



2025:DHC:7239



\$~1

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 20.08.2025**

+ W.P.(C) 1839/2025 &amp; CM APPL. 37960/2025

HANSRAJ GOSWAMI

.....Petitioner

Through: Mr. Rohit Shukla, Mr. Vivek Kumar  
Gaurav, Mr. Sunil Prajapati, Mr.  
Pawan Sharma, Advocates (M:  
9958429420)

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Ms. Sunieta Ojha, Ms. Pragti Bhatia,  
Ms. Vasudha Priyansha, Advocates  
for MCD (M:8288898395)**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J: (ORAL)**

1. The present writ petition has been filed seeking to quash the notice/letter dated 08<sup>th</sup> January, 2025, issued by the respondent-Municipal Corporation of Delhi ("MCD") for property bearing *Khasra No. 1092, Khatauni No. 369, Khevat No. 199*, area measuring *10 Bighas, 04 Bishwas*, situated at *Mauja Patti Bans, Koli Mauja, Aram Bagh, Rani Jhansi Road, Karol Bagh, Delhi-110055*.
2. There is further prayer in the petition for directing the respondent-MCD to reassess the property tax due on the said property and thereafter, to mutate the property in the name of the petitioner, i.e., Hansraj Goswami.
3. It is the case of the petitioner that the petitioner was bequeathed the aforesaid property through a registered Will dated 03<sup>rd</sup> September, 2019, executed by the lawful owner, i.e., late Smt. Amrita Devi. It is the petitioner's case that owner of the property in question, i.e., Smt. Amrita



Devi, passed away on 04<sup>th</sup> September, 2023, after which the petitioner has become the absolute owner. The petitioner had applied for mutation of the subject property before the MCD on 14<sup>th</sup> October, 2024. However, no action was taken by the MCD with regard thereto.

4. Subsequently, MCD issued a notice dated 08<sup>th</sup> January, 2025, making mutation conditional upon payment of property tax. Thus, the present writ petition has been filed, challenging the said letter dated 08<sup>th</sup> January, 2025.

5. This Court notes that in the order dated 03<sup>rd</sup> July, 2025, statement on behalf of the respondent-MCD had been recorded that as per the information received by the MCD, the original owner of the property in question, i.e., Smt. Amrita Devi, is still alive. The relevant portion of the order dated 03<sup>rd</sup> July, 2025, reads as under:

“xxx xxx xxx

*7. Issue notice. Notice is accepted by learned counsel appearing for the respondent-MCD, who submits that the original owner of the property in question, i.e., Smt. Amrita Devi is still alive, as per the information received by the MCD. She further submits that the MCD is, thus, investigating the matter with regard thereto.*

xxx xxx xxx”

6. Today, learned counsel for the respondent-MCD submits that a reply on their behalf has been filed on 12<sup>th</sup> August, 2025, however, the same is not on record. Learned counsel has handed over a physical copy of the said reply, which is taken on record.

7. Learned counsel for the respondent-MCD, relying upon the said reply dated 12<sup>th</sup> August, 2025, submits that the MCD received a letter from the purported original owner, i.e., Smt. Amrita Devi, that she is still alive and that she had executed some other certain documents in favour of one Mr. Murari Lal Gupta, at Bhiwani, Haryana.

8. She further submits that the MCD had inspected the property in



question and had duly informed the petitioner herein, as well as the purported original owner of the property, i.e., Smt. Amrita Devi, including, the persons who are in possession of the property in question, about the said inspection.

9. She submits that the inspection of the land in question was duly carried out by the MCD on 11<sup>th</sup> July, 2025. She further submits that despite notice, neither the petitioner, nor the aforesaid Smt. Amrita Devi, were present at the time of inspection.

10. Learned counsel for MCD submits that at the time of inspection, it was found that the occupier of the property in question is '*Bal Bharamchari Shree Guru Munnii Vyayamshala (Aakhada) Shree Guru Prabhu Dayal Sharma Dalpati Ganesh Dal*'. Attention of this Court has been drawn to the documents in this regard.

11. Thus, it is submitted that there is dispute as regards the ownership of the property in question and therefore, it is not possible for the MCD to carry out any mutation in favour of the petitioner.

