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

% **Date of Decision: 11<sup>th</sup> December, 2025**

+ **W.P.(C) 2415/2025 & CM APPL. 11428/2025**

**AMIT SAXENA**

.....Petitioner

Through: Mr. Amitabh Chaturvedi, Mr. Cheitanya Madan, Mr. Vikram Singh Nayal, Mr. Shashi Kant, Mr. MD Azam Khan, Mr. Ashwani Dwivedi, Mr. Sahil Karoriwal, Advocates (M:8588939380)

versus

**MUNICIPAL CORPORATION OF DELHI**

.....Respondent

Through: Mr. Abhinav Sharma, Mr. Mahender Shukla, Advocates

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**MINI PUSHKARNA, J. (ORAL):**

1. The present writ petition has been filed seeking quashing of the order dated 30<sup>th</sup> September, 2024, issued by the respondent for the properties bearing *Nos. GC-28, 29, 30 and 31, G Block, Hari Nagar, New Delhi*.
2. Learned counsel for the petitioner submits that the petitioner was not granted proper hearing by the Municipal Corporation of Delhi ("MCD"), on account of which, the petitioner was unable to produce all the documents before the MCD, to show that the construction in the property was not unauthorized and that the property was protected under the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 ("Delhi Special Act").
3. He submits that the submissions of the petitioner in this regard have



been recorded by this Court and draws the attention of this Court to the order dated 25<sup>th</sup> February, 2025, which reads as under:

**“CM APPLs. 11429-430/2025**

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

**W.P.(C) 2415/2025 & CM APPL. 11428/2025**

3. This writ petition is preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“(i) Allow the present Writ Petition and issue a writ of certiorari or any other writ or order quashing the Order dated 30.09.2024 issued by the Respondent for the properties bearing GC-28, 29, 30 & 31, G Block, Hari Nagar New Delhi

(ii) Allow the present Writ Petition and issue a writ of certiorari or any other writ or order quashing the Notices dated 13.02.2025 issued by the Respondent for the properties bearing GC-28, 29, 30 & 31, G Block, Hari Nagar New Delhi;

(iii) Issue a writ of prohibition and restrain the Respondent from taking any steps including but not limited to demolishing the Petitioner's properties bearing no. GC 28, 29, 30, 31, G Block, Hari Nagar, New Delhi -110058.”

4. Mr. Sanjay Jain, learned Senior Counsel appearing on behalf of the Petitioner assails the impugned demolition order dated 30.09.2024 and notice dated 13.02.2025 inter alia on the ground that there is complete violation of principles of natural justice as no effective opportunity of hearing has been given to the Petitioner before passing the demolition order. It is urged that MCD issued a notice dated 30.07.2024 calling the Petitioner for hearing on 08.08.2024 on which date Petitioner appeared and sought time to submit certain documents in his favour and hearing was adjourned to 21.08.2024. No hearing took place on the adjourned date as the concerned official of MCD was not available and the next date for hearing was fixed as 18.09.2024. However, without any just cause, suddenly the hearing was preponed to 10.09.2024. On 10.09.2024, Petitioner appeared and sought more time to submit further documents to satisfy the queries raised, but the hearing was not deferred on the ground that sufficient time and opportunity had been provided earlier, which was wholly incorrect. Non-grant of opportunity of hearing has gravely prejudiced the Petitioner inasmuch as he was unable to demonstrate that there is no unauthorized construction and the property falls under the



*category of urban villages and the construction is prior to 2007 and thus protected under the provisions of the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011. It is also submitted that the demolition order dated 30.09.2024 was not even served on the Petitioner until 19.02.2025 when the impugned notice of vacation dated 13.02.2025 was served. It is also contended that the action of MCD is in the teeth of the guidelines laid down by the Supreme Court in **In Re: Directions in the matter of demolition of structures, 2024 SCC OnLine SC 3291**, more particularly, paragraph 91 (A), (B) and (C).*

*5. Issue notice.*

*6. Mr. Abhinav Sharma, learned counsel accepts notice on behalf of MCD.*

*7. Learned counsel for MCD takes a preliminary objection to the maintainability of this writ petition on the ground that Petitioner has an alternate statutory remedy to challenge the demolition order and the consequent vacation notice before the Appellate Tribunal, MCD and the writ petition should not be entertained.*

*8. Reply be filed before the next date of hearing. It will be open to MCD to take this preliminary objection in the reply.*

*9. By the impugned notice dated 13.02.2025, Petitioner has been directed to vacate the premises within 24 hours of receipt of the order, failing which demolition/sealing action will be carried out. It is directed that no coercive action will be taken against the Petitioner in terms of order dated 30.09.2024 read with notice dated 13.02.2025, till the next date of hearing.*

