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

+ **LPA 8/2025**

SHRI ASHOK KUMAR TANEJAAppellant

Through: Mr. Puneet Goel, Advocate

Versus

SHRI ASHWANI KUMAR COMMISSIONER

MUNICIPAL CORPORATION DELHI & ORSRespondent

Through: Ms. Puja S. Kalra, Standing Counsel
with Mr. Pushpinder, Ex Engineer.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

09.01.2025

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CM APPL. 632/2025

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

CM APPL. 633/2025

3. For the reasons stated in the application, the delay of five days in re-filing the present appeal is condoned.
4. The application stands disposed of.

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5. The appellant has filed the present appeal, *inter alia*, impugning an order dated 16.08.2024 passed by the learned Single Judge in Contempt Case No. 1274/2024 captioned *Shri Ashok Kumar Taneja v. Shri Ashwani Kumar, Commissioner MCD and Ors*, whereby the appellant's contempt petition was dismissed with costs quantified at ₹10,000/- which was directed

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to be deposited with the Registrar General of this court within a month from the date of the said order.

6. The appellant had filed the aforesaid contempt petition contending that the order dated 12.07.2024 as modified by the order dated 30.07.2024 passed in W.P.(C) No.9502/2024 has not been complied with. The appellant had filed the above mentioned writ petition [W.P.(C) No.9502/2024], *inter alia*, contending that respondent no.2 (MCD) had failed to furnish the information, as sought.

7. The order dated 12.07.2024 indicates that it was the appellant's grievance that on 22.04.2024, an individual named Mr. Rajinder, claiming to be from the office of respondent no.4, conducted an unauthorized inspection of the appellant's residence. The said inspection was allegedly based on a complaint made by one individual named Hari Krishan.

8. The appellant had filed an application under the Delhi Right to Information Act, 2001 (hereafter *Delhi RTI Act*) seeking clarity regarding the authorization granted to the concerned official for inspecting his residential house. The appellant claimed that he had not received any response to the said application under the Delhi RTI Act and accordingly filed an appeal under Section 7(1) of Delhi RTI Act with the Public Grievance Commission. The appellant stated that the said complaint was decided in favour of the appellant in terms of an order dated 25.04.2024 and the Deputy Commissioner (SSZ), MCD, Shahdara South Zone, was instructed to provide a comprehensive response to the appellant's application under the Delhi RTI Act. It is the appellant's grievance that despite express directions, MCD had failed to furnish the information, as requested. Accordingly, the appellant was constrained to file a complaint



under Section 9 of the Delhi RTI Act with the Chairman of the Public Grievance Commission, GNCTD.

9. The said order also records that the learned counsel appearing for MCD had submitted that the information, as sought for by the appellant, would be provided within a period of four weeks from the said date.

10. The said order as modified by the subsequent order dated 30.07.2024, is set out below:-

“1. Issue notice. Counsel mentioned in appearance above accept notice. Issue notice to the remaining Respondents, upon filing of process fees, by all permissible modes.

2. Considering the nature of relief sought, no counter affidavit on behalf of the Respondents is necessary.

3. Since no one appeared on behalf of Respondent No. 2 - ie, Municipal Corporation of Delhi, Mr. Sanjeev Sabharwal Standing Counsel for MCD who is present in Court today, has been requested to accept notice in the instant petition and the order passed today has been communicated to him.

4. The Petitioner contends that on 22nd February, 2024, an individual named Mr. Rajinder, purportedly from the office of Respondent No. 4/Deputy Commissioner Shahdara, South Zone, MCD, conducted an unauthorized inspection of the Petitioner's residence. This inspection was allegedly based on a complaint from an individual named Hari Krishan. Although the Petitioner cooperated with the inspection, concerns about its legitimacy led him to file an application under the Delhi Right to Information Act, 2001, on 28th February, 2024. The application sought clarity on the official authorization granted for the inspection of his house. Upon receiving no response, the Petitioner escalated the matter by filing an appeal under Section 7(1) of the Delhi RTI Act with the Public Grievance Commission. This appeal was adjudicated in favour of the Petitioner through an order dated 25th April, 2024. Consequently, the Deputy Commissioner (SSZ) MCD, Shahdara South Zone, was instructed to provide a comprehensive response to the Petitioner's RTI application.