12. *Per contra*, learned counsel for the petitioner submits that the MCD has not filed on record any document to show that the purported letter submitted by Smt. Amrita Devi, was indeed filed by Smt. Amrita Devi. He further submits that there is no document on record to establish the identity of Smt. Amrita Devi. He, thus, submits that there are no disputed questions of facts in the present case. Rather, the respondent-MCD has stated wrong facts before this Court on the basis of certain documents, which are not material to the present case.

13. Learned counsel for the petitioner has further handed over to this Court copy of the documents which, according to the petitioner, are the Election Commission Identity Card, Pan Card and Passport of Smt. Amrita



Devi. The said documents, as handed over by the petitioner, are also taken on record.

14. Learned counsel for the petitioner submits that the petitioner has a valid registered Will dated 03<sup>rd</sup> September, 2019, in his favour. He further submits that the petitioner is ready to pay the property tax, under the Amnesty Scheme of the MCD, which is applicable till 30<sup>th</sup> September, 2025.

15. Learned counsel for the petitioner relies upon the judgment of the Supreme Court in the case of ***Popatrao Vyankatrao Patil Versus State of Maharashtra and Others, (2020) 19 SCC 241***, and in particular, paragraph 11 of the said judgment, which is reproduced as under:

“xxx xxx xxx

*11. It could thus be seen, that even if there are disputed questions of fact which fall for consideration but if they do not require elaborate evidence to be adduced, the High Court is not precluded from entertaining a petition under Article 226 of the Constitution. However, such a plenary power has to be exercised by the High Court in exceptional circumstances. The High Court would be justified in exercising such a power to the exclusion of other available remedies only when it finds that the action of the State or its instrumentality is arbitrary and unreasonable and, as such, violative of Article 14 of the Constitution of India. In any case, in the present case, we find that there are hardly any disputed questions of facts.*

xxx xxx xxx”

16. Learned counsel for the petitioner further relies upon the judgment of the Supreme Court in the case of ***A.P. Electrical Equipment Corporation Versus Tahsildar and Others, 2025 SCC OnLine SC 447***, and in particular, relies upon paragraphs 47, 48 and 49 of the said judgment, which are reproduced as under:

“xxx xxx xxx

*47. One stock argument available with the State in this type of cases is that the question whether the actual physical possession of the disputed land had been taken over or not is a seriously disputed question of fact, which the High Court should not adjudicate or determine in exercise of its writ jurisdiction. As a principle of law,*



*there need not be any debate on such a proposition, but by merely submitting that it is a seriously disputed question of fact, the same, by itself, will not become a question of fact. To put it in other words, having regard to the materials on record, which falsifies the case of the State Government, then such materials should not be overlooked or ignored by the Court on the principle that the issue with regard to taking over of the actual physical possession would be a disputed question of fact.*

*48. Normally, the disputed questions of fact are not investigated or adjudicated by a writ court while exercising powers under Article 226 of the Constitution of India. But the mere existence of the disputed question of fact, by itself, does not take away the jurisdiction of this writ court in granting appropriate relief to the petitioner. In a case where the Court is satisfied, like the one on hand, that the facts are disputed by the State merely to create a ground for the rejection of the writ petition on the ground of disputed questions of fact, it is the duty of the writ court to reject such contention and to investigate the disputed facts and record its finding if the particular facts of the case, like the one at hand, was required in the interest of justice.*

*49. There is nothing in Article 226 of the Constitution to indicate that the High Court in the proceedings, like the one on hand, is debarred from holding such an inquiry. The proposition that a petition under Article 226 must be rejected simply on the ground that it cannot be decided without determining the disputed question of fact is not warranted by any provisions of law nor by any decision of this Court. A rigid application of such proposition or to treat such proposition as an inflexible rule of law or of discretion will necessarily make the provisions of Article 226 wholly illusory and ineffective more particularly Section 10(5) and 10(6) of the Act, 1976 respectively. Obviously, the High Court must avoid such consequences.*

*xxx xxx xxx”*

17. By relying upon the aforesaid judgments, learned counsel for the petitioner submits that even if there are disputed question of facts, in cases where the facts which do not require any elaborate evidence to be adduced, a High Court in a petition under Article 226 of the Constitution of India, can still decide the case accordingly.

18. He further submits that in terms of the aforesaid judgments, mere existence of disputed questions of fact by itself, does not take away the jurisdiction of the writ court in granting appropriate relief to the petitioner.



2025:DHC:7239



19. He, thus, submits that on the basis of the documents on record, the petitioner ought to be granted relief and mutation of the land in question ought to be done in favour of the petitioner.

