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

\# **CNR No. DLHC010528912026**

\+ W.P.(C) 16243/2026, CM APPL. 76103/2026-Stay

VARUN MAKKAR .....Petitioner

Through: Mr. Manish Sangwan, Mr. Abhishek Kumar and Mr, Vedant Srivastava, Advs. (9773568166)

versus

MUNICIPAL CORPORATION OF DELHI .....Respondent

Through: Mr. Tushar Parashar, Adv. (9873749711)

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

O R D E R

% 02.11.2026

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

> *"a) Issue a writ of certiorari or any other appropriate writ, order or direction quashing the Impugned Order dated 22.10.2026 bearing No. EE(M-II) KPZ/2026-27/D-1290, passed by the Respondent under Section 348 of the Delhi Municipal Corporation Act, 1957;*
>
> *b) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondent to carry out a fresh structural inspection of the said building through a qualified structural engineer/agency, in the presence of the Petitioner. The inspection should specifically assess whether any defects found are capable of repair or securing. Any further decision should be taken only by a reasoned order, after supplying the inspection report to the Petitioner and giving him an opportunity of hearing;*

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c) Restrain the Respondent, during the pendency of the present petition, from demolishing the said building, dispossessing the Petitioner from the said premise, or taking any other coercive action pursuant to the Impugned Order;

d) Direct that any vacation or other action that may become necessary for safety shall be without prejudice to the tenancy and possessory rights of the Petitioner in the said premise;

e) Pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice."

2. Learned counsel appearing for the petitioner submits that the petitioner is an occupant of the subject property as tenant *qua* which the impugned Demolition Notice under *Section 348* of the Delhi Municipal Corporation Act, 1957 has been issued by the respondent/ MCD.

3. He further submits that the subject property is not in dilapidated condition and the impugned demolition order has wrongly been issued only on the basis of the external visual inspection.

4. He then submits that neither any Show-Cause Notice has been issued to the petitioner prior to the issuance of impugned Demolition Order nor has he been granted any hearing at any stage prior thereto.

5. To buttress his submissions, learned counsel for the petitioner has placed reliance upon ***Municipal Corporation of Delhi & Ors. vs. Hukum Chand Jain*:*1969 SCC OnLine Del 156*** [*pr 15*] ; ***Man Mohan Singh Attri vs. Union of India & Ors.:2025 SCC OnLine Del 6035*** [*pr's 18-30*]; and ***Smt. Nirmala Devi Garg & Ors. vs. Municipal Corporation of Delhi & connected matter Sh. Narayan Prasad & Ors. vs Municipal Corporation of Delhi:2025:DHC:8500-DB*** [*pr's 18, 19*].

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6. Issue notice.

7. Learned counsel appearing for the respondent/ MCD accepts notice. He, at the outset, has handed over copy of documents consisting of the ***[i]*** letter dated 24.09.2026 sent by the SHO, Roop Nagar to the respondent/ MCD regarding the dangerous condition of the subject property, ***[ii]*** the letter dated 29.09.2026 sent by ACP (for DCP, North District) to the respondent/ MCD intimating about the dangerous condition of the subject property ***[iii]*** General Diary prepared by the Delhi Police, ***[iv]*** latest photographs of the subject property, and ***[v]*** press clip dated 13.10.2026 with respect to the subject property. All the aforesaid documents are taken on record.

8. In furtherance thereto, learned counsel submits that the action against the subject property was initiated by the respondent/ MCD pursuant to the aforesaid material collected and wherein the condition was stated to be dangerous, which were '*sufficient*'.

9. He submits that the order dated 22.10.2026 ***(Annexure P2)*** passed under *Section 349* of the Delhi Municipal Corporation Act, 1957 (***MCD Act***) specifically entails all the information/ reasons/ circumstances which led to the respondent issuing the demolition order, which, for the sake of convenience, are reproduced as under:

> *"1. The maintenance of the building is found out to be of very low quality.*
> *2. Some part of the building structure seems to be disoriented and out of alignment.*
> *3. Rusting of steel sections and other places were observed.*
> *4. Vertical and diagonal cracks were also found on the load bearing walls & columns at different places including*

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on floor which is beyond repairable condition.

