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

% **Date of Decision: 13<sup>th</sup> August, 2025**

+ W.P.(C) 12173/2025, CM APPL. 49646/2025 & CM APPL. 49647/2025

SUSHIL KUMAR CHAUHAN

.....Petitioner

Through: Mr. Javed Khan, Ms. Anshula Gupta,  
Advocates (M:8882323437)

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Abhinav Singh, Advocate for R-  
MCD (M:9811188892)

**CORAM:**

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

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

**W.P.(C) 12173/2025 & CM APPL. 49647/2025**

1. The present writ petition has been filed challenging the action of the respondent-Municipal Corporation of Delhi ("MCD") in issuing a Vacation Notice dated 07<sup>th</sup> July, 2025 and a Sealing Order dated 08<sup>th</sup> July, 2025, with respect to the property of the petitioner, i.e., property bearing *No. B-103, Panchsheel Vihar, New Delhi*.
2. Attention of this Court has been drawn to the Vacation Notice dated 07<sup>th</sup> July, 2025, which reads as under:



2025:DHC:6851



ANNEAURE-A

**MUNICIPAL CORPORATION OF DELHI  
(BUILDING DEPARTMENT)-I  
SOUTH ZONE: GREEN PARK: NEW DELHI**

No. 643 /Bldg.-I/SZ/2025Dated: 07/07/2025

**VACATION NOTICE (U/S 349 OF DMC ACT, 1957)**

WHEREAS, it has been brought to the notice that premises bearing No. B-103, Panchsheel Vihar, New Delhi, has been occupied in contravention of Section 346 of the DMC Act, 1957 as neither the occupant(s) has/have given notice for completion of the erected building nor the Commissioner, MCD (erstwhile SDMC) has granted permission to occupy the same.

**Details of unauthorized construction/deviation:-**

Vide File No. 316/UC/B-I/SZ/2014 dt. 22/09/2014 booked as under:

Unauthorized construction in the shape of Ground Floor to Third Floor (Old and occupied).

WHEREAS, it has been established that unauthorized construction/ deviations have been carried out in the said building, for which order of demolition has already been passed U/s 343 (1) of DMC Act 1957, and the Municipal Corporation has to proceed further in the matter in accordance with the law.

NOW, therefore, the undersigned, U/s 349 of the DMC Act, 1957 call upon you to vacate the aforesaid booked premises/unauthorized construction within three days from the receipt of this letter so that the MCD may take demolition/sealing action against unauthorized construction existing in the aforesaid premises, as detailed above, failing which the demolition/sealing action shall be carried out at the risk and cost of the owner(s)/occupier(s).

Issued under my hand and seal on this 07th day of July, 2025.

Sd/-  
Asstt. Engineer (Bldg.)  
South Zone

Sh. Sunil Chauhan/Owner/Occupiers/Residents,  
P.No. B-103, Panchsheel Vihar,  
New Delhi.

**Copy to:-**

1. SHO, Police Station, Malviya Nagar- with the request to get the impugned premises vacated, so that action can accordingly be taken.
2. JE(Bldg.)-Concerned.
3. Office Copy.

Asstt. Engineer (Bldg.)  
South Zone

3. By referring to the aforesaid Vacation Notice, learned counsel for the petitioner points out that the unauthorized construction in the property in question was booked on 22<sup>nd</sup> September, 2014.



2025:DHC:6851



4. Learned counsel for the petitioner further draws the attention of this Court to the Sealing Order under Section 345-A of the Delhi Municipal Corporation Act, 1957 (“DMC Act”), which is dated 08<sup>th</sup> July, 2025 but was passed on 22<sup>nd</sup> January, 2015, and the same reads as under:

U/c file No. & date	Property No.	Extent of unauthorized construction
316/UC/B-1/SZ/14 22/09/14	B-103, Panchsheel Vihar.	Unauthorized construction at still, ground floor to third floor old and occupied.