20. Learned counsel for the petitioner further draws the attention of this Court to the copy of the *Jamabandi* which is annexed as *Annexure P-2* to the present writ petition, to submit that the land in question is owned by late Smt. Amrita Devi. He also relies upon the registered Will and death certificate of Smt. Amrita Devi to submit that the said Smt. Amrita Devi has already expired. Thus, he submits that the letter relied upon by the respondent-MCD is of no consequence.

21. Having heard learned counsels for the parties, this Court, at the outset, notes the reply dated 12<sup>th</sup> August, 2025, filed on behalf of the MCD, wherein, certain facts have emerged in the following manner:

“xxx xxx xxx

9. That during the pendency of this matter, the Department received a copy of a letter from a person claiming to be Amrita Devi i.e. the Original Owner of the subject property through one Murari Lal, claiming to be the GPA holder of Amrita Devi. That the copy of the letter from a person claiming to be Munni Devi is annexed herewith and marked as **ANNEXURE R-4**.

10. That, the Department has also received a copy of the letter from one of the members of one Akhada named Shri Sanatan Dharma Sabha, New Delhi, claiming the ownership of the Akhada over the subject property by the virtue of one Lease Deed produced by them. That the copy of the letter & Lease Deed submitted by Shri Sanatan Dharm Sabha, New Delhi is annexed herewith and marked as **ANNEXURE R-5**.



11. That, the Department after duly notifying the Petitioner as well as the person claiming to be Smt. Amrita Devi *vide* letter dated 07.07.2025, inspected the subject property on 11.07.2025, where it was found that the property is in possession of “Bal Brahmachari Shri Guru Munni Vyyamshala (Aakhada) Shree Guru Prabhu Dyal Sharma Dalpati Ganesh Dal, however he was stopped by the members from inspecting the premises. That the copy of the letter dated 07.07.2025 sent to the Petitioner and one Amrita Devi is annexed herewith and marked as **ANNEXURE R-6**. That the copy of the inspection report dated 11.07.2025 is annexed herewith and marked as **ANNEXURE R-7**. That the copy of the photographs of the inspection is annexed herewith and marked as **ANNEXURE R-8**.

12. That in view of apparent there are several disputed facts involved in the present writ petition which can only be proved in trials, claims, counterclaims, etc. and it is also apparent that Petitioner has not come to this Hon’ble Court with clean hands by not disclosing the true and complete facts.

xxx xxx xxx”

22. Perusal of the aforesaid reply of the MCD clearly shows that during the pendency of the present petition, the MCD received a letter from a person claiming to be Smt. Amrita Devi, i.e., the original owner of the property in question.

23. Subsequently, in order to assess the position, the MCD had duly notified the petitioner, as well as the person who claimed to be Smt. Amrita Devi, and fixed an inspection for 11<sup>th</sup> July, 2025. For this purpose, the MCD had issued a letter dated 07<sup>th</sup> July, 2025, to seek their presence during the scheduled inspection.

24. This Court notes the submission of learned counsel for the petitioner



2025:DHC:7239



that the petitioner had duly replied to the said notice *vide* its letter dated 10<sup>th</sup> July, 2025, which is taken on record.

25. Further, this Court notes the Survey/Inspection Report of the MCD dated 11<sup>th</sup> July, 2025, which reads as under:

<b><u>SURVEY/INSPECTION REPORT</u></b>	
<b>UPIC</b>	Not Generated
<b>Property Type</b>	Not Cleared
<b>Property Address</b>	Khasra No. 1092, Kh.No. 369, Mauja Patti Bans, Aram Bagh, Rani Jhansi Road, Paharganj, Delhi-110055
<b>Name of Taxpayer/ PPO</b>	Amrita Devi

As per the direction of Hon'ble Ms. Justice Mini Pushkarna, Order on dt. 03.07.2025 in the Hon'ble High Court of Delhi, W.P.(C) 1839/2025 Hansraj Goswami Vs. Municipal Corporation of Delhi to investigate the matter the Assessment & Collection Department, Karol Bagh Zone conduct the inspection on dated 11.07.2025 at 2:00 P.M. vide the notice no. No TAX/KBZ/2025-2026/D- dated 07.07.2025 which is already informed to Smt. Amrita Devi and Sh. Hansraj Goswami regarding the inspection of the above said property.

