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

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Date of Decision : 27.03.2026+ **LPA 166/2026, CM APPL. 19368/2026, CM APPL. 19370/2026,
CM APPL. 19371/2026 & CM APPL. 19372/2026**

MUNIZA BEGUM @JAHAN ARA

.....Appellant

Through: Mr. Samman Vardhan Gautam, Ms.
Khushi Sharma, Mr. Priyam Tiwari
and Ms. Anshika Priyadarshini, Advs.

versus

MUNICIPAL CORPORATION OF DELHI &
ORS.

.....Respondents

Through: Mr. Tushar Sannu and Ms. Joshi,
Advs. for MCD.
Mr. Ayush Gupta, Adv. for R-3.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (Oral)****CM APPL. 19369/2026 (Condonation of Delay)**

1. For the reasons stated in the Application, the delay of 24 days in filing the Appeal is hereby condoned.
2. The Application stands disposed of.

LPA 166/2026

3. The present Appeal is filed challenging the judgment and order dated 19.01.2026 (“**Impugned Judgement**”) passed in W.P.(C) 11652/2024 (“**Writ Petition**”), whereby the Writ Petition was dismissed on the ground



that a disputed question of fact cannot be adjudicated upon, under the writ jurisdiction while leaving it open to the Appellant to take appropriate remedies available under the law.

4. The brief factual matrix leading to filing of the present Appeal is as under:

- 4.1. The Appellant is residing with her family on the ground floor of the property bearing House No. 14, Khasra No. 176, Lane No. 1, Johri Farm, Jamia Nagar, New Delhi-110025 (“**Subject Property**”) since 2001.
- 4.2. According to the Appellant, the owner of the fourth floor of the Subject Property, in collusion with the officials of Respondent No. 1, constructed fifth floor during the Covid-19 pandemic in the second half of the terrace above the fourth floor. This resulted in several cracks in the walls and pillars of the Subject Property.
- 4.3. On 21.10.2021, Respondent No. 1 issued a Show Cause Notice with respect to the fourth floor of the Subject Property. On 23.10.2021, the Appellant filed a complaint with Respondent No. 1 against Respondent No. 2 for illegal and unauthorized construction undertaken in the Subject Property. However, as Respondent No. 1 did not take any action, the Appellant filed W.P.(C) 12144/2021 (“**Earlier Petition**”) seeking direction against Respondent No. 1 to initiate legal action against responsible persons for illegal constructions on the fifth floor of the Subject Property and seal and demolish the unauthorized construction carried out in disregard to the existing laws.



- 4.4. On 26.10.2021, Respondent No. 1 issued a Work Stop Notice for stopping the construction work and to confiscate the construction material, tool and machinery as well as to disperse the work force engaged in the construction activity at the Subject Property.
- 4.5. *Vide* order dated 27.10.2021, notice was issued in the Earlier Petition and the statement on behalf of Respondent No. 1 was recorded that the Subject Property had been booked and the Sub-Registrar was directed not to register any titled document in respect of the Subject Property and that the Delhi Jal Board and the Electricity Department had been directed to disconnect the water and the electricity supply. It was further directed that Respondent No. 1 shall ensure that no unauthorized construction activity is permitted in the Subject Property, except in accordance with the sanctioned building plan, if any, and Respondent No. 1 was directed to file the Status Report.
- 4.6. Pursuant to the order dated 27.10.2021, Respondent No. 1 issued Demolition Order dated 11.11.2021 (“**Demolition Order**”) against the illegal construction in the Subject Property. Being aggrieved by the Demolition Order, Respondent No. 3 preferred an appeal before the Appellate Tribunal of Municipal Corporation of Delhi (“**ATMCD**”) challenging the same.
- 4.7. On 09.02.2022, Respondent No. 1 filed a Status Report in the appeal before the learned ATMCD clarifying that the ground to third floor of the Subject Property were old and occupied, and



the Demolition Order was passed with respect to unauthorized construction in the shape of fourth floor.