5. The Petitioner contends that despite the clear direction, Respondent No. 2 —MCD - has failed to furnish the requested information. This omission has compelled the Petitioner to file a complaint under Section 9 of the Delhi RTI Act with the Chairman of the Public Grievance Commission, GNCTD. In this complaint, the Petitioner seeks the imposition of penalties on Respondent No. 2 for their failure to provide the information as previously ordered.

6. Counsel for the Petitioner submits that the Commissioner of the MCD, acting as the Disciplinary Authority under Section 59(d) of the Delhi Municipal Corporation Act, 1957, is the competent authority to adjudicate complaints filed under Section 9 of the Delhi RTI Act. Consequently, any inquiry and subsequent disciplinary actions concerning such complaints must be conducted in accordance with the service rules of the MCD.

7. Mr. Sabharwal, standing counsel for MCD states that in terms of the directions dated 25th April, 2024, issued by the Public Grievance Commission, the requested information shall be provided to Petitioners within four weeks from today.

8. In light of the foregoing considerations, this petition is hereby disposed of with a direction to the Municipal Corporation of Delhi (MCD) to adjudicate the complaint dated 20th May, 2024, within four weeks from today. Upon conclusion, a copy of the decision rendered shall be furnished to the Petitioner.

9. The present petition is disposed of in the above terms, along with pending application(s), if any.

10. It is made clear that the Court has not examined merits of the case. Accordingly, all rights and contentions of the parties are left open.”

11. As stated above, it is the appellant’s case that the above captioned order has not been complied with. Concededly, an appeal in respect of an order passed in a contempt petition is not maintainable under Section 19 of the Contempt of Courts Act, 1971. However, as explained by the Supreme Court in *Midnapore Peoples' Coop. Bank Ltd. and Others v. Chunilal*



Nanda and Others: (2006) 5 SCC 399, an appeal may be maintainable in cases, where in exercise of its jurisdiction, the court decides an issue or makes any direction relating to the merits of the disputes. The principles as summarised by the Supreme Court in ***Midnapore Peoples' Coop. Bank Others v. Chunilal Nanda and Others (supra)*** are reproduced below: -

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:

- I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.
- II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.
- III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.
- IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.



- V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).”

12. The learned counsel for the appellant submits that the present appeal is maintainable as the learned Single Judge has made observations which amounts to rendering a decision in respect of the merits of the disputes. He thus submits that this case falls within the exception of Clauses III and V, as set out above.

13. The aforesaid contention is unmerited. It is apparent from the plain tenor of the impugned order that the court has not decided any other issue on merit. However, the learned counsel appearing for the appellant insists to the contrary. On a pointed query from the court as to which specific finding in the impugned order is required to be considered as a finding on the merits of the dispute, the learned counsel referred to paragraphs nos. 7 and 8 of the impugned order. He submits that the court had erroneously referred to the date of the complaint as 28.02.2024 in paragraph 8 of the impugned order, whereas it ought to have been 20.05.2024. Plainly an error in recording the date of the complaint is not an adjudication of any issue which would fall within the exception of Clauses III and V of the principles summarized by the Supreme Court in *Midnapore Peoples’ Coop. Bank Others v. Chunilal Nanda and Others* (*supra*) and as noted above.

14. It is relevant to note that the learned Single Judge had also made an observation to the effect that the appellant had been misusing the premises



for commercial purposes and therefore MCD had proceeded against the appellant as per law.

15. The appellant had filed an application [CM APPL. 56159/2024 in CONT.CAS(C) 1274/2024] before the learned Single Judge seeking recall of the order dated 16.08.2024. The said application was disposed of by an order dated 24.09.2024. The learned Single Judge found no ground to recall the order dated 16.08.2024; however, clarified that the observations made in paragraph 9 of the order dated 16.08.2024 as under:

“9. Be that as it may, during the course of arguments, it is brought out that the petitioner is misusing the premises for commercial purposes and therefore, the respondent/MCD is proceeding in the matter as per law.”

16. The aforesaid order amply clarifies that there were no findings returned on the issue whether the appellant had misused the premises in question by the learned Single Judge.

17. In view of the above, the present appeal is not maintainable. The same is accordingly dismissed with costs quantified at ₹15,000/-. The same shall be deposited with Delhi High Court Legal Aid Services Committee within a period of two weeks from date.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 09, 2025

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Click here to check corrigendum, if any