



2026:DHC:230-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 591/2023, CM APPL. 42578/2023 & CM APPL. 61640/2025

MUNICIPAL CORPORATION OF DELHIAppellant
Through: Mr. Sanjay Poddar, Sr. Adv.
with Mr. Mukesh Gupta, SC for MCD, Mr.
Govind Kumar, Mr. Apurv Kumar, Ms.
Anamika and Mr. Sachin Singh Shahi, Advs.
and Mr. Manoj Kumar, AE.

versus

SANJEEV MALHOTRA & ANR.Respondents
Through: Mr. Ayush Gupta, Adv. for R-1
and 2.
Mr. Chetan Sharma, ASG with Mr. Jitesh
Tiwari, CGSC, Mr. Amit Gupta, Mr.
Saurabh Triphati, Mr. Shubham Sharma, Mr.
Yash Wardhan Sharma and Mr. Naman,
Advs. for UOI.
Mr. Sameer Vashishit and Mr. Abhinav
Sharma, Advs. for GNCTD.
Ms. Shobhana Takiar, SC for DDA.
Mr. Sudhir K. Makkar, Sr. Adv. with Ms.
Saumya Gupta and Ms. Sanya C. Oberoi,
Advs. for Intervenor.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA
JUDGMENT(ORAL)

% **08.01.2026**

C. HARI SHANKAR, J.

1. This appeal is directed against the judgment dated 5 July 2022
passed by a learned Single Judge of this Court in WP (C) 9921/2022.



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2. Respondents 1 and 2 in this appeal were the petitioners before the learned Single Judge in WP (C) 9921/2022. They were aggrieved by the rejection, by the Municipal Corporation of Delhi¹ of their applications for sanction of a building plan in respect of the western side of the plot owned by them admeasuring 1100 sq. yds. in property situated at H-1/4, Model Town, Delhi. They, therefore, also sought a mandamus to the MCD to grant a sanctioned building plan.

3. The learned Single Judge has, in the impugned order, placed reliance on a statement made by the learned Additional Standing Counsel² for the MCD to the effect that, if Respondents 1 and 2 were to submit a fresh proposal, it would be considered in accordance with law, subject to the Master Plan of 2021 and the Unified Building Bye-Laws of 2016, without insisting on production of a No Objection Certificate³ from the co-owners.

4. Apparently aggrieved by the terminal caveat in para 8 of the order of the learned Single Judge, to the effect that no NOC would be required from the co-owners, the MCD has instituted the present Letters Patent Appeal.

5. On 18 August 2023, the Division Bench of this Court, while issuing notice on the LPA, noted that, though the order of the learned Single Judge had been passed on a statement made by the learned ASC, it was inclined to consider the matter as it involved issues of considerable significance.

¹ "MCD", hereinafter

² "the learned ASC" hereinafter

³ "NOC", hereinafter



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6. Subsequently, and during the pendency of these proceedings, on 1 August 2025, the MCD stated, before this Court, that it had taken a decision to sanction the building plans of Respondents 1 and 2 in the peculiar facts of the present case. However, Mr. Sanjay Poddar, learned Senior Counsel, who appears for the MCD submits that this statement was made subject to the outcome of the writ petition.

7. Subsequently, in view of the seriousness of the issues involved, the assistance of Mr. Chetan Sharma, learned Additional Solicitor General, was sought. He has graciously assisted the Court. We express our appreciation of the assistance rendered by him as well as by Mr. Jivesh Tiwari, learned CGSC who, as the learned ASG informs us, has contributed greatly in ensuring that a resolution has been brought to the impasse.

8. With the constructive assistance of learned Counsel, a joint decision has been arrived at under the signatures of the Commissioner, MCD and the Vice-Chairman, Delhi Development Authority⁴ on 6 January 2026, based on order dated 17 October 2019 passed by the Supreme Court in *Sharda Nath v. Delhi Administration*⁵. The following paragraph from the order passed by the Supreme Court merits reproduction:

“It would be thus permissible for the two parties to approach the South Delhi Municipal Corporation for sanction of plans in respect of their respective portions of the plot with FAR divided on the whole plot in proportion to the area vested with the two parties in

⁴ “VC, DDA”, hereinafter
⁵ 2019 SCC OnLine SC 2301



the plot and to carry out construction accordingly. Each of the parties would be separately responsible for their portion of construction and violation, if any. Needless to say that for sanction of the plan 'No Objection Certificate' would not be recruited by any of the parties from the other party. On construction of the plot, the conveyance deed would be executed on payment of requisite charged separately for the two portions. This is so directed as without construction separate lease deeds would not be permissible as per norms. Needless to say that for practical purposes the two parties would thus have separate liabilities and responsibilities in respect of the area vested therein."

9. Predicated on the aforesaid order passed by the Supreme Court, the joint decision of the Commissioner, MCD and the VC, DDA concludes as under:

"6. Discussion and Decision

The matter has been discussed in detail in view of the law laid down by the Hon'ble Supreme Court.

(i) As long as the respective share of the co-owners is well defined in the plot as per the sale deed or title document or court judgment, there should not be any necessity for joint applications in such cases.

(a) The separate buildings for the co-owners may be sanctioned in such cases subject, to stipulations that FAR and Ground coverage of all the Dwelling Units in all the buildings put together shall not exceed the applicable FAR and Ground Coverage of the single undivided plot.

(b) Dwelling Units permissible for the entire plot and co-shares would enjoy the FAR and Ground Coverage in their Dwelling Units on proportionate basis of the total FAR and Ground Coverage, permissible for that plot. This would be in line with laid down law by Hon'ble Supreme Court and the provisions of Master Plan-2021.

(ii) However, if respective shares of the co-owners are not defined in the plot, that is to say, it is not clear which portion of the plot belongs to who co-owner, then all co-owners would have to apply jointly which will indicate



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after their mutual settlement of their respective share/portion in the plot.”

10. Mr. Poddar submits that, with the aforesaid decision, the grievance of the respondents would stand assuaged as they satisfy the necessary requirements for entitlement for sanction of the building plan as sought by them.

11. Mr. Ayush Gupta, learned Counsel who appears for Respondents 1 and 2 also confirms this fact.

12. In that view of the matter and in view of the joint statement dated 6 January 2026 passed by the DDA and MCD, the *lis* apparently stands resolved and no further orders are required to be passed by this Court in the present appeal.

13. We also express our gratitude to Mr. Sudhir K. Makkar, learned Senior Counsel and Mr. Mukesh Gupta, learned Standing Counsel who have ably assisted the Court.

14. The appeal stands disposed of.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

JANUARY 8, 2026/gunn