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

\# **CNR No. DLHC010477242026**

\+ W.P.(C) 14684/2026, CM APPL. 68713/2026, CM APPL. 68714/2026

BEGUM NASREEN GHALIB & ANR. .....Petitioners

Through: Mr. Sonal Anand, Mr. Aayush Sai, Ms. Surbhi Singh, Advs. (M-9711188808)

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Ms. Akanksha Gupta and Mr. Yash Garg, Advs. for MCD (M-9013799111)
Mr. Rajiv Kumar Ghawana and Mr. Ashish Kumar, Advs. for R3 (M-9899120025)

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

O R D E R

% 01.10.2026

1. By virtue of the present petition under *Article 226* of the Constitution of India, the petitioners seek following reliefs:

> *"a) Issue a writ of certiorari or any other appropriate writ, order or direction quashing the Advisory for Dangerous Building No. EE(M)-II/City-SPZ/2026-27/D/141 dated 24.08.2026 issued from the office of the Respondent No. 1, insofar as it relates to Property No. 5016-5024, Bazar Sirkiwalan, Hauz Qazi, Delhi-110006;*

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b) Issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent No. 1 to forthwith stop and not permit, any demolition work in the said properties on the basis of the impugned Advisory or otherwise and to take action in accordance with law against the unauthorised demolition carried out therein since 26.08.2026;

c) Issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent No. 1 to address any advisory or notice in respect of the said properties to the Petitioners through their attorney, as was done on 23.08.2024 and not to act upon any application or request of the Respondent No. 3 in respect of the said properties without notice to the Petitioners;"

2. At the outset, it may be noted that learned Appellate Court, while dealing with an application under *Order 41 Rule 5* of the Code of Civil Procedure (***CPC***) read with *Order 39 Rule 1 & 2* of the CPC filed by the petitioner herein/ appellant therein in RCA SCJ 32/2023 titled *'Begum Nasreen Ghalib & Ors. Vs. Omar Hasan Khan & Ors.'*, with respect to the very same Advisory dated 24.08.2026 passed by the respondent no.1/ MCD which has been challenged herein, *vide* order dated 15.09.2026 has already held as under:-

"9. Reverting to the present matter, ***the appellants claim to be the beneficiaries of the properties of the two Waqfs i.e. Khan Bahadur Nawab Abul Hasan Khan and Mst. Mehmood-unNisa Begum. However, there is no document on record to show that the suit property was owned by Khan Bahadur Nawab Abul Hasan Khan or Mst. Mehmood-un-Nisa Begum. Further, the appellants claim to be the beneficiaries of the Waqfs created for the properties of Khan Bahadur Nawab Hasan Khan and Mst. Mehmood-un-Nisa Begum but the Waq1nama dated 24.08.1945 of Waqf Mehmood-un-Nisa Begum and Waqfnama dated***

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10.08.1945 of Khan Bahadur Nawab Hasan Khan are conspicuously silent with respect to the suit property.

10. Turning now to the claim of the appellants regarding their possession over the suit property, it was submitted on behalf of the appellants that the appellants are residing in Hyderabad since some time but their valuables are kept in the suit property. Respondent no-1, on the other hand, claims that valuables in the suit property belong to him. In wake of the aforesaid contrary claims of the parties, it was incumbent for the appellants to prima facie show that the items in the suit property belong to them and not to respondent no-1. Notably, the appellants have not substantiated their aforesaid claim by any material on record. In other words, neither an exhaustive list of such valuables has been filed, nor is there any document to show that the articles in the suit property are indeed owned by the appellants.

11. ***Proceeding further, it is not disputed that MCD had indeed issued Advisory dated 24.08.2026 with respect to suit property, thereby directing respondent no-1 to take immediate corrective measures for strengthening the same, which is stated to be in deteriorated/dilapidated condition. Although appellants have claimed that respondent no-1 obtained the said Advisory in his name in collusion with the MCD, but there is no material on record to show that respondent no-1 had indeed engaged in any such collusion with the MCD.***

12. As far as the dilapidated/dangerous condition of the suit property is concerned, the same has not really been disputed by the appellants. In fact, from perusal of the video footage of the suit property furnished by appellants themselves, the suit property appears to be in need-of repair. Further, appellants seek to restrain respondent no-1 from demolishing/repairing the suit property in terms of the aforesaid Advisory but they have not challenged the legality of said Advisory. In absence of challenge to the said Advisory, no relief of injunction can be granted to the appellants against the demolition at this stage.

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> *13. In view of above discussion, court is of the considered opinion that appellants have failed to show a prima facie case in their favour. Further, if a dangerous/dilapidated structure is allowed to exist without taking corrective measures to strengthen it, it will undoubtedly pose serious threat and danger to the persons in the vicinity as well as to the passersby, who are likely to suffer irreparable injury if any mishap occurs in the suit property. Thus, balance of convenience is also not found to be tilting in the favour of the appellants.*
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> *14. In view of above discussion, the prayer of the appellants to restrain the respondents from carrying on demolition in the suit property as well as to direct them not to rebuild the same are declined. Since the appellants have failed to show prima facie case in their favour and considering that the Advisory dated 24.08.2026 of the MCD has been left unchallenged, the prayer for directing the parties to strengthen the suit property and deposit the key with the court is also declined. The only remaining prayer is regarding stay of impugned order dated 29.11.2023 whereby suit of the appellants/plaintiffs was rejected under Order 7 Rule 11 CPC but appeal qua the same is already pending and no ground for stay as sought by appellants is made out."*
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> **[*Emphasis Supplied*]**

3. Thus, the relief which the petitioners are seeking herein have already been adjudicated upon by the learned Appellate Court. Moreover, since the petitioners herein have not challenged the same, the same is final and binding upon them. The petitioners cannot, thus, be permitted to have a second bite at the same cherry in the form of the present petition.

4. Moreover, it is an admitted fact that none of the petitioners have filed any documents regarding their respective title to the subject property involved, which, admittedly is a Waqf property. In any event, it is also

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pertinent to note that neither of the petitioners have been authorized and/ or permitted by the Waqf Board to file the present petition.

5. In view thereof, though this Court has heard learned counsel for the petitioners at length, however, in view of the aforesaid, and since there is no locus of either of the petitioners to file the present petition under *Article 226* of the Constitution of India for exercising their fundamental rights, if any, in the present form, this Court is of the considered opinion that the present petition is, *per se*, not maintainable either in law or on facts.

6. However, and in view thereof since learned counsel for the petitioners at this stage, upon instructions from the attorney of petitioner nos.1 and 2 present in Court, seeks to withdraw the present petition with liberty to seek appropriate remedies in accordance with law, if as and when required.

7. Accordingly, the present petition, alongwith the pending applications, is dismissed as withdrawn with liberty as prayed for, *albeit*, subject to costs of Rs.50,000/- [*Rupees Fifty Thousand Only*] payable to the Delhi High Court Bar Association Lawyers Social Security and Welfare Fund [A/C 155530100009730; IFSC UCBA0001553] within a period of *two weeks*.

SAURABH BANERJEE, J

OCTOBER 1, 2026/Ab

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