



2025:DHC:8580



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 22nd September.2025**+ **W.P.(C) 6454/2025****VIJAY KUMAR AGGARWAL**

.....Petitioner

Through: **Mr. Pawas Agarwal, Advocate**
M: 8447810160

versus

**THE COMMISSIONER, MUNICIPAL CORPORATION OF DELHI
& ORS.**RespondentsThrough: **Mr. Tushar Sannu, SC for MCD with**
Mr. Pravin Bansal, Advocate and Mr.
Vishal Ji, Advocate
Mob: 9911991166
Mr. Pramod Gupta, Advocate for R-2**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J. (Oral)**

1. The present writ petition has been filed seeking directions to the respondent no. 1 to take action against the illegal construction in the *front set back*, i.e., shops on the ground floor, and the *rear set back* of the property bearing no. *G-21/5, Rajouri Garden, New Delhi-110027*, raised by respondent nos. 2 and 3.
2. This Court notes that a Status Report dated 26th August, 2025, has been filed on behalf of the Municipal Corporation of Delhi ("MCD"), wherein, it is stated as follows:



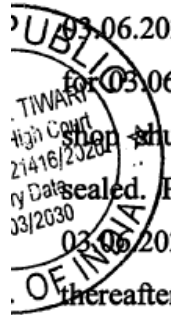
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4. That as per record maintained by the answering respondent No. 1/MCD in respect of the property bearing No. G-21/5, Rajouri Garden, New Delhi, it is submitted that the aforesaid property has been booked for unauthorized construction vide file No. EE(B)-I/WZ/UC/2025/74 dated 09.05.2025 in the shape of two shops constructed by covering courtyard at Ground Floor and room at rear courtyard (GF, FF, SF are old and occupied). Consequently, a Show Cause Notice under Sections 343 and 344 (1) of the DMC Act was issued to the Owner/ Occupier on 09.05.2025 with direction to submit reply within 15 days. Simultaneously, an opportunity of personal hearing was also provided to the owner/occupier vide said show cause notice and the date of hearing was fixed for 22.05.2025 at 2.30 PM. Copy of the show cause notice dated 09.05.2025 is annexed herewith as **Annexure-‘A’**.

5. That in compliance of aforesaid show cause notice dated 09.05.2025 the matter was taken up on 22.05.2025. But the owner/builder of the property remained absent during the hearing without any intimation. Further, no reply to the aforesaid show cause notice was received in the department even after lapse of stipulated period of 15 days, the hearing proceedings was closed and after following the due process of law, the Demolition Order under Section 343 of the DMC Act, was passed on 02.06.2025 and same was issued to Owner/ Occupier. Copy of the demolition order dated 02.06.2025 is annexed herewith as **Annexure-‘B’**.



6. That it is further submitted that apart from demolition action sealing action under section 345A of the DMC Act was also initiated and a sealing show cause notice dated 23.05.2025 was issued to the owner/occupier of aforesaid property and the same was served through pasting on 27.05.2025. Copy of the sealing show cause notice dated 23.05.2025 is annexed herewith as **Annexure-‘C’**.
7. That no reply to the aforesaid sealing show cause notice was received in the department within stipulated period, therefore, after following due process of law, sealing order under section 345A of the DMC Act, was passed by the competent authority on dated 03.06.2025. Copy of the sealing order dated 03.06.2025 is annexed herewith as **Annexure-‘D’**.
8. That it is further submitted that after passing of sealing order dated 03.06.2025, a reply to the sealing show cause notice was received in the department on 04.06.2025, but the same was not considered as sealing order was already passed on 03.06.2025 and the quasi-judicial authority became *functus officio*.
9. That in order to execute the above said sealing order dated 03.06.2025 a sealing action program was fixed by the department for 03.06.2025. On that day during course of sealing action one shop shutter (cosmetic store) at front set back area has been sealed. Photographs taken at the time of sealing action dated 03.06.2025 are annexed herewith as **Annexure-‘E’**. That thereafter, a watch and ward letter was sent to the Station House Officer, Rajouri Garden, New Delhi on 04.06.2025 to keep strict watch and ward over the said sealed property. Copy of the watch





and ward letter dated 04.06.2025 is annexed herewith as **Annexure-‘F’**.

10. That further sealing action program was fixed by the department for 11.06.2025. During the course of action one shop (Name D.S. Fashion Boutique) at front setback area got sealed in the presence of local police force from PS Rajouri Garden. Photographs taken at the time of sealing action dated 11.06.2025 are annexed herewith as **Annexure-‘G’**. Thereafter, a watch and ward letter was sent to the Station House Officer, Rajouri Garden, New Delhi on 12.06.2025 to keep strict watch and ward over the said sealed property. Copy of the watch and ward letter dated 12.06.2025 is annexed herewith as **Annexure-‘H’**.

