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

+ **RSA 210/2025**

DINESH SETHI

.....Appellant

Through: Appellant through VC.

versus

COMMISSIONER OF NDMC AND ORS.

.....Respondents

Through: Mr. Piyush Beriwal, Ms. Ruchita
Srivastava and Ms. Neha Kamboj,
Advts. for R-5.

Mr. Neeraj Kumar, Standing Counsel
for MCD.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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13.03.2026

CM APPL. 15353/2026

1. Exemption allowed, subject to all just exceptions.
2. Application is disposed of.

CM APPL. 15352/2026

3. Application under Order IX Rule 9 read with Section 151 of CPC has been filed on behalf of the Appellant, for recalling of Order dated 18.02.2026, whereby the Appeal was dismissed in default, and to restore the Review Petition to its original number.
4. It is submitted that the Court did not inform the Appellant about the listing of his Appeal and he could not appear on the date of hearing, on account of which, the Review Petition got dismissed in default.
5. Though, it is not the duty of the Court to be informing the parties or the litigants, especially when a fresh Review Application / Petition has been



filed by the Appellant himself, but, considering that the Review Petition was filed by the Appellant in person, Court takes a lenient view and recalls the Order dated 18.02.2026 and restores the Review Petition to its original number.

6. Application is disposed of.

REVIEW PET. 86/2026

7. Review Petition under Order XLVII Rule 1 read with Section 151 of CPC has been filed on behalf of the Appellant for Review of the Judgment dated 05.01.2026 passed by this Court, whereby instant RSA 210/2025, whereby the Appeal has been dismissed having no merit.

8. The main ground taken in the Review Application is that MCD booked the suit property on 17.10.2014 and issued the Notice on 22.10.2014 to Respondent No.6. Thereafter, after giving proper hearing to Respondent No.6 and considering the annexed documents provided by him during the hearing in December, 2014, final Order dated 02.03.2015 was passed by MCD for demolition of the Suit property.

9. Respondent No.6 approached the learned Appellate Tribunal of MCD on 04.04.2015, where the matter was pending, but concerned Officer of Respondent Nos.1 to 4 issued an illegal Letter dated 20.03.2015 and gave the relief to Respondent No.6 by stating that the Suit property was covered under Protection Act, despite the fact that same documents had been given by Respondent No.6 to MCD during the hearing in December, 2014 and no new document was given. The same had already been considered and rejected .

10. Sections 343/347(d) of DMC Act, provides that when the final Order is passed by the Commissioner, MCD, then only the Appellate Court of



MCD Tribunal has the powers in regard of any decision taken, but in this case, Respondent No.6 withdrew his Appeal as dismissed, only on behalf of MCD's Order dated 20.03.2015, which was an illegal Order because the Appellate Court of MCD Tribunal had not directed the concerned MCD officers or Commissioner to review the Order dated 02.03.2015. As per law, Review power has not been given to MCD after passing of final Order of demolition. This aspect has not been considered, which is necessary for proper adjudication of the case.

11. It is further submitted that MCD Officers cannot override and overrule DMC Act, 1957, by passing any illegal Order, which is against the provisions of DMC Act. It is the case, where MCD Officer has misused his powers and issued Order dated 20.03.2015 by overruling Sections 343/347(d) of DMC Act. These aspects, which were extremely important, have not been considered by this Court, while deciding the Appeal.

12. It is admitted that there are encroachments in the Suit property, despite which, there is nothing mentioned in regard to encroachment and unauthorized construction.

13. The Appellant had moved an Application to summon the witness, i.e. Executive Engineer / Assistant Engineer of the concerned Building Department Officer of Karol Bagh Zone, New Delhi of Municipal Corporation of Delhi along with the current details. But this Court is silent in respect of summoning of the witness. The Suit was decided on merits and the Right to cross-examine and re-examine the Respondents' witnesses, was not given to the Appellant. The verdict has been given without considering the point of encroachment and illegal, un-authorized construction, which cannot be regularized at any cost by the MCD. It is therefore, submitted that



Judgment dated 05.01.2026 passed by this Court, be reviewed and the Appeal be allowed.

14. Learned counsel for the Respondents, who has appeared on advance Notice, states that the Appellant does not even reside in the vicinity of the Suit property and has no *locus standi* in the first place, to file the Suit. All the aspects have been duly considered and there is no merit in the Review Application, which is liable to be dismissed.

Submissions heard and record perused.

15. From the contentions raised in the present Review Petition, it is evident that in fact, the Appellant seeks re-appreciation of the impugned Judgment dated 05.01.2026, which is beyond the scope of review.

16. There is no merit in the present Review Petition, which is hereby **dismissed**.

NEENA BANSAL KRISHNA, J.

MARCH 13, 2026/R