



2025:DHC:8017



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

% **Date of decision: 08th September, 2025**

+ CONT.CAS(C) 902/2025

R V SINHA

.....Petitioner

Through: Mr. A.S. Singh, Adv. with Ms. Shriya
Sharma, advs.

versus

ASHWANI KUMAR AND ORS.

.....Respondents

Through: Mr. Samrat Pasrichha, Ms. Chanya
Jaitley, Mr. Neeraj Kumar Sharma
and ms. Nayoleeka Purty, Advs. for
R-5

Mrs. Anasuya Choudhury, Adv. with
Mr. Abhinav Jha and Mr. Shameen
Yaser, Advs. for UOI

Ms. Theepa Murugesan, Adv. for
MCD (Through VC)

+ W.P.(C) 6615/2025 & CM APPL. 30081/2025

RV SINHA

.....Petitioner

Through: Mr. A.S. Singh, Adv. with Ms. Shriya
Sharma, advs.

versus

MUNICIPAL CORPORATION OF DELHI AND
ORS.

.....Respondents

Through: Mr. Samrat Pasrichha, Ms. Chanya
Jaitley, Mr. Neeraj Kumar Sharma
and ms. Nayoleeka Purty, Advs. for
R-8



Mr. Akhil Mittal, Adl. SC for DDA
Mr. Sharique Hussain and Ms. Kirti Garg, Advs. for R-7
Mrs. Anasuya Choudhury, Adv. with Mr. Abhinav Jha and Mr. Shameen Yaser, Advs. for UOI
Ms. Theepa Murugesan, Adv. for MCD (Through VC)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL):

1. The present writ petition has been filed seeking directions to respondent nos. 1 and 7, to restrain respondent nos. 8 and 9 from carrying out illegal and unauthorized construction at the properties bearing *Plot No. 224, Rajpur Khurd Extension Colony, Chattarpur, New Delhi* and *Plot No. 81, Khasra No. 148, adjacent to Happy General Store, Rajpur Khurd Extension Colony, Chattarpur, New Delhi*.
2. Learned counsel appearing for respondent no. 1-Municipal Corporation of Delhi ("MCD"), points out to this Court the Status Reports filed on behalf of MCD, to submit that action with regard to the unauthorized construction in the properties in question, has already been taken, and that further action shall also be taken.
3. Learned counsel appearing for respondent no. 8 submits that the property of respondent no. 8 and the petitioner, are situated at opposite ends of the street. Thus, he submits that no easement rights or any right pertaining to sunlight etc. of the petitioner, are affected.
4. He, thus, submits that no fundamental or legal right of the petitioner are affected, and thus, the present writ petition would not be maintainable on this ground. Further, for this purpose, he relies upon the various orders



passed by this Court in this regard.

5. Having heard learned counsels appearing for the parties, this Court notes that *vide* Status Report dated 12th August, 2025, the respondent-MCD has elucidated the action taken against the properties in question. The relevant portions of the Status Report, read as under:

“xxx xxx xxx

3. That vide instant Writ Petition, petitioner herein has alleged illegal and unauthorized construction at Plot No. 224, Rajpur Khurd Extension Colony, Chattarpur, New Delhi and Plot No. 81, Khasra No. 148, Adjacent to Happy General Store, Rajpur Khurd Extension Colony, Chattarpur, New Delhi. Considering the same, so as to ascertain the status of the subject referred properties, the same have been got inspected through area field staff of Building Department –II of South Zone – MCD and also referred to the record maintained and available with the department.

On inspection and referring to the record, the property wise status of actions as initiated / taken by the department are detailed herein below:

A. Plot No. 224, Rajpur Khurd Extension Colony, Chattarpur, New Delhi.

- i. As per record, this property is identified by the area field staff of Building Department –II of South Zone – MCD as Property No. 224, Adj. P.No. 223, Rajpur Khurd, New Delhi which is already stands booked for unauthorized construction vide U/c File No. 143/UC/B-II/SZ/2025 dated 04/04/2025 in the shape of Stilt, Ground floor and shuttering on First floor and further booked vide U/c File No.



367/UC/B-II/SZ/2025 dated 27/05/2025 in the shape of First floor, Second floor & Third floor (in continuation of previous booking No. 143/UC/B-II/SZ/2025 dated 04/04/2025), for taking the necessary demolition action u/s 343/344 of DMC Act – 1957. Upon following due process of law, the necessary demolition orders have also passed by the Competent Authority i.e. AE (Bldg) –II of South Zone – MCD vide dated 21/04/2025 and 16/06/2025 respectively. Copy of demolition orders are annexed herewith as **Annexure –A (Colly).**

