



2025:DHC:9707



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

% **Date of Decision: 04.11.2025**

+ W.P.(C) 12677/2025 & CM APPL. 51717/2025

RAJESH

.....Petitioner

Through: Ms. Shivani Verma, Mr. Prem Shankar Jha, Mr. Piyush Singh, Ms. Arthana Brahma, Advocate for Mr. Kamlesh Kr. Mishra, Advocate

versus

MUNICIPAL CORPORATION OF DELHI AND
ORS.

.....Respondents

Through: Mr. Dushyant Yadav, Mr. Pankaj Kumar Yadav, Mr. Ravinder Kumar, Advocates for Respondent no. 3 along with respondent no. 3 in person
Mob: 8968140370
Mr. Vipul Garg, Mr. Gulshan Kr. Maurya and Mr. Adarsh, Advocates for MCD
Mob: 8700614239
Email: vipulgr29@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J. (ORAL):

1. A Status Report dated 02nd November, 2025 has been filed on behalf of the Municipal Corporation of Delhi ("MCD"), which reads as under:

"xxx xxx xxx"



2. That the petitioner does not come with clean hands before this Hon'ble court as the property of the petitioner i.e. 2835 Rajputana Wali, Subzi Mandi, Delhi was booked vide file no. 187//C-13/B-I/UC/CLZ/2019 dt. 10.10.2019 for raising unauthorized construction in the shape of first floor, second floor & third floor with projection upon municipal land. It is pertinent to mention here that property of the petitioner was booked on the complaint of the respondent no. 3. Sh. Deepak Kumar who has filed writ petition

at Nath Comm.

10710/19. This writ petition was disposed of on 28.03.2023 with the direction to take requisite action within a period of four months.

3. That in compliance of the direction of Hon'ble court, demolition action was fixed on 12.02.2020, 13.03.2020, 31.05.2023, 11.07.2023 & 13.07.2023 but due to non-availability of police force, no demolition action could be taken. A demolition action was taken on 21.07.2023 at third floor and demolished roof slab of third floor and made the same unusable. Further action could not be taken as other floors i.e. first floor & second floor are residentially occupied. A vacation notice has been issued to vacate the property vide no 1152/EE(B)-I/CLZ/2025 dt. 30.10.2025. Copy of vacation notice is enclosed herewith as "Annexure A".
4. That petitioner also made complaint against the respondent no. 3 Sh. Deepak Kumar owner of property bearing no. 2837 & 2839, Gali Rajputana Wali, Subzi Mandi, Delhi measuring approx. 19.48 sq mtr. which was booked vide file no. 188/C-13/B-I/UC/CLZ/2019 dt. 10.10.2019 for unauthorized construction in the shape of entire ground floor, first floor & second floor. A reply of the show cause notice was received on 14.10.2019 along with copy of sale deed dt. 10.07.2009 wherein description of the property mentioned ground floor, first floor & second floor. As no document prior to 08.02.2007 was filed. Hence, demolition order was passed on 05.12.2019.
5. That as per demolition order dt. 05.12.2019 in respect of property bearing no. 2837 & 2839, Gali Rajputana, Subzi Mandi, demolition action was fixed on 12.02.2020 but due to non-availability of police force, action could not be taken, further action fixed for 22.09.2020 & 13.03.2023 but no action could not be taken as the property was found residentially occupied. A vacation notice was issued on 13.03.2023 to the owner of the property as well as to SHO, PS Subzi Mandi.

at Nath Comm.



6. That against the demolition ³order, owner of the property bearing no. 2837 & 2839 Sh. Deepak Kumar filed an appeal no. 205/23 before ATMCD which was dismissed on the ground of limitation on 04.09.2023.
7. That as the property bearing no. 2837 & 2839 still occupied, a vacation notice has been issued vide no. 1151/EE(B)-I/CLZ/2025 dt. 30.10.2025. Copy of the vacation notice is enclosed herewith as **"Annexure B"**
8. That the demolition action is fixed for 19.11.2025 for the property of petitioner as well as respondent no. 3 as per schedule of area. Further status report will be file accordingly.

2. Perusal of the aforesaid Status Report shows that the property of the petitioner also stands booked, along with the property of respondent no. 3.
3. As per the Status Report of MCD, demolition action on the property of the petitioner, as well as respondent no. 3, has been fixed for 19th November, 2025.
4. At this stage, learned counsel appearing for respondent no. 3 has handed over a copy of the order dated 28th March, 2023 passed in W.P.(C) 10710/2019, titled as "*Deepak Kumar Versus North Delhi Municipal Corporation & Anr.*", and relies upon the Status Report filed on behalf of MCD in the said order.
5. By referring to the same, learned counsel appearing for respondent no. 3 submits that the subject matter of the said writ petition was property No. 2835, *Gali Rajputana Wali, Old Subzi Mandi, Delhi*, which was stated to be protected under the NCT of Delhi Laws (Special Provisions) Second Act, 2011 ("Delhi Special Laws 2011"), by the MCD in its Status Report filed in the said petition. He further submits that in the present case, the property of the respondent no. 3 being property *No. 2837 and 2839, Gali Rajputana*



Wali, Old Subzi Mandi, Delhi, is also protected under the Delhi Special Laws 2011.