5. Swelling of walls at various placed observed.

6. Some walls are not of alignment & portion of walls is tilting outwards.

7. Sagging of roof slab are also observed at some rooms.

8. Orientation of floor slab of some room is found to be disoriented/tilting.

9. Dampness and seepages of water is found at various areas".

10. He then submits that as evident therefrom, the subject property is in *dilapidated and dangerous condition*, and thus it is not only a threat to the occupants/ petitioner therein but also to the passer-by/ users/ general public as well.

11. He lastly submits that it is because of the aforesaid reason that the respondent in terms of *Section 348* of the DMC Act, has rightly issued the impugned demolition order.

12. In response thereto, learned counsel for the petitioner submits that neither the documents nor the photographs, as handed over by the respondent, are pertaining to the subject property in issue before this Court and thus are not relevant for the purposes of adjudication of the present petition.

13. Heard learned counsel for the parties and perused the documents on record, as also what have been handed over, and also gone through the judgments cited by learned counsel for the petitioner.

14. At the outset, this Court finds that though the petitioner claims himself to be the occupant of the subject property, and during the course of argument has also identified himself as a tenant therein, however, barring the alleged electricity bill, he has not placed any documents

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whatsoever in support of his claim. As such, and moreover since the said electricity bill is no basis for the petitioner to claim any authority/ occupancy of the subject property, the petitioner, being, at best, an unauthorised occupant thereof, cannot be allowed to agitate the present petition, much less whence it is an admitted fact that the original owner/ landlord thereof has not taken any steps till now.

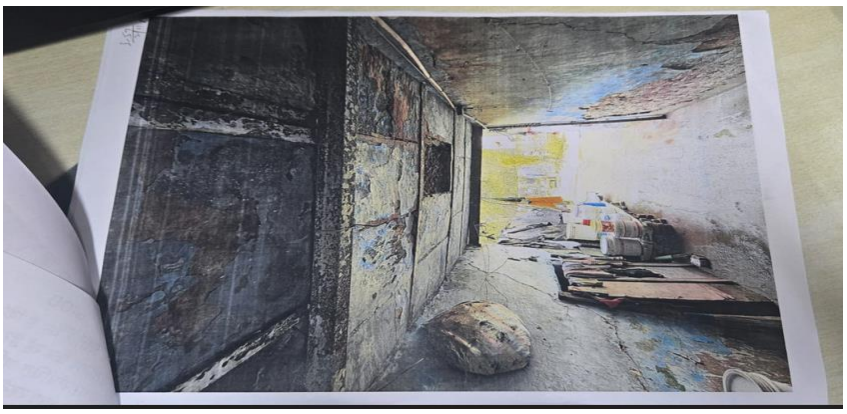
15. The same, are all disputed questions of fact(s), which, cannot be adjudicated by this Court under *Article 226* of the Constitution of India by way of the present writ petition.

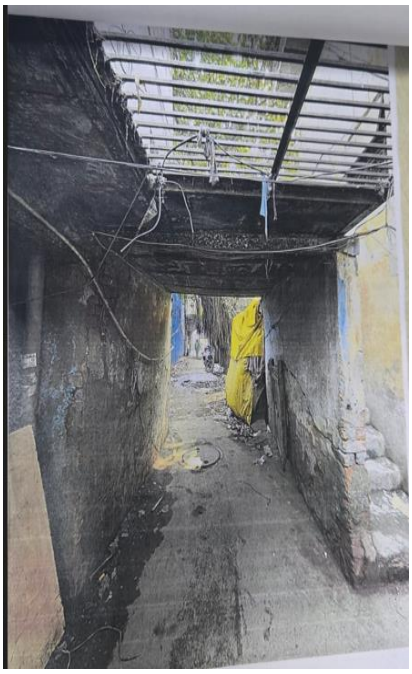
16. Furthermore, though it is the case of the petitioner that the subject property is not in a dilapidated condition, thereby not requiring issuance of any Demolition Order under *Section 348* of the DMC Act, however, *relevantly*, the petitioner himself has neither filed any documents in support of his case nor anything to contradict the impugned Demolition Order issued by the respondent/ MCD. Succinctly put, the present writ petition is neither accompanied by any verification report/ structural report which could/ would enable the petitioner to stand on his own legs before this Court under *Article 226* of the Constitution of India.