- ii. Furthermore, letters dated 16/05/2025, 03/06/2025 and 07/07/2025 u/s 344 (2) of the DMC Act – 1957 have also been sent to SHO, PS. Maidangarhi, New Delhi with the request that the said unauthorized construction be stopped immediately and workmen present at site / property in question be removed and construction material including the tools, machinery, etc. be seized. Copy of letters as sent in this regard are also annexed as **Annexure – B (Colly).**

- iii. Besides this, letters for disconnection of Electricity and Water supply from the aforesaid property have also been sent to the concerned authorities vide dated 16/05/2025 and



07/07/2025. Copy of the said letters are annexed herewith as **Annexure – C (Colly)**.

iv. Moreover, letters dated 16/05/2025 and 07/07/2025 have also been sent to the Sub-Registrar with the request not to register the property under Indian Registration Act, 1908. Copy of the said letters are also annexed herewith as **Annexure – D (Colly)**.

v. Furthermore, it is also relevant to point out that in respect of this property, the necessary sealing proceedings u/s 345-A of DMC Act, has also been initiated.

vi. Pursuant to aforementioned demolition orders already passed in respect of this property, the Building Department –II of South Zone – MCD has also taken / carried out the necessary action as per details given herein below:

S.No.	Date of Action	Action taken
1.	20/05/2025	Upon availability of police force, 02 RCC panels and 01 projection have been demolished at the roof of Stilt floor and 01 projection at the roof of Ground floor has also been demolished and also cut down the



		reinforcement bars with the help of gas cutter. Beside this, brick walls have also been demolished at Ground floor and First floor.
2.	02/06/2025	Upon availability of police force, 02 RCC panels have been demolished / cut down at Ground floor roof and 01 slab portion of RCC of balcony demolished / cut at First floor roof.

The photographs taken during the aforementioned demolition actions are annexed herewith as **Annexure – E (Colly)**.

- vii. After taking the aforementioned demolition actions, letters dated 21/05/2025 and 03/06/2025 have also been sent to concerned SHO, PS Maidangarhi, New Delhi with the request to direct the area patrolling staff to keep strict vigil at the property so that the demolished portion may not be re-stored / re-constructed / repaired. Copy of the said letter is also annexed herewith as **Annexure – F (Colly)**.



B. Plot No. 81, Khasra No. 148, Adjacent to Happy General Store, Rajpur Khurd Extension Colony, Chattarpur, New Delhi.

- i. As per record, this property is identified by the area field staff of Building Department –II of South Zone – MCD as KH.No. 148, Rajpur Khurd Extn., New Delhi which is also stands booked for unauthorized construction vide U/c File No. 347/UC/B-II/SZ/2025 dated 21/05/2025 in the shape of Stilt, Ground floor, First floor, Second floor and Third floor, for taking the necessary demolition action u/s 343/344 of DMC Act – 1957. Upon following due process of law, the necessary demolition order has also been passed by the Competent Authority i.e. AE (Bldg) –II of South Zone – MCD vide dated 09/06/2025. Copy of demolition order is annexed herewith as **Annexure –G.**
- ii. Furthermore, letters dated 23/05/2025 and 03/06/2025 u/s 344 (2) of the DMC Act – 1957 have also been sent to SHO, PS. Maidangarhi, New Delhi with the request that the said unauthorized construction be stopped immediately and workmen present at site / property in question be removed and construction material including the tools, machinery, etc. be seized. Copy of letters as



sent in this regard are also annexed as **Annexure – H (Colly).**

- iii. Besides this, a letter for disconnection of Electricity and Water supply from the aforesaid property has also been sent to the concerned authorities vide dated 27/05/2025. Copy of the said letter is annexed herewith as **Annexure – I.**
- iv. Moreover, a letter dated 27/05/2025 has also been sent to the Sub-Registrar with the request not to register the property under Indian Registration Act, 1908. Copy of the said letter is also annexed herewith as **Annexure – J.**
- v. Furthermore, it is also relevant to point out that in respect of this property, the necessary sealing proceedings u/s 345-A of DMC Act – 1957 has also been initiated.
- vi. Pursuant to aforementioned demolition order already passed in respect of this property, the Building Department –II of South Zone / MCD has also tried / taken / carried out the necessary action as per details given herein below:

S.No.	Date of Action	Action taken
1.	27/06/2025, 01/07/2025, 02/07/2025 and 03/07/2025	Action could not be taken due to shortage of time.
2.	18/07/2025	Upon availability of



		police force, 01 big size RCC panel at Ground floor and 02 big size RCC panels have been demolished at Third floor and reinforcement bars cut down with the help of gas cutter. Beside this, brick walls at Ground floor, First floor, Second floor and Third floor have also been demolished.
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The photographs taken during the aforementioned demolition action are also annexed herewith as **Annexure – K (Colly)**.

- vii. After taking the aforementioned demolition action, a letter dated 22/07/2025 has also been sent to concerned SHO, PS Maidangarhi, New Delhi with the request to direct the area patrolling staff to keep strict vigil at the property so that the demolished portion may not be re-stored / re-constructed / repaired. Copy of the said letter is also annexed herewith as **Annexure – L**.

