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

% **Date of Decision: 19th September, 2025**

+ **CONT.CAS(C) 1405/2025 & CM APPL. 58593/2025**

POOJA TOKAS

.....Petitioner

Through: Mr. J.K. Sharma, Ms. Savita, Mr. Aman Goyal, Mr. Vinayak Sharma and Mr. Harsh Sharma, Advocates along with petitioner
Mob: 9868410873

versus

MUNICIPAL CORPORATION OF DELHI (THROUGH ITS COMMISSIONER) AND ORS.

.....Respondents

Through: Ms. Akanksha Gupta, Advocate for MCD
Mob: 9013799111
Email: advakankshagupta@hotmail.com
Ms. Archana Gaur, Ms. Ridhima Gaur, Ms. R. Baliyan and Ms. Bhumika Sharma, Advocates for R-3
Ms. Rachana Dalal, Advocate for R-4 (through VC)

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+ **W.P.(C) 10855/2025**

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MUNICIPAL CORPORATION OF DELHI THROUGH ITS



COMMISSIONER & ORS.

.....Respondents

Through: Ms. Akanksha Gupta, Advocate for
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Ms. Rachana Dalal, Advocate for R-4
(through VC)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA


MINI PUSHKARNA, J (ORAL):

1. The present writ petition has been filed seeking directions to the respondents to demolish the illegal construction, as raised by respondent no. 4 over property bearing *Plot No. 109, Mandir Wali Gali, near old Canara Bank, Munirka Village, New Delhi*.
2. Learned counsel appearing for the petitioner has handed over copy of a complaint dated 17th September, 2025 made to the Station House Officer (“SHO”), Police Station-Kishangarh, along with photographs, which are taken on record.
3. The photographs taken on 17th September, 2025 show that the unauthorized construction in the property in question, is still being carried out.
4. Learned counsel appearing for the petitioner submits that in the garb of the *status quo* order passed by this Court in *W.P.(C) 13586/2025*, the



respondent no. 4 herein, is continuing with the unauthorized construction.

5. This Court notes that a Show Cause Notice dated 13th June, 2025 has been issued with respect to unauthorized construction in the shape of fifth floor in the property in question. The Show Cause Notice dated 13th June, 2025, is reproduced as under:


MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE EX. ENGINEER (BLDG.)-I,
SOUTH ZONE, GREEN PARK, NEW DELHI.

No. 507 AE(B)/SZ/2025 Dated: 13/06/2025

The Station House Officer
Police Station, Kishangarh
New Delhi.

Sub: Stoppage of unauthorized construction in Ward No. 151 (Munirka) u/s 344 (2) of DMC Act. 1957.

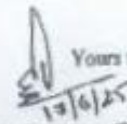
Sir,

Unauthorized construction of following property has been noticed, in this regard, your kind attention is drawn towards Section 344(2) of the DMC Act., which stipulates the following: -

S.No.	U/c File No.	Date	Name of owner/ occupier	Property No. & Address	Extent of unauthorized construction
1.	141 /UC/B- I/SZ/2025	13/06/2025	Sh. Vijay Tokas/ Owner/ Occupier	P.No.109, Mandir Wali Gali, Near Old Canara Bank, Munika Village, New Delhi (Lat. 28.555825 Long. 77.173496)	U/C in the shape of Fifth Floor rest of the building is residentially occupied (Old).


"If an order by the Commissioner under Section 343 or sub-section (1) of this Section directing any person to stop the erection of any building or execution of any work is not complied with, Commissioner may require any police officer to remove such person and all his assistants and workmen from the premises or to seize any construction material, tools, machinery, scaffolding or other things used in the erection of any building or execution of any work within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly".

It is therefore, requested that action may be taken under the provisions of Section 344(2) of the DMC Act and the aforesaid unauthorized construction activities may be stopped by the police immediately and workmen present in the premises be removed and construction material including the tools, machinery, etc. be also seized. You are also requested to direct the concerned beat staff to keep strict watch and ward over this property, so that the Owner/Builder of this property may not be able to carry out further unauthorized construction.