During the inspection of the above said property with the following has been found on the site:-

1. I, concerned Asstt. Zonal Inspector of the Ward-82, reached on the site of the above said property at sharp 2:00 P.M (Photo Attached herewith).
2. Smt. Amrita Devi is not present on the above said property for the inspection.
3. Sh. Hansraj Goswami is not present on the above said property for the inspection.

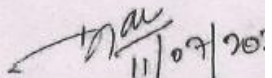
Cont..Page..No..2.



2025:DHC:7239



4. The third party present property Occupier found in the name of "*Bal Bharamchari Shree Guru Munni Vyyamshala (Aakhada) Shree Guru Parbhu Dyal Sharma DalPati Ganesh Dal*" as mention the sing board on the property gate and a "pandit ji" is there at the property but he is not allowed to inspect the property in the name of Smt. Amrita Devi and Sh. Hansraj Goswami. (Photo attached herewith).
5. Also he state that as name of Smt. Amrita Devi and Sh. Hansraj Goswami never stay/leave in this property as he know last 50-60 years.
6. Also he state that this property is belong to "*Bal Bharamchari Shree Guru Munni Vyyamshala (Aakhada)*" last more than (100) hundreds of years.
7. Also he State that the property having three (3) temples for public worship, one (1) Guru ji Samadhi for public worship and two (2) aakhada for the children's free of cost and some rooms are there and he stay with family for take care the Guru ji samadhi and worship of temples and all.
8. Also he state that, the documents related above said property will be submit within a week in the concerned A &C, Department, Karol Bagh Zone, MCD.

  
11/07/20  
Deepak Solanki  
AZI/Ward-82

26. Thus, it transpires that only after due notice to the petitioner, as well as to the person who purportedly claims to be Smt. Amrita Devi, the MCD had proceeded to inspect the land in question. During the course of inspection, neither the petitioner, nor the said woman, who claimed to be Smt. Amrita Devi, or anyone on her behalf, were present.

27. During the course of inspection, the MCD found that the land in



2025 :DHC :7239



question was being occupied by a person running an *Akhada* in the name of ‘*Bal Bharamchari Shree Guru Munni Vyayamshala (Aakhada) Shree Guru Prabhu Dayal Sharma Dalpati Ganesh Dal*’.

28. Further, the photographs thereto, as attached by the MCD with their reply, are reproduced as under:





2025 :DHC :7239



29. During the course of hearing, this Court pointedly asked learned counsel for the petitioner as to whether the petitioner is in occupation of the land in question or not.

30. Learned counsel for the petitioner, upon instructions from the petitioner, who is present in person, fairly submits that the petitioner is not in possession of the land in question.

31. On further query by this Court, it has come to the fore that the petitioner has not filed any suit for possession, despite admitting the fact that the petitioner is not in possession of the land in question.



32. Considering the submissions made before this Court, it is the undisputed statement of the petitioner that the actual owner of the land in question is one Smt. Amrita Devi.

33. On the one hand, the petitioner seeks ownership of the land in question on the basis of the Will of Smt. Amrita Devi, and the prayer for mutation has been made by the petitioner by relying upon the said Will.

34. On the other hand, upon perusal of MCD's reply dated 12<sup>th</sup> August, 2025, it has come to the fore that there is another person claiming herself to be Smt. Amrita Devi.

35. Therefore, this Court takes note of the fact that the petitioner is neither in possession of the property in question, nor has he taken any steps to file any suit for possession, despite the claim of the petitioner that the said Smt. Amrita Devi, the original owner of the property in question, has expired on 04<sup>th</sup> September, 2023.

36. Clearly, the title of the petitioner herein, is under cloud. Therefore, no relief can be granted to the petitioner for the purposes of any direction to the MCD to mutate the property in favour of the petitioner or to direct the MCD to reassess the property tax on the basis of any prayer made by the petitioner.

37. Needless to state that mutation of the property is done by the MCD only on the basis of established ownership documents.

38. Since, in the present case, the very ownership of the petitioner is under cloud, this Court certainly cannot direct the MCD to mutate the property in the petitioner's name.

39. Accordingly, considering the aforesaid detailed discussion, the present writ petition, along with pending applications, is accordingly dismissed.



2025:DHC:7239



40. The next date of hearing of 08<sup>th</sup> September, 2025, stands cancelled.

**AUGUST 20, 2025/au**

**MINI PUSHKARNA, J**