3. That the department has now fixed the further necessary demolition action programme in respect of



subject referred properties for 20/08/2025 which will be taken / carried out upon availability of police force.

6. Subsequently, a further Status/Action Taken Report has been filed on behalf of the MCD dated 27th August, 2025, wherein, it is stated as under:

“xxx xxx xxx

3. That further, pursuant to demolition orders already passed in respect of the subject properties, the

Building Department –II of South Zone – MCD has taken / carried out the further necessary action on 20/08/2025, as per details given herein below property wise:

S.No.	Date of Action	Action Taken
1.	20/08/2025	<u>Property bearing Khasra No. 148, Rajpur Khurd Extn., New Delhi.</u> Upon availability of police force, 01 big size RCC panel has been demolished at First floor and reinforcement bars cut down with the help of gas cutter. Beside this, brick walls at Ground floor, First floor, Second floor and Third floor have also been demolished.
2.	20/08/2025	<u>Property No. 224 Adj. P.No. 223, Rajpur Khurd Extn., New Delhi.</u> Upon availability of police force, 02 big size RCC panels at Ground floor and 02 big RCC panels at Second floor have been



		demolished and reinforcement bars cut down with the help of gas cutter.
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The photographs taken during the aforesaid demolition action are annexed herewith as **Annexure -A (Colly).**

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4. That after taking the aforesaid demolition action, letters dated 21/08/2025 have also been sent to concerned, SHO PS Maidangarhi, New Delhi with the request to direct the patrolling staff to keep strict watch and ward over the subject properties so that the demolished portion may not be restored / repaired / reconstructed. Copy of the said letters dated 21/08/2025 are also annexed herewith as **Annexure - B (Colly).**

5. That the department has fixed the further necessary demolition / sealing action programme in respect of the subject property for 24/09/2025 which will be taken / carried out, upon availability of police force.

xxx xxx xxx”

7. Noting the aforesaid Status Reports filed on behalf of the MCD, it is apparent that the MCD has been taking regular action against the unauthorized construction existing in the properties in question.

8. Though, the MCD has already initiated and taken action against the properties in question, this Court notes the submission made before this



Court that the house of the petitioner and the properties, which are the subject matter of the present writ petition, wherein, unauthorized construction has been found, are not adjacent to each other.

9. At this stage, this Court also takes note of the submission made by the learned counsel appearing for the petitioner that the properties in question and the house of the petitioner, are 3-4 buildings away on the same street.

10. Clearly, even as per the admission made by the learned counsel appearing for the petitioner, the unauthorized construction in the properties in question and the house of the petitioner are not adjacent to each other, and are situated at a distance, though on the same street.

11. It is to be noted that in the case of *Yogesh Middha Versus Municipal Corporation of Delhi (South) and Another*, 2022 SCC OnLine Del. 1281, this Court had held as follows:

“xxx xxx xxx

6. There is no gainsaying that a petition under Article 226 of the Constitution of India lies only for enforcement of a fundamental or legal right.

7. Notably, a Co-ordinate Bench of this Court in *Rajendra Motwani v. MCD* reported as 2017 SCC OnLine Del 11050 has held as follows:

“10. ...that an illegal construction in itself does not give any legal right to a neighbor. An illegal construction always no doubt gives locus standi to the local municipal authorities to seek removal of the illegal construction, but, a right of a neighbor only arises if the legal rights of light and air or any other legal right is affected by virtue of the illegal construction of the neighbour...”

8. Recently, in *Pawan Kumar Saraswat v. North Delhi Municipal Corporation* reported as 2021 SCC OnLine Del 4530, another Co-ordinate Bench of this Court took note of a petition filed under Article 226 of the Constitution of India, invoking extraordinary jurisdiction of this Court for relief such as the one sought in the present petition. The



learned Judge observed as follows:—

“15. Though unauthorized illegal construction, which is becoming rampant, cannot be countenanced however, I am of the view that a party that does not approach the Court with clean hands and files a petition with ulterior motives should not be permitted to invoke the extra ordinary Writ jurisdiction of this court. I am of the view that the petition deserves to be dismissed.”

9. Admittedly, the petitioner in the present case does not have any connection with the property in question. He has further failed to show as to which fundamental or legal right of his is being affected by any alleged construction activity carried out in the subject property. It appears that the present petition has not been filed for enforcement of any fundamental or legal right, but rather for some motivated reasons.