6. Para 3 of the aforesaid order dated 28th March, 2023, passed in W.P.(C) 10710/2019, reads as under:

“xxx xxx xxx

3. A Status Report on behalf of MCD has been handed over in Court today which is taken on record. The same reads as under:-

"4. That this report is being filed in compliance of directions of Hon'ble High Court dt. 20.03.2023 vide which Hon'ble court has directed at point no.3 that **"In so far as unauthorized construction in the subject property is concerned, learned counsel for MCD submits that the Status Report would be placed on record within one week from today"**. In this regard, the property wise detail are as:-

Property No.2835, Gali Rajputana Wali, Old Subzi Mandi Delhi.

a) That as per record, the property in question i.e. 2835, Gali Rajputana Wali, Old Subzi Mandi, Delhi was inspected by the field staff on 10.10.19. During the inspection it was noticed that unauthorized construction in the shape of entire first floor, second floor, third floor & projection on Govt. land have been raised by the owner/occupier. Accordingly, action u/s 343/344 of the DMC Act has been initiated and the said unauthorized construction has been booked vide file No. 187/C-13/B1/UC/CLZ/2019 dated 10.10.19 and after following due process of law including grant of personal hearing the speaking order had been passed on dated 30.01.2020 vide which unauthorized construction upto second floor has been protected under Delhi Laws (Special Provision Act) 2011. The copy of speaking order dated 30.01.2020 is annexed herewith and marked as **Annexure "A"**.

That demolition action against unauthorized construction had been attempted on 12.02.2020, 13.03.2023, but action could not be taken due to non-availability of police force and property found occupied, hence vacation notice under section. 349 of DMC Act has been issued to owner/occupier with direction to vacate the property within stipulated time and a copy of same has been forwarded to SHO PS Subzi Mandi with request to get the premises vacated if the same is not vacated



by the owner within stipulated time The copy of vacation notice is annexed herewith and marked as "Annexure B" Further action shall be taken after following due process of law.

Property no. 2837 & 2839, Gali Rajputana Wali, Old Subzi Mandi Delhi.

b) It is further submitted that as per record the petitioner's property bearing no. 2837 & 2839, Gali Rajputana Wali, Old Subzi Mandi, Delhi was also inspected by the field staff as the some portion of balcony of respondent/Rajesh was found overlapping on petitioner property. During the inspection it was noticed that unauthorized construction in the shape of entire ground floor, first floor & second floor have been raised by him. Accordingly, action u/s 343/344 of the DMC Act has been initiated and the said unauthorized construction has been booked vide file No. 188/C-13/B-1/UC/CLZ/2019 dated 10.10.19 and after due process of law including grant of personal hearing demolition order had been passed on dated 05.12.2019. The copy of demolition order is annexed herewith and marked as "Annexure C".

That demolition action against unauthorized construction had been attempted on 12.02.2020, 22.09.2020 & 13.03.2023 but action could not be taken due to non-availability of police force and also the property being occupied, hence vacation notice under section 349 of DMC Act was issued to owner/occupier with direction to vacate the property and a copy of same has been forwarded to SHO PS Subzi Mandi with request to get the property vacated if the same is not vacated by the owner within stipulated time. The copy of vacation notice is annexed herewith and marked "Annexure D" Further action shall be taken after following due process of law."

xxx xxx xxx"

7. Perusal of the aforesaid Status Report shows that as regards the properties, which were subject matter of the aforesaid writ petition, which exist in the vicinity of the properties that are subject matter of the present writ petition, it was the clear stand of the MCD that the said properties were protected under the Delhi Special Laws 2011. This Court notes the submission made by learned counsel appearing for respondent no. 3 that the properties owned by respondent no. 3 are also entitled to protection under



the Delhi Special Laws 2011.

8. Considering the submissions made before this Court, liberty is granted to respondent no. 3 to make a representation to the MCD in regard to seeking protection under the Delhi Special Laws 2011.

9. The MCD shall consider the representation of respondent no. 3 and make an assessment as to whether the property of respondent no. 3 is also entitled for the protection under the aforesaid Delhi Special Laws, 2011.

10. The MCD will take action against the properties, which are subject matter of the present writ petition after deciding the representation filed on behalf of respondent no. 3.

11. Accordingly, let representation be made by respondent no. 3, within a period of two weeks from today.

12. Upon the respondent no. 3 filing a representation with the MCD, the same shall be decided, expeditiously, preferably, within a period of six weeks, from receipt of the representation from respondent no. 3.

13. It is directed that no coercive action shall be taken by the MCD against the properties, which are subject matter of the present writ petition, till the representation of respondent no. 3 is decided.

14. The MCD shall also consider whether protection of the aforesaid Delhi Special Laws 2011, is also to be extended to the property of the petitioner.

15. With the aforesaid directions, the present writ petition, along with the pending application, is accordingly disposed of.

MINI PUSHKARNA, J

NOVEMBER 4, 2025/ak