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

+ **W.P.(C) 2453/2026 & CM APPL. 11920/2026**

SANJAY KATYAL & ANR.

.....Petitioners

Through: Mr. Jatin Julka, Mr. Mrutunjay Mishra and Mr. Manish Chaudhary, Advocates (*through VC*).

versus

**MUNICIPAL CORPORATION OF DELHI MCD
THROUGH ITS COMMISSIONER & ANR.**

.....Respondents

Through: Ms. Mansi Gupta, Advocate for R-1/
MCD.

Mr. Arun Batta, Mr. Puneet Bhatnagar and Ms. Richa Singhania, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

08.05.2026

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1. The present writ petition has been filed seeking a direction to the respondent no.1/MCD to take appropriate action against the unauthorised construction being carried out by the private respondent no.2 on the First Floor, Second Floor, with terrace and servant quarter of property bearing no. *C-6, Kailash Colony, New Delhi – 110048* (hereinafter 'subject property').
2. The petitioner resides on the Ground Floor and basement of the subject property. It is the petitioner's grievance that despite the regularisation proceedings in respect of the subject property, which are pending before the respondent no.1/MCD, and clear identification of non-



compoundable deviations, the respondent no.2 has continued to carry out active construction activities and structural additions, including works at upper levels beyond the existing structure.

3. Status report dated 06th May, 2025, has been handed over in Court on behalf of the respondent no.1/MCD, and the same is taken on record. The said status report states that:

- i. A demolition order dated 27th June, 2019 was passed by SDMC in respect of the subject property.
- ii. A regularization order in respect of the existing construction on the First Floor and Second Floor of the subject property, including the servant's quarter, was passed by the MCD on 19th November, 2025, subject to the rectification of the non-compoundable deviations by the private respondents within one (1) week.
- iii. Thereafter the private respondent no.2 preferred an appeal against the demolition order dated 27th June, 2019, which was set aside and remanded by the ATMCD *vide* order dated 22nd January, 2026.
- iv. Pursuant to the order dated 22nd January, 2026 passed by the ATMCD, the site was inspected again by the MCD and a speaking order dated 5th May, 2026 has been passed, which has been filed along with the status report as Annexure-D. The relevant extracts from the said order are set out below:



4. The covered area, in terms of its permissibility as per Master Plan-2021, with extent of compoundable area has been got worked out as under:

Floor	Permissible Area as per Master Plan-2021	Sanctioned area	Existing Area	Excess Area	Area in sq.mt.	
					Compound-able area	Non-compound able Area
Basement	313.54	104.51	115.50	10.99	10.99	
Ground Floor	313.54	208.92	244.49	35.57	35.57	
First Floor	313.54	208.92	245.03	36.11	34.19	1.92 (Infringement of setback)
Second Floor	313.54	44.63	149.95	105.32	94.82	10.50 (Infringement of setback)
Third Floor	313.54	Balance FAR	20.85	20.85	15.42	5.43

There also exist the following deviations, which are non-compoundable in nature and require prior rectification / demolition,

1. First floor, there is infringement of side setback;
2. First Floor and Second Floor, there is infringement in rear setback in servant quarter
3. There exists the temporary and RCC structure above servant quarter at third floor.
4. Servant quarter has not been separated from the main building block, which needs to be separated.

The contentions taken by the Appellant are not acceptable, keeping in view the covered area with permissibility and its extent and the existence of non-compoundable deviations at site.

I, Assistant Engineer- Building Department - South Zone, Municipal Corporation of Delhi, vested with the powers of the Commissioner, M.C.D. under Section 343 read with Section 491 of the DMC Act, 1957 hereby order the Appellant to demolish the aforesaid unauthorized construction / deviations, as booked at first floor and second floor, within fifteen days of issue of this order. In the event of non-compliance, M.C.D. shall take action in accordance with law and at the risk and cost of the applicant of the property.

4. In terms of the above speaking order 15 days' time has been given to the respondent no. 2 to carry out the necessary demolition in respect of the aforesaid unauthorised constructions/ deviations which are non-compoundable in nature.

5. In view thereof, the present writ petition is disposed of while directing the respondent no.1/MCD to take action in accordance with law, after complying with all statutory requirements.

6. In the event the petitioner has any further grievance with regard to unauthorised construction, he is at liberty to take appropriate remedies in



accordance with law.

7. All rights, contentions and legal remedies of the private respondent no.2 are kept open.

AMIT BANSAL, J

MAY 8, 2026

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