WHEREAS, it was brought to my notice that under mentioned unauthorized construction/work was being carried out/had been completed at the instance of Sh. Sunil Chauhan, owner/builder, details of which is as under:-

AND WHEREAS, upon carefully considering the reports before me and having gone through the file and all the other relevant papers, I was satisfied that for the purpose of carrying on the provisions of this Act and for preventing any dispute as to the nature and extent of unauthorized erection or work, it would be essential to proceed U/s 345-A of the DMC Act against the aforesaid premises or the unauthorized execution/work being carried on/completed therein.

AND as such the undersigned in exercise of the power vested in me U/s 345-A read with Section 491 of the DMC Act, 1957 and the Rules made there under, issued a Show Cause Notice No. D-257/DC/SZ/Bldg.-I/2014 dt. 17/12/14 and the above named owner/builder was asked to Show Cause within three days from the receipt of the impugned notice as to why the aforesaid premises or the unauthorized/erection work being carried on/completed be not sealed, to which no reply was received.

AND WHEREAS, after considering all the aspects of this case, I am satisfied that it would be essential to order sealing of the aforesaid premises/unauthorized construction/work being carried on or completed therein for the purposes of carrying out the provisions of the DMC Act and for preventing any dispute as to the extent and nature of erection or work later on.

NOW, therefore, the undersigned in exercise of the powers vested in me under Section 345-A read with Section 491 of the DMC Act and the Rules made thereunder, hereby direct that the aforesaid premises or the unauthorized construction/erection or work being carried on or completed be sealed forthwith.

I, authorize Asstt. Engineer (Building), South Zone of the area to execute forthwith the above order in the manner prescribed under Rule 3 of the DMC (Sealing of unauthorized construction) Rules 1986 and shall exercise the powers mentioned in the Rules and to report immediate compliance to the undersigned.

That premises shall be sealed with the seal of the South Delhi Municipal Corporation and the said seal shall remain in the personal custody of Asstt. Engineer (Bldg.), South zone of the area until further orders.

That no persons shall remove the seal except under the orders of the Competent Authority or as provided under Section 345-A (3) of the DMC Act.

Issued under my hand and seal on this \_\_\_\_ day of January, 2015.

Dy. Commissioner  
South Zone





5. Thus, it is the case of the learned counsel for the petitioner that the property of the petitioner is protected under the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2014 (“Delhi Special Laws Act”). He relies upon Section 3(2) of the Delhi Special Laws Act, which reads as under:

(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, *status quo*—

- (i) as on the 1st day of January, 2006 in respect of encroachment or unauthorized development;
- <sup>1</sup>[(ii) in respect of unauthorised colonies identified under the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Regulations, 2019, in respect of village *abadi* area (including urban villages) and their extensions, which existed on the 31st day of March, 2002, and in aforesaid categories, where construction took place up to 1st day of June, 2014, as mentioned in sub-section (1);]
- (iii) in respect of special areas as per the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village *Abadis*, 2010; and
- (iv) in respect of all other areas within the National Capital Territory of Delhi as on the 8th day of February, 2007,

shall be maintained.

6. Thus, it is submitted that construction in the property in question is prior to the cutoff date of 01<sup>st</sup> June, 2014. Therefore, the property of the petitioner is protected from any action by the MCD.

7. *Per contra*, learned counsel for the MCD, on advance notice, has handed over to this Court a copy of the judgment dated 20<sup>th</sup> October, 2023 passed in *W.P.(C) 14313/2022* titled as ‘*Universal Human Rights Foundation Versus Govt. of NCT of Delhi and Ors.*’

8. By referring to the aforesaid judgment, learned counsel for respondent-MCD submits that the present property of the petitioner, i.e., *B-103, Panchsheel Vihar, New Delhi*, was subject matter of the said writ petition.

9. He submits that from perusal of the aforesaid judgment, it is clear that



due process was followed by the MCD before passing the demolition order.

10. The aforesaid judgment, as handed over by learned counsel for the respondent, is taken on record.

11. Learned counsel for the respondent further submits that with respect to similar petitions for properties in the same area, this Court has not granted any interim protection and directed similar petitioners to approach the Appellate Tribunal MCD (“ATMCD”). For this purpose, he relies upon the order dated 15<sup>th</sup> July, 2025 passed by this Court in *W.P.(C) 9821/2025*, titled as ‘*Naveen Chauhan Versus Municipal Corporation of Delhi*’.