- 4.8. *Vide* order dated 11.02.2022, the learned ATMCD vacated the interim directions staying the demolition and restored the Demolition Order. Pursuant to order dated 27.10.2021 passed in the Earlier Petition, Respondent No. 1 filed Status Report dated 17.03.2022 submitting that the unauthorized construction was actually found on the fourth floor of the Subject Property, instead of the fifth floor, on inspection by the Officials of Respondent No. 1. It was further submitted by Respondent No. 1 that the sealing order dated 09.03.2022 was executed by Respondent No. 1 and half portion of the fourth floor of the Subject Property was sealed however, the remaining portion could not have been sealed as the same was occupied and the further action was in contemplation.
- 4.9. On 21.03.2022, Respondent No. 2 filed counter affidavit in the Earlier Petition stating that he purchased the fifth floor of the Subject Property from one Mr. Haneef and sold a portion to Respondent No. 3. In support of the said submission, Respondent No. 2 annexed a general power of attorney and agreement to sell dated 17.10.2020 showing the purchase of the flat on the fifth floor of the Subject Property.
- 4.10. On 29.03.2022, the learned ATMCD granted another opportunity to Respondent No. 3 to produce documents to prove that the construction in question existed prior to 01.06.2014. *Vide* order dated 27.01.2023, the Earlier Petition



was disposed of with a direction to Respondent No. 1 to take requisite steps expeditiously in accordance with law, preferably within a period of four months based on the submissions made by the learned Counsel for Respondent No. 1 that the Subject Property was inspected and unauthorized construction was found at the fourth floor of the Subject Property and pursuant thereto, Demolition Order was passed and the sealing of the Subject Property had taken place in unoccupied portion of the Subject Property and that the demolition of the unauthorized portion of the Subject Property would be carried out expeditiously.

- 4.11. On 21.06.2023, Respondent No. 1 carried out part demolition and cut down two panels of RCC roof of the fourth floor of the Subject Property and left the Subject Property without completing the demolition action. Being aggrieved by the inaction of Respondent No. 1, the Appellant approached the office of the Lieutenant Governor by way of letter dated 04.07.2023, however, no response was received by the Appellant.
- 4.12. On 21.07.2023, the Appellant registered her grievance in the online grievance portal of Lieutenant Governor and also approached the Special Task Force (“STF”) of Delhi Development Authority (“DDA”) through online portal. However, there was no response.
- 4.13. Accordingly, the Appellant preferred a contempt petition being CONT CAS(C) No. 1214/2023 (“**Contempt Petition**”), *inter*



alia, seeking initiation of contempt proceedings against Respondent No. 1 for wilful disobedience / violation of order dated 27.01.2023 passed in the Earlier Petition. *Vide* order dated 28.08.2023, the Contempt Petition was disposed of on the basis of the submission made by Counsel for Respondent No. 1 that demolition action had taken place and that in case any other demolition is required, the same shall be undertaken within a period of four weeks. The Appellant was granted permission to revive the Contempt Petition, if aggrieved by any non-action of Respondent No. 1.

- 4.14. On 27.09.2023, Respondent No. 3 approached this Court by way of W.P.(C) 12959/2023 praying for protection of the unauthorized construction in the Subject Property, thereby, categorically admitting that the fourth and fifth floor of the Subject Property are unauthorized and further prayed for protection of the same.
- 4.15. It is the case of the Appellant that a bare perusal of the documents relied upon by Respondent No. 3 in W.P.(C) No. 12959/2023, namely the General Power of Attorney, Indemnity Bond, Possession Letter, Agreement to Sell, Affidavit and Will, all dated 04.11.2020, clearly demonstrates that Respondent No. 3 had purchased only the fourth floor without terrace rights. The said documents themselves establish that as on 04.11.2020, no fifth floor existed at the Subject Property, and the alleged fifth floor was subsequently and illegally constructed thereafter.



- 4.16. On 08.01.2024, Respondent No. 1 passed the De-Sealing Order, whereby the illegal and unauthorized construction on the front portion of the fifth floor of the Subject Property was de-sealed.
- 4.17. Thereafter, the Appellant filed revival application being CM APPL. No. 7986/2024 in the Contempt Petition. *Vide* order dated 12.02.2024, this Court issued notice and directed filing of reply and status report.
- 4.18. Consequent upon the De-Sealing Order dated 08.01.2024, Respondent No. 3 withdrew the Appeal No. 8/2022, which came to be dismissed as withdrawn *vide* order dated 13.02.2024 passed by the learned ATMCD.
- 4.19. Pursuant to the directions of this Court in the Contempt Petition, Respondent No. 1 filed Status Report dated 09.03.2024 and its reply dated 31.03.2024. The Appellant filed Reply / Objection to the Status Report dated 09.03.2024 on 30.03.2024, pointing out the glaring contradictions in the stand of Respondent No. 1 and its collusion with Respondent No. 3.
- 4.20. *Vide* order dated 02.04.2024, this Court dismissed the revival application being CM APPL. No. 7986/2024 in the Contempt Petition. Thereafter, the Appellant approached the authorities including DDA by way of letter dated 03.04.2024 and e-mail dated 08.04.2024, seeking compliance of the order dated 27.01.2023 passed in the Earlier Petition, however, no effective action was taken.
- 4.21. Aggrieved thereby the Appellant filed W.P.(C) No. 5578/2024 assailing the De-Sealing Order dated 08.01.2024. *Vide* order