10. In this backdrop, this Court is not inclined to exercise its power under Article 226 of the Constitution of India to grant the relief sought by the petitioner. Besides, it has been informed by the learned counsel for respondent/Corporation that the alleged illegal and unauthorised construction at the subject property has already been booked.

xxx xxx xxx”

(Emphasis Supplied)

12. Further, in the case of **Arman Khan Versus South Delhi Municipal Corporation and Others**, 2022 SCC OnLine Del 4780, it had been noted as follows:

“xxx xxx xxx

6. There is no gainsaying that a petition under Article 226 of the Constitution of India lies only for enforcement of a fundamental or legal right.

7. Notably, a Co-ordinate Bench of this Court in *Rajendra Motwani v. MCD* reported as 2017 SCC OnLine Del 11050 has held as follows:—

“10. ...that an illegal construction in itself does not give any legal right to a neighbor. An illegal construction always no doubt gives locus standi to the



local municipal authorities to seek removal of the illegal construction, but, a right of a neighbor only arises if the legal rights of light and air or any other legal right is affected by virtue of the illegal construction of the neighbour...”

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“15. Though unauthorized illegal construction, which is becoming rampant, cannot be countenanced however, I am of the view that a party that does not approach the Court with clean hands and files a petition with ulterior motives should not be permitted to invoke the extra ordinary Writ jurisdiction of this court. I am of the view that the petition deserves to be dismissed.”

9. *In the present case, the petitioner, who is about 22 years of age, claims that he resides near the subject property. He has raised grievance regarding unauthorised construction stated to be going on at the subject property. It is the admitted case of the petitioner that he neither has any connection with the subject property nor is an immediate neighbor of resident thereof. Notably, no Show Cause Notice is stated to have been issued by the respondent/Corporation in respect of the construction at the subject property till date.*

10. *Further, it is not the case of the petitioner that his easement rights or ingress/egress are being affected/obstructed by the alleged construction activity. From a perusal of the petition, it is apparent that only vague and general averments have been made by the petitioner. In fact, the petitioner has not even impleaded the owner of the subject property and/or the builder stated to be carrying out the unauthorised construction at the subject property. In this*



backdrop, it appears that the present petition has been filed not to secure any fundamental/legal right, but for some motivated reasons.

xxx xxx xxx”

(Emphasis Supplied)

13. This Court further takes note of the order dated 01st July, 2024 passed in W.P.(C) 8833/2024, titled as “Sh. Ajay Bansal Versus Municipal Corporation of Delhi & Ors.”, wherein, it has been held as follows:

“xxx xxx xxx

8. At this juncture, it is also apposite to refer to the decision of this Court in the case of **Rajendra Motwani & Anr. v. MCD & Ors.**, whereby, it was held as under:-

“8. --- **An illegal construction always no doubt gives locus standi to the local municipal authorities to seek removal of the illegal construction, but, a right of a neighbor only arises if the legal rights of light and air or any other legal right is affected by virtue of the illegal construction of the neighbor.** Legal right to light and air is only in terms of Section 15 of the Easements Act, 1882 which requires a cause of action to be laid out and proved that right to light and air has been enjoyed for 20 years and only on completion of 20 years there is a right to acquisition by prescription in the easementary rights. It is relevant to note that even after acquisition of easementary rights of prescription, yet, right to injunction for a neighbor is not absolute and is covered by Section 33 of the Easements Act which requires that disturbance to the easementary rights must actually cause substantial damage to a neighbor and the infraction materially diminishes the value of the dominant heritage with the fact that there is material interference in the physical comfort of the neighbor of living in his own house or prevents the neighbor from carrying on his accustomed business in the dominant heritage/his own house.”

9. The decision in the case of **Rajendra Motwani** (supra) has been followed in a subsequent decision dated 23.05.2022 titled as **Kamal Kapoor and Anr. v. Commissioner (North MCD) and Ors.**, wherein, the Court rejected the prayer to direct the respondents therein to take action against the alleged illegal construction/encroachment on the ground that



the petition was not filed to secure any fundamental or legal right. Under the facts of the case at hand and in light of the aforesaid decisions, the petitioner's request for directions to the respondent-MCD to decide the representation does not seem to be amenable to writ jurisdiction.

xxx xxx xxx”

(Emphasis Supplied)

14. Considering the aforesaid, this Court is of the view that no fundamental or legal right of the petitioner is affected. Thus, though the MCD is directed to take requisite action, in accordance with law, against the properties in question, it is held that the petitioner as such has no locus to file the present petition.

15. As far as the respondent nos. 8 and 9 are concerned, their right for seeking their remedies, in accordance with law, is reserved.

16. This Court notes the submission made by learned counsel appearing for respondent nos. 8 that respondent no. 8 has not received any Show Cause Notice prior to the passing of the Demolition Order.

17. Without going into the said issue, the respondent nos. 8 and 9 are at liberty to challenge the said Demolition Orders, if they are so aggrieved.

18. With the aforesaid directions, the present petitions, along with the pending application, are disposed of.

MINI PUSHKARNA, J

SEPTEMBER 8, 2025/KR