Yours faithfully,
13/6/25
Assistant Engineer (Building)-
South Zone



6. This Court further takes note of the fact that a Demolition Order dated 08th August, 2025 has also been passed by the MCD, with regard to unauthorized construction of fifth floor of the property in question, which is also identified as property No. 80-E. The Demolition Order dated 08th August, 2025, issued by the Assistant Engineer, Building Department-I, South Zone, MCD, is reproduced as under:

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

No. D/ 246 /AE(B)/SZ/2025 Dated: 08/08/2025

ORDER

U/s 343 (1) OF DMC ACT, 1957 (6) OF 1957
{in respect of property bearing No. 109 (80-E, as per electricity
bill and electric meter installed over there), Mandir Wali Gali,
Near Old Canara Bank, Munirka Village, New Delhi}

WHEREAS, in connection with complaint, on 13/06/2025 the property, in question was inspected by concerned Field Staff/ Jr. Engineer (Bldg.) and on inspection there found unauthorized construction, in the shape of fifth (5th) Floor (whereas the floor beneath found old and residentially occupied). Hence, on account thereof, vide file No. 141/UC/B-I/SZ/25 dt. 13/06/2025, action U/s 343 & 344 of DMC Act has been initiated and adhering with the provisions, as contained under the Act, a show cause notice was issued and served upon the owner/ builder/ occupier namely Shri Vijay Tokas.

AND WHEREAS, in its response, on 30/06/2025, Shri Vijay Tokas S/o Late Shri Khilli Ram has submitted his reply; making following submissions thereby:-

"..... I categorically and unequivocally deny these allegations for the following reasons:-

No fresh construction work of any kind, including any purported 5th floor, has been carried out on the premises at 109, Mandir Wali Gali, Munirka, Delhi - 110067. The property stands exactly as per its original structure, with no additions or modifications. The allegation of an unauthorized 5th floor is factually incorrect and lacks and basis. The existing structure does not include, and has never included, a 5th floor.

To conclusively disprove these claims, I formally request an urgent on-site inspection of my property by MCD officials. I will personally assist in demonstrating the absence of any 5th floor,



zero evidence of ongoing or recent construction. I am available at your earliest convenience to facilitate this inspection. (10)

Given the complete absence of any violation, the noticee is legally unsustainable. I urge the MCD to withdraw the notice immediately to avoid unnecessary hardship.

I have always maintained my property in strict compliance with MCD regulations. The allegations stem from a clear factual error, which a physical verification will promptly resolve. I trust you will act fairly and withdraw this notice without delay.

AND THEREFORE, adhering with the principle of natural justice, opportunity of personal hearing was granted for 28/07/2025. On the scheduled date of hearing Shri Garry Tokas (Noticee's son) and Ms. Anita Tokas had attended the hearing and stated that they have already submitted a reply and reiterated the contentions contained in the said reply. It is stated that the property is constructed upto third floor only with terrace over it. It is further stated that the property is old constructed and no construction work is going on and sought adjournment to submit some documents supporting his contentions. On their request the matter was adjourned for 06/08/2025. On the scheduled date of hearing Shri Garry Tokas (noticee's son) had attended the hearing proceeding and re-affirmed his statement tendered on 28/07/2025 and has also submitted photographs and electricity bill in respect of property No. 109-D or 109/1-D stating that it is altogether a different property/ structure. Since he had nothing else to put forth the hearing proceedings were concluded with simultaneous directions to the JE(Bldg.)/SZ that in the light of submissions made by the noticee site be inspected and put-up factual report with photographs and site enquiry. On inspection, as was conducted on 08/08/2025 by the JE(B) concerned has reported as under:-

"As per the directions of AE the site is inspected and it was observed that the work is still going on site, accordingly it was instructed to not carry out any unauthorized construction (pics attached). It is also pertinent to mention that the electric meter installed in the property have written



as "H. No. 80-E" there. An electricity bill found there is attached." (11)

AND THEREFORE, the matter has been examined in the light of site position found and recorded by the Jr. Engineer (Bldg.) concerned (with geo tagged location of the property, in question), reply to the notice submitted at the end of noticee, subsequent submissions made by the noticee (with documents along with electricity bills and photographs) and re-inspection conducted on the part of JE(Bldg.) concerned and thus the undersigned is of the considered view that the construction activity, in the shape of fifth floor of the property, in question is going on without having any legal sanctity; and the noticee herein is simply trying to cover up his wrong doing with one pretext or another. Hence, the present demolition order is passed, with inclusion of numbers, as has been come across in between.

In view of above, I, Manoj Kumar, Asstt. Engineer (Bldg.), South Zone vested with the powers of the Commissioner, MCD U/s 343 (1) read with Section 491 of DMC Act, hereby direct to demolish/ remove the unauthorized construction, in the shape of fifth floor of the property bearing No. 109 (80-E, as per electricity bill and electric meter installed over there) within 15 days from the receipt of this order, failing which it will be demolished by the MCD at your risk and cost.