12. Learned counsel for respondent-MCD further submits that a contempt petition being *CONT.CAS(C) 1355/2024*, titled as ‘*Universal Human Right Foundation Versus Govt of NCT of Delhi & Ors.*’, is pending before the Court, and the next date of hearing in the said case is 24<sup>th</sup> September, 2025.

13. He, thus, submits that action is sought to be taken by the MCD on account of the contempt proceedings pending against the MCD.

14. Having heard learned counsels for the parties, this Court notes that the facts of the case in *W.P.(C) 9821/2025*, titled as ‘*Naveen Chauhan Versus Municipal Corporation of Delhi*’, which was disposed by this Court *vide* order dated 05<sup>th</sup> July, 2025, are completely different. The said petition had been filed for the purposes of seeking stay on a vacation notice, on the ground that the petitioner therein be granted time to approach the ATMCD. In the said case, interim protection was refused by the Court on the ground that the vacation notice was preceded by a demolition order, which was in the knowledge of the petitioner. Thus, this Court found no case in favour of the petitioner therein for any interim protection, while granting liberty to approach the ATMCD to seek his remedies, in accordance with law.

15. However, in the present case, the present petition has been filed, since



there is no Presiding Officer in the ATMCD presently. Further, the facts in the present case are different, as discussed herein after.

16. This Court notes that unauthorized construction in the property in question in the present case was booked on 22<sup>nd</sup> September, 2014.

17. On pointed query by this Court, learned counsel for the respondent-MCD has informed this Court that the property in question, which is subject matter of the present writ petition, falls in an unauthorized colony.

18. Perusal of Section 3(2) of the Delhi Special Laws Act, as reproduced hereinabove, shows that with respect to the unauthorized colony, wherever any construction has taken place upto 01<sup>st</sup> June, 2014, action against such unauthorized construction has been kept in abeyance. The enforcement of the Delhi Special Laws Act has been extended till 31<sup>st</sup> December, 2026.

19. Since in the present case, the property was booked in September, 2014, this Court takes note of the submissions made by learned counsel for the petitioner that construction in the present case took place before June, 2014. Thus, clearly, the construction in the present case is within the cut-off date of 01<sup>st</sup> June, 2014, and is entitled to protection in terms of the Delhi Special Laws Act.

20. As regards the judgment in the case of *W.P.(C) 14313/2022* titled as '*Universal Human Rights Foundation Versus Govt. of NCT of Delhi and Ors.*', as relied upon by the respondent MCD, the same also does not inure to the benefit of the MCD in any manner. In the said case, the Division Bench of this Court noted that any action by the MCD with respect to the properties mentioned therein, would have to abide by the outcome of the proceedings before the ATMCD. Further, the petitioner in the said case was granted liberty to approach the Special Task Force ("STF"), constituted by the Supreme Court, in respect of any grievance as regards unauthorized



construction in the properties in question, which were subject matter of the said writ petition. Thus, there was no specific direction by the Division Bench of this Court to take any action specifically against the property, which is subject matter of the present writ petition, which also formed subject matter of the writ petition in the aforesaid case before the Division Bench of this Court.

21. Considering the aforesaid submissions, a *prima facie* case has been made by learned counsel for the petitioner for grant of protection.

22. This Court is informed that the petitioner has already filed an appeal before the learned ATMCD, wherein, the next date has been given as 10<sup>th</sup> October, 2025. This Court notes that present petition has been filed before the Court only on account of the fact that there is no Presiding Officer in the ATMCD, presently.

23. Accordingly, considering the detailed discussion hereinabove, it is directed that no coercive action shall be taken against the property of the petitioner, till the matter is heard by the learned ATMCD.

24. Further, on account of the afore-noted detailed discussion, it is directed that the property of the petitioner shall be de-sealed forthwith.

25. Since the main appeal is yet to be heard by the learned ATMCD, it is directed that learned ATMCD shall hear the appeal on its own merits.

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

**MINI PUSHKARNA, J**

**AUGUST 13, 2025/au**