petition, stands disposed of, in terms of the aforesaid.

MINI PUSHKARNA, J

APRIL 30, 2025/kr