Issued under my hand and seal on this 8th day of August, 2025.

(Manoj Kumar)
Asstt. Engineer (Bldg.)
South Zone

Shri Vijay Tokas,
Owner/ occupier,
H. No. 109 (or 80-E as per electricity meter/bill),
Mandir Wali Gali, Village Munirka,
New Delhi - 110067

7. This Court notes that the respondent no. 4 herein had earlier filed a writ petition being *W.P.(C) 13586/2025*, wherein, *vide* order dated 04th September, 2025, limited protection had been granted to the respondent



no. 4/petitioner therein, on account of the fact that an appeal had been filed by the respondent no. 4 before the Appellate Tribunal MCD (“ATMCD”). Since, currently there is no Presiding Officer in the ATMCD, this Court had granted limited protection till the appeal of the respondent no. 4 herein, was heard by the ATMCD.

8. However, in the garb of any *status quo* order passed by this Court, the respondent no. 4 herein cannot take the advantage of the situation and carry out further unauthorized construction.

9. The photographs, as handed over to this Court, are reproduced as under:





10. This Court takes note of the submission made by learned counsel appearing for respondent no. 3, i.e., SHO, Police Station-Kishangarh, that unauthorized construction was found to be going on in the property in question and the tools were seized.

11. Learned counsel appearing for the SHO, Police Station Kishangarh, has handed over a copy of the Status Report dated 18th September, 2025, which is taken on record.

12. The said Status Report reads as under:



1. That in compliance with the directions of this Hon'ble Court dated 13.08.2025, the undersigned respectfully submits the present status report.
2. The Hon'ble Court had directed that the Municipal Corporation of Delhi, with assistance of the local police, shall ensure that no further unauthorized construction takes place at property No. 109/80E, Mandir Wali Gali, near Old Canara Bank, Munirka Village, New Delhi.
3. After receipt of the said order, police officials of PS Kishangarh visited the site on multiple occasions and conducted inspections.
4. On 18.08.2025, a complaint was received from the petitioner regarding alleged continuation of illegal construction and misbehaviour by respondent No. 4 and his associates. The complaint was duly diarized and officers were deputed to the spot and action U/s 344(2) DMC Act has taken and equipment using in construction were seized vide DD No 105A dated 18.08.25.
5. On inspection, labour activity was noticed at the said premises. The concerned staff instructed the parties present at the spot to immediately stop the work. The matter was simultaneously communicated to the MCD officials (AE/JE) for necessary enforcement action, as per their jurisdiction.
6. It is respectfully submitted that the police have repeatedly cautioned the respondent party against further construction and are extending all cooperation to MCD in enforcing compliance with the Hon'ble Court's directions whenever information has been received.
7. In addition to construction issues, allegations of physical assault and abuse have also been raised by the complainant against respondent No. 4's associates. The matter was enquired and no such allegations was substantiated and appropriate legal action shall be taken as per law if any such act will come in notice.
8. The police remains committed to provide assistance to MCD for halting any unauthorized construction and for maintaining law and order at the site.
9. In view of submissions made above status report is submitted accordingly and undersigned shall abide by all directions of Hon'ble High Court Delhi.

13. Perusal of the Status Report filed by the SHO, Police Station-Kishangarh, clearly shows that labour activity was noticed at the premises and the concerned staff instructed the parties present at the spot to immediately stop the work. Further, the police also repeatedly cautioned the



respondent no.4 from carrying out further construction.

14. Considering the aforesaid, it is clear that the respondent no. 4 herein, i.e., Vijay Tokas, has misused the protection granted by this Court *vide* order dated 04th September, 2025 in *W.P.(C) 13586/2025*, in the petition where the respondent no. 4 herein, was the petitioner.

15. Accordingly, this Court recalls the interim protection granted to the respondent no. 4 herein, i.e., Vijay Tokas.

16. The respondent-MCD, with the assistance of SHO, Police Station-Kishangarh, is at liberty to take action against the unauthorized construction on the fifth floor, or any other further unauthorized construction that may be found in the property, having been carried out by respondent no. 4.

17. The MCD is bound to take requisite action expeditiously and in accordance with law.

18. The MCD is accordingly directed to file an Action Taken Report, in this regard.

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

20. For filing of the Action Taken Report by the MCD, list before the Registrar on 30th October, 2025.

MINI PUSHKARNA, J

SEPTEMBER 19, 2025

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