*10. List on 07.03.2025.”*

4. Perusal of the aforesaid order clearly shows the stand on behalf of the petitioner that the MCD had issued a notice dated 30<sup>th</sup> July, 2024, calling the petitioner for hearing on 08<sup>th</sup> August, 2024. The petitioner duly appeared on the said date and sought time to submit certain documents. Consequently, the hearing was adjourned to 21<sup>st</sup> August, 2024. However, no hearing took place on 21<sup>st</sup> August, 2024, as the concerned official of MCD was not available and the date was fixed as 18<sup>th</sup> September, 2024. However, the hearing was advanced to 10<sup>th</sup> September, 2024. When the petitioner appeared before the MCD on 10<sup>th</sup> September, 2024, the petitioner sought



more time to submit further documents to satisfy the queries raised. However, no further opportunity was granted to the petitioner.

5. It is the case of the petitioner that had opportunity been granted to the petitioner, the petitioner would have produced documents to show that the construction in the property, is protected under the Delhi Special Laws.

6. Attention of this Court is also drawn to the Status Report dated 06<sup>th</sup> March, 2025, filed on behalf of the MCD, wherein, the MCD has stated as follows:

“xxx xxx xxx

7. That on the scheduled date of hearing i.e. 08.08.2024, advocate Sahil Kiroriwal and advocate Shashi Kant attended the hearing on behalf of Shri Amit Saxena. During the hearing they have submitted a written application in which they stated that they want to submit additional documents for the matter and requested for further hearing in the matter and therefore the matter was fixed for 21.08.2024. *Sh. Nitin Saxena, neither attended the hearing nor submitted any reply/message for non attending the hearing on 08.08.2024. Therefore, another opportunity has been given to him for 21.08.2024.* On 21.08.2024, Shri Kamal Sethi attended the hearing on behalf of Shri Amit Saxena, Advocate Sahil Kiroriwal and advocate Shashi Kant also attended the hearing. However, due to being busy in the court cases and others issues, hearing could not be conducted on that day and therefore the next date was fixed for 18.09.2024. Further due to unavoidable circumstances, the hearing in the matter was preponed for 10.09.2024 because the then AE had applied for Voluntary Retirement Scheme (VRS) on 13.08.2024 and it was intended that pending speaking orders be disposed of during his tenure and intimation regarding this was sent to Sh. Amit Saxena/ Sh. Nitin Saxena vide letter dated 06.0-9.2024. On 10.09.2024 Shri Kamal Sethi, Advocate Sahil Kiroriwal and advocate Shashi Kant attended the hearing and they have submitted that an LPS



containing 1 to 87, was given in dak section on 09.09.2024 which may be taken on record for disposal of matter. In view of such submission the said LPS containing 1 to 87, have taken on record on that day. Further, during hearing proceedings on 10.09.2024 representatives of Shri Amit Saxena sought some more time but the said request was declined as already sufficient time and opportunities have been provided to them. The copy of letter dated 06.09.2024 sent to Sh. Amit Saxena/ Sh. Nitin Saxena regarding preponement of hearing is annexed herewith as **Annexure-‘A’**.

xxx xxx xxx”

7. Perusal of the aforesaid Status Report shows that it was only on account of one of the officials having taken Voluntary Retirement Scheme (“VRS”), that the matter was sought to be disposed of by the MCD, without granting any further time to the petitioner.
8. Learned counsel appearing for the petitioner submits that the petitioner shall be satisfied if the matter is remanded back to the MCD, so that an opportunity of hearing and producing relevant documents is granted to the petitioner.
9. On pointed query, learned counsel appearing for the respondent-MCD submits that he has no objection to the same.
10. Accordingly, considering the submissions made before this Court, the matter is remanded back to the MCD for fresh consideration.
11. The petitioner is granted liberty to produce all relevant documents in his favour in furtherance of the submission made by the petitioner, as recorded in the previous paragraphs of this order. Upon the petitioner filing



the said documents, the same shall be duly considered by the MCD. Further, hearing shall also be granted to the petitioner.

12. Post grant of personal hearing to the petitioner/his authorized representative, and after considering the documents filed by the petitioner, a fresh Speaking Order shall be passed by the MCD.

13. For this purpose, the petitioner is directed to appear before the concerned official of the MCD, i.e., Office of Executive Engineer, Building-II, West Zone, on 23<sup>rd</sup> December, 2025 at 11:00 AM. Upon appearing, the concerned official shall fix requisite dates for the purposes of hearing and submission of documents.

14. Let the fresh exercise be carried out by the MCD expeditiously, preferably, within a period of three months from today.

15. Accordingly, the order dated 30<sup>th</sup> September, 2024, as passed by the MCD is set aside and the consequent notice dated 13<sup>th</sup> February, 2025, issued pursuant thereto, is also set aside.

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

**MINI PUSHKARNA, J**

**DECEMBER 11, 2025/au**