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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 127/2026, CM APPL. 15796/2026 & CM APPL. 15797/2026
LITTLE CHILDREN EDUCATION SOCIETYAppellant

Through: Mr. Sameer Rohatgi, Mr. Namit Suri,
Ms. Pepakayala Geetanjali, Mr. Anish
Singh and Ms. Tanya Sharma,
Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Siddhanth Nath, Standing Counsel
with Mr. Amaan Khan, Advocate for
MCD.
Ms. Prabhsahay Kaur, Standing
Counsel with Ms. Antara Mishra and
Mr. Aryma Sharma, Advocates for R-
3 (DDA).

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

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16.03.2026

1. Heard Mr. Sameer Rohatgi, learned Counsel representing the Appellant – Society and Mr. Siddhanth Nath, learned Standing Counsel representing Respondent No. 2 – Municipal Corporation of Delhi (“MCD”).
2. This *intra court* Appeal challenges the Order dated 12.02.2026 (“**Impugned Order**”) passed by the learned Single Judge in W.P.(C) 12007/2025 (“**Writ Petition**”), proceedings whereof were instituted by the Appellant – Society. *Vide* the Impugned Order, the learned Single Judge has dismissed the Writ Petition.
3. The Appellant is a Charitable Society imparting education to the students of the primary classes. A piece of land admeasuring 0.60 Acres



situated at Sector 12, R.K. Puram, New Delhi having property ID No. 28227 was allotted to the Appellant – Society by the Land and Development Office (“L&DO”) by means of Allotment Letter dated 21.02.1995. The said allotment was made for construction of a Nursery School building. It appears that pursuant to the said Allotment Letter, a Memorandum of Agreement dated 26.07.1999 (“MoA”) was executed between the Appellant – Society and the L&DO. The MoA is on record. The MoA clearly mentions the area of the parcel of the land to be 0.60 Acres. It also mentions the boundaries of the said land. The description of the area and the boundaries of the parcel of the land in question as extracted from the aforementioned MoA is given below:

“The said land is situated at Little children Education Society Sec. 12, R.k.Puram N.D.admeasuring0.6 acres or thereabouts, bounded as such:-

On the North: Govt. qrs. (Service lane)

On the South: Govt. qrs. (Service lane),

On the East: Park

On the West: Govt.qrs. (Service (lane))”

4. Thus, from the aforesaid description of the parcel of the land in question as detailed in the MoA, it is clear that the land in question is identifiable. From the perusal of the pleadings available, it also appears that the MCD has a piece of land which is contiguous to the land in question allotted to the Appellant – Society.

5. Prior to filing of the Writ Petition, the Appellant – Society had instituted another writ petition being W.P.(C) 5422/2023, which was finally



disposed of by the learned Single Judge by means of an order dated 09.09.2024 with a liberty to the Appellant- Society to approach the Special Task Force for redressal of its grievances. It may be noticed that the said writ petition was filed with an assertion, *inter alia*, that the MCD is in illegal possession of some portion of the land allotted to the Appellant – Society.

6. It was asserted by the Appellant – Society before the learned Single Judge in the proceedings of the underlying Writ Petition that since pursuant to the order dated 09.09.2025 passed by the learned Single Judge in the earlier writ petition, the Special Task Force did not took any action or effective steps to remove the encroachment and, therefore, the proceedings of the Writ Petition were instituted.

7. A perusal of the Impugned Order reveals that one of the stands taken by the MCD before the learned Single Judge was that the relief seeking recovery of possession of the immovable property, which was sought by the Appellant – Society by instituting the Writ Petition, was barred by Articles 64 and 65 of the Limitation Act, 1963, which provides limitation period of five years. Another submission made on behalf of the MCD before the learned Single Judge was that the land in question was allotted to the Appellant – Society on 21.02.1995, whereas the MCD had been in possession over some portion of the land in question prior to the allotment made to the Appellant – Society.

8. The learned Single Judge, relying upon the judgment of Hon'ble Supreme Court in the case of ***State of Rajasthan v. Bhawani Singh & Ors.***, 1993 Supp(1) SCC 306, has held that the rights in respect of the land in question cannot be adjudicated in writ proceedings as the Appellant – Society seeks adjudication of its title and consequential recovery of the possession of



the land in question. The learned Single Judge proceeds to observe that such questions cannot be adjudicated in the proceedings under Article 226 of the Constitution of India, 1950 for the reason that adjudication of such issues would necessarily involve determination of disputed questions of facts, which cannot be determined without requiring the Parties to adduce evidence.

9. In our opinion, the stand taken by the MCD based on adverse possession is not tenable. Adverse possession is a defence, which cannot be put to service by State or its instrumentalities. Accordingly, it was not open to the MCD to have taken a defence of adverse possession over the portion of the land in question.

10. Since admittedly, the parcel of land in question and the land belonging to the MCD are contiguous to each other, it would have been more appropriate that the Parties ought to have sought demarcation of their respective lands by the appropriate authority under the Delhi Land Revenue Act, 1954 (“**Act**”) or any other relevant law. Once under the provisions of the Act or any other relevant law the demarcation is conducted, the Parties would be able to keep the possession of their respective lands.

11. It is also to be noticed that the MoA entered into between the Appellant – Society and the L&DO clearly describes the identity of the land in question for the reason that it not only discloses the area allotted, but also clearly mentions the boundaries of the land as well.

12. Accordingly, having regard to the facts and circumstances of the case and keeping in view the rival averments made on behalf of both the Parties and to meet the ends of justice, this Appeal is finally disposed of with a direction to the appropriate authority under the Act or any other law for the time being enforced for the said purpose, to demarcate the land belonging to



the Appellant – Society as also to the MCD, within a period of two months from the date any such application is moved by either of the Parties.

13. It is needless to mention that the demarcation proceedings shall be conducted by the competent authority in accordance with law and after providing appropriate opportunity of hearing to the Parties. The Parties or their representatives shall also be present at the time of the physical demarcation of the respective properties.

14. We further provide that in case after the demarcation proceedings either of the Parties are found in illegal possession over the respective parcels of the land, they shall remove the same. However, this would be subject to any proceedings which might be instituted before a legally permissible forum by either of the Parties, if they are aggrieved by the demarcation proceedings to be conducted under this Order.

15. The Appeal stands disposed of with the aforesaid observations and directions. The pending Applications also stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

MARCH 16, 2026

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