



2025:DHC:939-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 110/2025, CM APPL.Nos. 8578-80/2025

RESIDENTS WELFARE ASSOCIATION REGD. ...Appellant

Through: Ms. S. Janani, Sr. Advocate with
Ms. Sharika Rai, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS.Respondents

Through: Mr. Kapil Dutta and Mr. Vansh
Luthra, Advocate for MCD.
Ms. Prabhsahay Kaur, Standing
Counsel for DDA with Mr. Bir
Inder Singh, Advocate for DDA.

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Date of Decision: 13th February, 2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J.: (ORAL)

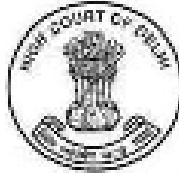
CM APPL. 8579/2025

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

CM APPL. 8578/2025(DELAY 6 DAYS IN FILING APPEAL)

CM APPL. 8580/2025(DELAY 10 DAYS IN REFILING APPEAL)

3. Cause shown is sufficient.
4. Application is allowed and the delay in filing and refiling the appeal is condoned.
5. Application stands disposed of.



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**LPA 110/2025**

6. Present appeal has been filed by the appellant under Clause X of the Letters Patent impugning the order dated 13.11.2024 passed by the learned single judge of this Court in W.P.(C) 1215 of 2017 captioned *Residents Welfare Association (Regd.) and Ors. vs. Govt of NCT of Delhi and Ors.*, whereby the learned single judge had dismissed the prayer for directing demolition of a Gurudwara at Saket, New Delhi, allegedly to be an illegal and unauthorized construction, till the moratorium as envisaged by the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 (for short *Special Provisions Act*), is in operation.

7. Ms. Janani, learned Senior counsel for the appellant primarily assails the impugned judgement solely on the basis that Special Provision Act, does not cover regular authorised colonies and has been promulgated only in respect of unauthorised colonies, jhuggi jhopri clusters and certain specific kinds of unauthorised constructions. According to her, since the subject property forms part and parcel of the authorised DDA colony, the learned single judge has misdirected himself into observing that the moratorium in clause (iv) of subsection 2 of Section 3 of the Special Provisions Act also covers the subject property. She emphasises that, once the Special Provisions Act, is not applicable to the authorised colonies, the question of moratorium protecting any kind of unauthorised or unsanctioned buildings, does not arise. In such circumstances, she stoutly contends that the impugned order to that extent needs to be set aside.

8. We have considered the arguments addressed by Ms. Janani, learned senior counsel appearing for the appellant and have also closely



examined the provisions of the Special Provisions Act. Since the emphasis is on as to whether the Special Provisions Act is or is not applicable upon the subject premises, it would be apposite to extract Clause (iv) of Sub Section 2 of Section 3 and the same is reproduced hereunder:-

3. Enforcement to be kept in abeyance.—

(1)

(2) *Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree. or order of any court, status quo—*

(i) as on the 1st day of January, 2006 in n respect of encroachment or unauthorised development;

(ii) in respect of unauthorised colonies, village abadi area (including urban villages) and their extensions, which existed on the 31st day of March, 2002 and where construction took place even beyond that date and up to the 8th day of February, 2007, mentioned in sub-section (1);

(iii) in respect of special areas as per the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, 2010; and

(iv) in respect of all other areas within the National Capital Territory of Delhi as on the 8th day of February, 2007, shall be maintained.

(emphasis supplied)

9. A plain reading of clause (iv) of Sub Section 2 of Section 3 does not leave any doubt or ambiguity as to the applicability of the provisions of Special Provisions Act on areas of NCT of Delhi other than those mentioned in subsections (i), (ii), (iii) of the Special Provisions Act.

10. Thus it is clear that the learned Single Judge has neither misdirected, nor misconstrued or misinterpreted the provisions of Section 3 as quoted above.



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11. In that view of the matter, the submissions based on the aforesaid section are untenable, unfounded and unmerited. Thus, on that question alone, we find no reason to interfere or interdict with the well reasoned judgement of the learned single judge and the appeal is dismissed however with no order as to costs.

12. However, the liberty granted by the learned single judge to the appellant herein is retained.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 13, 2025/rl