17. Once again, all the aforesaid are all disputed questions of fact(s), which, cannot be adjudicated by this Court under *Article 226* of the Constitution of India by way of the present writ petition.

18. In fact, the following photographs of the subject property placed on record by the respondent indeed shows that the condition of the subject property is dangerous and *prima facie* seems to be a threat not only to the occupants/ petitioner therein but also to the passer-by/ general public:-

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19. *Strangely*, though learned counsel for the petitioner is disputing the documents handed over by the learned counsel for the MCD pertaining to the subject property, including the aforesaid photographs, by submitting that these are not of the subject property being property no. 7796, Katra Dina Nath, Roshanara Road, Subzi Mandi, New Delhi-110 007, however, the petitioner himself has filed the present petition challenging the impugned Demolition Order dated 22.10.2026 which admittedly is pertaining to same subject property.

20. The petitioner cannot be allowed to blow hot and cold and take refuge under such flimsy grounds.

21. *Lastly*, reliance placed by learned counsel for the petitioner upon judgments cited above are misplaced inasmuch as the same are dealing with the facts wherein the sole basis for issuing the Demolition Notice was that they were based on a visual inspection, however, that is not the case herein, as the documents handed over by learned counsel for the MCD clearly reflect otherwise. In fact, they clearly reflect that the Commissioner, in his wisdom has rightly issued the Demolition Order under *Section 348* of DMC Act, in support whereof the order under *Section 349* of the DMC Act has also been issued. As such, under these circumstances, and as implicitly clear from a bare reading of *Section 348* of DMC Act[3] that neither issuance of any Show Cause Notice nor granting

[3] **348. Removal of dangerous buildings**

(1) **If it appears to the Commissioner at any time that any building is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such building or any other building or place in the neighbourhood of such building, the Commissioner may, by order in writing, require the owner or occupier of such building to demolish, secure or repair such building or do one or more of such things within such period as may be specified in the order, so as to prevent all cause of danger therefrom.**

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a hearing to anyone who is the affected party is mandatory. In any event, considering the factual matrix involved, this Court is of the considered opinion that the Commissioner, MCD has rightly exercised the remedy available to him under *Section 348* of DMC Act in accordance with law. Therefore, non-issuance of the Show-Cause Notice and/ or not granting a personal hearing to the petitioner herein, do not, *ipso facto*, make the impugned Demolition Order redundant.

22. In any event, the same need not be set aside as it is in the larger public interest, which weighs more heavily than the personal right of the petitioner herein.

23. Thus, in of the aforesaid discussion, analysis and reasoning, the present petition, alongwith the pending application, is dismissed.

24. At this stage, it is noted that the said impugned Demolition Order was pasted on the subject premises only on 28.10.2026.

SAURABH BANERJEE, J

NOVEMBER 2, 2026/rr

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(2) The Commissioner may also, it he thinks fit, require such owner or occupier by the said order either forthwith or before proceeding to demolish, secure or repair the building, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and handrail wherever practicable to serve as a foot-way for passengers outside of such board or fence.

(3) If it appears to the Commissioner that danger from a building which is in a ruinous condition or likely to fall is imminent, he may, before making the order aforesaid, fence off, demolish, secure or repair the said building or take such steps as may be necessary to prevent the danger.

(4) If the owner or occupier of the building does not comply with the order within the period specified therein, the Commissioner shall take such steps in relation to the building as to prevent all cause of danger therefrom.

(5) All expenses incurred by the Commissioner in relation to any building under this section shall be recoverable from the owner or occupier thereof as an arrear of tax under this Act.

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