



2025:DHC:10269



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 19.11.2025**+ **W.P.(C) 17593/2025 & CM APPL. 72680/2025****MOINUDDIN**

.....Petitioner

Through: Mr. Suhail Khanna, Ms. Priya Nagar,
Ms. Nibha Kumari and Mr. Abhishek
Nagar, Advs.
Mob: 8800420426
Email: lawspectiv.j4j@gmail.com

versus

MUNICIPAL CORPORATION OF DELHI AND ORS.

.....Respondents

Through: Mr. Rohit Kathuria, Mr. Dhruv
Varma and Mr. Harshit Sharma,
Advocates for MCD
Mob: 9717948948 & 8800973281
Email: r.d.kathuria@gmail.com
Mr. Sanjay Ghose, Sr. Adv. with Mr.
Imran Ahmad and Mr. Mohit Garg,
Advs. for R-2 to 6
Mob: 9350460168
Email: imahd2012@gmail.com

CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (Oral):**

1. The present writ petition has been filed in respect of unauthorized construction in the property bearing *No. 1248, Ganj Meer Khan, Turkman Gate, Delhi-110006*.
2. Issue notice. Notice is accepted by learned counsels appearing for the respondents.
3. At the outset, learned Senior Counsel appearing for respondent nos. 2



2025:DHC:10269



to 6, submits that the petitioner is in the habit of initiating various litigations. He has handed over to this Court copy of orders passed in a Civil Suit filed by the petitioner herein being *CS SCJ No. 2177/24*, tilted as “*Mohd. Moinuddin Versus MCD & Ors.*” The order dated 01st July, 2025, passed in the said Civil Suit, which learned Senior Counsel for respondent nos. 2 to 6 relies upon, is reproduced as under:

CS SCJ 2177/24
MOHD MOINUDDIN Vs. M C D

01.07.2025

This Court is functioning without Assistant Ahmad.

Present: Sh. Absar Ahmed, Ld counsel for plaintiff alongwith plaintiff.
Sh. M. N Khan, Ld counsel for defendant no.2 and 3 alongwith
defendant no.3
Sh. Akash Gupta, Ld counsel for defendant no.1 / MCD through
V/C.

Ld counsel for defendant no. 2 and 3 has placed on record Internet Generated copy of order dated 10.03.2025 passed by Ld. DJ-01/ Central/ Tis Hazari Courts, whereby consent decree has been passed in favour of the plaintiff in terms of mediation settlement dated 19.12.2024.

Ld counsel for defendant no.2 and 3 submits that he has already paid an amount of Rs. 15,50,000/- to the plaintiff in terms of mediation settlement and no cause of action exists in favour of the plaintiff and against defendant no.2 and 3. On the other hand, Ld counsel for plaintiff submits that the remaining amount has not been paid by the other parties in the connected matter in terms of mediation settlement and it is requested that matter be adjourned as he intends to file execution petition in terms of consent decree dated 10.03.2025 and he has already filed complaint case u/s 138 N. I. Act qua the cheques given by the other parties in the connected matter which is now listed in the month of September, 2025.

On Court query as to how the present suit is maintainable in terms consent decree dated 10.03.2025 as the payment has already been made by defendant no.2 and 3 as per the mediation settlement, Ld counsel for plaintiff seeks time to advance arguments.

Put up for arguments on maintainability of the present suit on 19.08.2025.

(Umesh Kumar)
JSCC-Cum-ASCJ-Cum-Guardian Judge-02
Central, Tis Hazari Courts/01.07.2025

”

4. By referring to the aforesaid order, learned Senior Counsel appearing for respondent nos. 2 to 6 submits that the said suit ultimately culminated in a settlement, wherein, Rs. 15,50,000/- (Rupees Fifteen Lakh Fifty



Thousand) was paid to the petitioner herein.

5. This Court also takes note of the order dated 03rd December, 2024, passed in *CS SCJ No. 2149/2024*, titled as “*Mohd. Moinuddin Versus MCD & Ors.*”, wherein, the stand of the MCD has been recorded that the property of the petitioner herein was inspected and it was found that there is no Sanctioned Building Plan in respect of the property of the petitioner herein.

6. Learned Senior Counsel appearing for the respondent nos. 2 to 6 also draws the attention of this Court to the order dated 03rd July, 2025 passed in the afore-noted suit being *CS SCJ No. 2149/2024* filed by the petitioner herein against the same property for the same cause of action and raising the same issue of unauthorized construction. The said suit of the petitioner was dismissed *vide* the said order dated 03rd July, 2025.