dated 23.04.2024, this Court disposed of the said writ petition with a direction to Respondent No. 1 to treat the said writ petition as a representation and pass a speaking order after affording an opportunity of hearing to the Appellant.

- 4.22. Pursuant thereto, the Appellant was called for personal hearing on 02.05.2024, and her husband appeared as authorized representative owing to her ill-health. Thereafter, Respondent No. 1 passed speaking order dated 13.06.2024 holding that the Subject Property stood divided into two portions while confirming the De-Sealing Order dated 08.01.2024 and granted protection to the construction at the fifth floor.
- 4.23. Being aggrieved by the order dated 13.06.2024 as well as the De-Sealing Order dated 08.01.2024, the Appellant filed the Writ Petition, challenging the same and seeking direction for demolition of the illegal and unauthorized construction at the Subject Property. In the Writ Petition, the Appellant also sought appointment of a Local Commissioner for measuring the height of the Subject Property, in view of the Appellant's case that the illegal construction had rendered the building contrary to the permissible height norms under the Master Plan for Delhi, 2021.
- 4.24. *Vide* order dated 20.05.2025, this Court directed all the occupants of the Subject Property to file their requisite documents, including sanctioned plan or other documents upon which they sought to rely before Respondent No. 1, and directed Respondent No. 1 to examine the same and file a status



report. In compliance thereof, Respondent No. 1 filed Status Report dated 11.10.2025, which was objected to by the Appellant on 12.10.2025, *inter alia*, on the ground that the Appellant's representation dated 18.07.2025 had been ignored. Thereafter, Respondent No. 1 filed another Status Report dated 17.01.2026.

4.25. *Vide* the Impugned Order dated 19.01.2026, the learned Single Judge treated the factual position as a disputed question of fact and disposed of the Writ Petition. Being aggrieved by the Impugned Order, the Appellant has preferred the present Appeal.

5. Learned counsel for the Appellant has submitted that the learned Single Judge has erroneously proceeded on the premise that the present matter involves "disputed question of fact" by placing reliance upon legal notice dated 23.06.2018. It was submitted that the statutory cut off date for the applicability of the NCT of Delhi Laws (Special Provisions) Second (Amendment) Act, 2023 ("**Special Provisions Act**") is 01.06.2014 and the document after such cut off date cannot determine the status of the property.

6. The learned Counsel for the Appellant submitted that it is evident from the Show Cause Notice dated 21.10.2021, demolition order dated 11.11.2021 and status report dated 17.03.2022, that the ground to third floors of the Subject Property are old and occupied, and the construction beyond the same was unauthorized and liable to be demolished.

7. It was further submitted that once the statutory action was taken post 2014, the issue ceased to be a disputed question of fact and therefore, was amenable to the writ jurisdiction. It was submitted by the Appellant that



admittedly Respondent No. 2 purchased the vacant terrace on fifth floor in 2020 and occupied the same only in 2021, and therefore, the notice of 2018 cannot be relied upon.

8. The learned Counsel for the Appellant submitted that there were glaring contradiction in the successive status reports filed by Respondent No.1, wherein at one stage, existence of fifth floor was denied, while at a later stage, it was admitted that a flat at fifth floor was sealed pursuant to the undertaking to take action was recorded in the order dated 28.08.2023 in Contempt Petition. Therefore, the de-sealing order dated 08.01.2024 issued by Respondent No. 1 was collusive with Respondent Nos. 2 and 3, and clearly demonstrated arbitrariness and non-application of mind. Further, the said de-sealing order dated 08.01.2024 was passed in violation of principles of natural justice and specific direction contained in order dated 23.04.2024.

