$~88 & 89

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

\# **CNR No. DLHC010159732024**

\+ W.P.(C) 4527/2024

SURENDER SINGH MAHALWAL THROUGH HER POWER OF ATTORNEY(IES) HOLDERS & ORS. .....Petitioners

versus

GOVT OF NCT OF DELHI & ORS. .....Respondents

\# **CNR No. DLHC010452932024**

\+ W.P.(C) 10467/2024

RISHI PRAKASH MAHALWAL .....Petitioner

versus

STATE OF NCT OF DELHI & ORS. .....Respondents

Appearances:

Mr. Arvind Kumar Gupta, Sr. Advocate with Mr. Rishi Bhardwaj, Mr. Ishan Parashar, Advocates for petitioner in item No. 88.

Mr. Prashant Bhardwaj, Mr. Rahul Tyagi, ASC with Mr. Sangeet Sibou, Ms. Priya Rai, Mr. Avinash Kumar Sing, Mr. Priyansh Raj Singh, Advocates Mahalwal, Advocates for petitioners in item No. 89.

Mr. Kanhaiya Singhal, Mr. Prasanna, Mr. Ajay Kumar, Ms. Isha Singh, Ms. Avantika Shankar, Ms. Disha Sharma, Advocates for Mr. Rattan Prakash.

Mr. Mukesh Gupta, Standing Counsel for MCD with Mr. Raghav Gupta, Advocate for MCD in Item No. 88.

Mr. Anubhav Gupta, Panel Counsel (Civil) GNCTD/R-1 in Item No. 89.

Mr. Tushar Sannu, SC for MCD with Mr. Shivam Parashar, Advocate for MCD in Item No. 89.

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:23:14

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% 06.10.2026

CM APPL. 69218/2026 (*for stay*) & W.P.(C) 4527/2024

CM APPL. 69217/2026 (*for stay*) & W.P.(C) 10467/2024

1. The captioned writ petitions have been filed against notifications issued by the Tehsildar (Hauz Khas), seeking to identify and demarcate areas in Village Madangir. The petitioners in W.P.(C) 4527/2024 claim to be in lawful possession of the land in *Khasra No. 12*, and the petitioner in W.P.(C) 10467/2024, claims to be in lawful possession of the land in *Khasra No. 13*, located in Village Madangir, New Delhi.

2. By order dated 15.07.2025, the Court directed as follows:

> *"1. These two applications are directed against the same notice dated 11.07.2025, issued by the Sub-Divisional Magistrate, Hauz Khas, inter alia, to the petitioners.*
>
> *2. The petitioners are brothers. By way of the captioned writ petitions, they have challenged orders by which their objections to a demarcation report were rejected. While the writ petitions remain pending, the petitioners contend that, by the impugned notice dated 11.07.2025, they have been informed that verification/identification of the site would be carried out today, i.e., 15.07.2025 at 2:30 p.m. Concerned officials of Municipal Corporation of Delhi ["MCD"] and Delhi Development Authority ["DDA"] have also been directed to remain present.*
>
> *3. Mr. Arvind Kumar Gupta and Mr. Prashant Bhardwaj, learned counsels for the petitioners, submit that the petitioners apprehend that they will be dispossessed and/or their properties will be subjected to demolition action, pursuant to the impugned demarcation report.*
>
> *4. Mr. Abhinav Sharma, learned counsel for the Government of National Capital Territory of Delhi ["GNCTD"], submits, upon advance instructions, that there is no intention to take possession of any property which is in the possession of the petitioners. The only purpose of the notice dated 11.07.2025 is to identify and mark the*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:23:14

areas in terms of the demarcation report, but not to take any further action.

*5**. In view of the aforesaid submission of GNCTD, it is directed that the exercise of identification and marking may be conducted. However, GNCTD is bound down to its submission that possession is not to be taken, pursuant to the notice dated 11.07.2025.***

6. The contention of Mr. Sharma is that the exercise is being carried out at the request of the MCD. ***As far as MCD is concerned, it is made clear that, if it proposes to take any action in respect of the property in possession of the petitioners, it will do so only after compliance with all formalities that may be required in law, including under the Delhi Municipal Corporation Act, 1957.*** *It will also bear in mind the judgments of the Supreme Court in this regard, including In Re: Directions in the matter of demolition of structures, [(2025) 5 SCC 1, decided on 13.11.2024], and Rajendra Kumar Barjatya & Anr. v. UP. Avas Evam Vikas Parishad & Ors. [2024 SCC OnLine SC 3767, decided on 17.12.2024].*

7. The applications are disposed of."

[Emphasis supplied.]

3. I am informed that the identification of the properties has since been carried out, and Government of NCT of Delhi has prepared a site plan, in which the plots of the petitioners have been identified. Although the site plan is marked *Khasra No. 12*, it is the accepted position of all the parties that the site plan deals with the plots of the petitioners in both petitions.

4. The present applications have been filed in view of the alleged action by Municipal Corporation of Delhi ["MCD"] to dispossess the petitioners and remove constructions on a part of the land in their possession, which according to the site plan, is part of public *rasta*/right of way. The petitioners dispute this identification.

5. Mr. Arvind Kumar Gupta, learned Senior Counsel for the petitioners in W.P.(C) 4527/2024, and Mr. Prashant Bhardwaj, learned counsel for the petitioner in W.P.(C) 10467/2024, submit that the

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:23:14

petitioners intend to file civil suits for identification of their respective areas, as this process will involve disputed questions of facts incapable of being decided in a writ petition. They submit that MCD is taking action against the land in the petitioners' possession, without passing any demolition order. They also submit that the petitioners had responded to notices issued by MCD, but no final orders were passed therein.

6. Mr. Mukesh Gupta, learned counsel for MCD, on the other hand, submits that no formalities are required in respect of any encroachment on government land.

7. Having regard to the submissions made on behalf of the petitioners, the writ petitions are taken on Board, and disposed of, with the consent of learned counsel for the parties, with the following directions:

a. In view of the petitioners' claimed possession, for a prolonged period of over 70 years, MCD is directed not to take any coercive action in respect of the properties for a period of three weeks from today.

b. If the petitioners wish to assail any identification or demarcation of land, they may do so by way of properly constituted civil proceedings. The parties will abide by the orders, if any, passed by the Civil Court.

c. In the event the petitioners are not protected by any interim order in civil proceedings, MCD may take action in respect of the alleged public land thereafter, in accordance with law.

8. The writ petitions, alongwith pending applications, are disposed of in terms of the aforesaid.

9. It is made clear that this Court has made no comment on the merits

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:23:14

of the matter.

10. The next date of hearing already fixed, i.e. 18.01.2027, stands cancelled.

PRATEEK JALAN, J

OCTOBER 6, 2026
"B"/SM/

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 08/10/2026 at 12:23:14