7. Thus, learned Senior Counsel appearing for the respondent nos. 2 to 6 submits that the present writ petition would not be maintainable on the same cause of action. He further submits that the MCD has already taken cognizance of the unauthorized construction existing in the property in question.

8. At this stage, learned counsel appearing for respondent-MCD submits that MCD has already taken cognizance of unauthorized construction in the property in question. He has handed over certain documents with regard to the action taken by the MCD against the unauthorized construction, which are taken on record.

9. Perusal of the documents handed over by learned counsel appearing for MCD shows that a Demolition Order was passed on 09th July, 2025, pursuant to which, part action has also taken by the MCD on 26th September, 2025.



10. *Per contra*, learned counsel appearing for the petitioner submits that unauthorized construction is still being carried out by the respondent nos. 2 to 6.

11. Having heard learned counsels appearing for the parties, this Court notes that a similar suit with a similar prayer with regard to the property in question was filed by the petitioner herein being CS SCJ 2149/2024, before the Tis Hazari Courts, Delhi.

12. It is to be noted that *vide* order dated 03rd July, 2025, the said suit was dismissed, by noting the following:

“xxx xxx xxx

15. At the outset, it is pertinent to mention here that the plaintiff has most of his grievance against the defendant no.2 and 3 for not taking proper precautions and safeguards while carrying out the construction at the suit property. The plaintiff has nowhere stated in his plaint that his personal rights are being affected or that he has not been able to enjoy his own property because of the alleged unauthorized construction by defendant no.2 and 3. It is not the case of the plaintiff that his property is adjacent to the property of defendant no.2 and 3 or that his property may get damaged due to the alleged unauthorized construction. Even in the site plan filed by the plaintiff, his property is situated across the street where the alleged construction is being carried out. From the facts of the case, it is apparent that the plaintiff has no personal interest in the suit property. Plaintiff has not made any averment in the plaint with regard to any infringement of his personal rights by the defendant no. 2 and 3. The plaintiff has not mentioned that his own property or any of his legal right is going to be adversely affected by the alleged illegal construction raised by the defendant no.2 and 3 or that the said construction is detrimental to his own property.

xxx xxx xxx

17. Since the plaintiff has no personal interest or right in the suit property, the present suit is barred under the provisions of Section 41 (j) of the Specific Relief Act. More over, the plaintiff has no cause of action to file the present suit as no right of his has been infringed due to alleged unauthorized construction. The present suit has been filed without any locus. A plaint without a cause of action and without locus is liable to be rejected under Order 7 Rule 11 (a)



CPC.

xxx xxx xxx

19. Thus, in light of the aforementioned judgment passed by the Hon'ble High Court of Delhi, it is clear that merely by virtue of being neighbour or resident of locality, a person does not become entitled to file a suit to restrain other from carrying illegal construction. In order to have locus, the party filing the suit must show that by virtue of such construction his/her legal right to air or water or light has been affected or such construction is going to be detrimental to his/her own property or his/her safety. Since, no such right is alleged to be infringed, accordingly, the application under Order 7 Rule 11 CPC is allowed and the present plaint is rejected under Order 7 Rule 11 (a) & (d) of CPC.

20. It is needless to mention that plaint has been rejected due to the lack of cause of action and locus standi of the plaintiff to institute the present suit. It will not prevent the concerned Government Authorities from their obligations to proceed as per law for taking appropriate action against any unauthorized construction taking place within their jurisdiction.

xxx xxx xxx”

(Emphasis Supplied)

13. Perusal of the aforesaid order clearly shows that the suit filed by the petitioner herein with regard to the property in question already stands dismissed by the learned Trial Court by holding that the petitioner herein, was not entitled to file a suit, when the petitioner was not personally affected by such construction.

14. Accordingly, once the suit with the same cause of action has already been dismissed by the Trial Court, there is no occasion for this Court to entertain a similar writ petition, having similar prayer, on the same cause of action.

15. This Court further takes note of the submissions made by learned counsel appearing for the MCD that unauthorized construction existing in the property in question has already been booked and that part action has also been taken pursuant thereto.



2025:DHC:10269



16. Accordingly, the MCD is held bound to take requisite action against the unauthorized construction existing in the property in question.

17. Further, in case of any ongoing unauthorized construction, the same shall be stopped forthwith by the concerned officials of the MCD, with the assistance of the local police.

18. During the course of hearing, it has also come to the fore that the property of the petitioner has also been constructed without a Sanctioned Building Plan and that the petitioner herein is running a shop for sale of spare motor parts from his residential premises.

19. Accordingly, the MCD is at liberty to take requisite action, after following the due procedure of law, against the property of the petitioner also.

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

MINI PUSHKARNA, J

NOVEMBER 19, 2025

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