9. It was submitted on behalf of the Appellant that Respondent No. 1 had given repeated undertakings before this Court to take action against unauthorized construction in the Subject Property and had assured demolition of the same, however, issued the de-sealing order thereafter in complete contradiction to the earlier stand of Respondent No. 1. The learned Counsel for the Appellant submitted that the Impugned Judgment has rendered the Appellant remediless by failing to exercise jurisdiction. Accordingly, it was submitted on behalf of the Appellant that the Impugned Judgment deserves to be set aside.

10. We have considered the factual background and submissions made on behalf of the Appellant. The Impugned Judgment has considered the order dated 13.06.2024 passed by Respondent No. 1 pursuant to direction passed by this Court in W.P.(C) No.5578/2024, which was challenged in the Writ



Petition. The said order records that pursuant to the sealing order dated 09.03.2022, whereby a portion of fourth floor of the Subject Property was sealed, a representation was filed on behalf of Respondent No. 3 claiming protection under the Special Provisions Act stating that the property was an old construction. The Impugned Judgment further observes that Respondent No. 1 has sealed portion of the fifth floor of the Subject Property and also considers the status report dated 06.01.2026 submitted by Respondent No. 1 in the Writ Petition, wherein it is stated that after considering the representations filed by the Appellant and Respondent No. 3 along with the supporting documents, it was found that no new facts had come to the light which may prove that the structure in the Subject Property was raised after the cut off date of 01.06.2014 as both the Appellant and Respondent No. 3 have claimed that their respective structures were old and constructed prior to 01.06.2014, which were protected *vide* order dated 08.01.2024 issued by Respondent No. 1.

11. In view of the said status report, the learned Single Judge came to conclusion that it cannot be said whether the construction of fourth / fifth floor of the Subject Property was carried out after the cut off date of the protection, i.e., 01.06.2014 and, accordingly, the learned Single Judge was of the view that the same being a disputed question of fact, cannot be adjudicated in the writ jurisdiction.

12. In view of the above, the learned Single Judge found that there was no infirmity in the de-sealing order dated 08.01.2024 and the subsequent order dated 13.06.2024 holding that the fourth / fifth floor of the Subject Property was entitled to protection under the Special Provisions Act. Accordingly, the



Writ Petition was dismissed leaving it open for the Appellant to take appropriate remedies available under law.

13. Considering the status report dated 06.01.2026 filed by Respondent No. 1 before the learned Single Judge, it is apparent that there are disputed questions of fact with regard to the timing of the construction carried out on fourth / fifth floor of the Subject Property, which cannot be determined while exercising the writ jurisdiction. The Impugned Judgment has already reserved the right of the Appellant to take appropriate remedies available under law for determining the status of the construction carried out on the fourth / fifth floor of the Subject Property to determine whether the same was carried out prior to the cut off date of 01.06.2014 or subsequent thereto.

14. We concur with the view taken by the learned Single Judge in the Impugned Judgment that the disputed question of fact with regard to the timing of the construction cannot be determined in the writ jurisdiction. Respondent No. 1 has already passed a reasoned order after giving opportunity of hearing to the Appellant as well as Respondent No. 3, and has come to the conclusion that there is nothing on record to show that the construction in question was carried out post 01.06.2014. Further, regarding the contention of the Appellant with respect to the contradiction in the stand taken by Respondent No. 1 in previous proceedings before this Court, we are of the view that there was no contradiction as Respondent No. 1 had undertaken to take action in accordance with law. Accordingly, Respondent No. 1 had passed a sealing order and also carried out the demolition of the unauthorized construction. As regards the status of the constructions carried out on the fourth floor, the de-sealing order dated 08.01.2024 and subsequent order dated 13.06.2024, both challenged in the Writ Petition,



clearly hold that it is not clear from the documentary evidence produced by the Appellant as well as Respondent No. 3 as to whether the construction was carried out prior to 01.06.2014 or subsequent thereto. In view of the same, the protection under the Special Provisions Act was granted by Respondent No. 1 and upheld by the learned Single Judge in the Impugned Judgment.

15. In view of the above, we do not find any infirmity with the Impugned Judgment and, accordingly, the present Appeal is dismissed. The pending applications also stand disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, J

MARCH 27, 2026

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