11. That, in reference to the action initiated against the unauthorized construction u/s 343 & 344 of the DMC Act as well as sealing action executed u/s 345-A of the DMC Act an appeal has been filed by the appellant before the Hon’ble ATMCD titled as Kulvinder Kaur Vs MCD vide Appeal No. 387/2025, which is now listed for hearing before the Hon’ble Court on 23.09.2025. Further, another appeal has also been filed afresh before the Hon’ble ATMCD titled Naveen Talwar Vs MCD & Ors., which is yet to be listed for hearing before the Hon’ble Court.

3. Perusal of the aforesaid Status Report shows that the property in question has been sealed on 03rd June, 2025. It further shows that respondent no. 2, i.e., Naveen Talwar, has filed an appeal before the Appellate Tribunal MCD (“ATMCD”).

4. At this stage, learned counsel appearing for respondent no. 2 submits that the said appeal filed before the ATMCD has already been withdrawn, on the assurance of the MCD that the property in question shall be de-sealed, in order to allow the respondent no. 2 to carry out the requisite action



for removing the non-compoundable portions of the construction, in the property in question.

5. Learned counsel appearing for respondent no. 2 has drawn the attention of this Court to the letter dated 23rd July, 2025, written on behalf of respondent no. 2, which is reproduced as under:

PRAMOD GUPTA. Chamber: T-57, Tehsil bldg Compd
Advocate TisHazari Courts, Delhi-110054.
Delhi High Court Mobile phone No: 9810452694.
Speed Post /courier. Dated:23/07/2025.

To,

THE DEPUTY COMMISSIONER,
Municipal Corporation of Delhi,
West Zone, Rajouri Garden, New Delhi.



SUBJECT: IN RESPECT OF APPEAL U/S 347 B OF THE DELHI MUNICIPAL CORPORATION ACT, 1957 (MODIFIED AS ON 2022) AGAINST THE IMPUGNED SEALING ORDER /LETTER BEARING NO.EE(B)-I/WZ/SR/2025/47 DATED 03/06/2025 ISSUED BY DY. COMMISSIONER, WEST ZONE, SECOND FLOOR, SHIVAJI ENCLAVE, NIGAM BHAWAN, NEAR WEST GATE MALL, NEW DELHI-110027.

Respected Sir.

My client Naveen Talwar through its attorney Shri Billu Singh s/o Manak Singh r/o J-9 Ganga Ram Vatika Tilak Nagar, New Delhi, has filed an Appeal u/s 347B Delhi Municipal Corporation Act 1957, against the impugned sealing order vide letter bearing no: EE(B)-I/WZ/SR/2025/47 dated 03/06/2025 issued by your office. Along with the Appeal, an application for interim stay of the operation of the aforesaid order was also filed. The said Appeal no: ATMCD APPEAL/486/2025 titled "Naveen Talwar Vs MCD & Ors" is listed before the MCD Tribunal Tishazari Court on 28/07/2025 before the Hon'ble Shri Abhilash Malhotra, Appellate MCD Tribunal, Tishazari Courts. The advance notice of the said appeal has been served upon your good office on 21/07/2025.

Contd/2..



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Sir, the impugned sealing order dated 03/06/2025 mentioned alleged unauthorized construction of two shops and two rooms at GF of the property no: G-21/5 Rajouri Garden, New Delhi-110027, but the same does not specify the measurement or dimensions of the alleged unauthorized construction. Further, it also does not speak about the status of the construction at First floor and second floor of the said property whether the same also illegal, unlawful and unauthorized construction or not or whether any sanction plan issued for such construction by the MCD /your office.

Without prejudice to my client interest and rights etc., I would like to provide me the following details:

A. Whether any sanction plan has been issued in respect of property G-21/5 Rajouri Garden, New Delhi-110027 for the construction of GF, FF, SF of the said property, by the MCD.

B: Further, to inspect the said property and provide details/ specify the measurement or dimensions of the alleged unauthorized construction at GF of the property no: G-21/5 Rajouri Garden, New Delhi-110027, for removal /demolish the same as per rules, so that the said property can be de-sealed. Copy of the site-plan which my client has filed with the appeal has been annexed herewith for your kind perusal.

Thanking you,

Your sincerely,


Pramod Gupta, Advocate

PRAMOD GUPTA Advocate
T-57, Tehsil Bldg. Compd.
Tis Hazari Courts, Delhi
Enrol. No. D/4096
Mobile No. 9810452694

Copy to: **MUNICIPAL CORPORATION OF DELHI**
(Through its commissioner} Civic Centre, Minto
Road, New Delhi.

6. By referring to the aforesaid letter, learned counsel appearing for respondent no. 2 submits that the respondent no. 2 is ready to remove and demolish any construction in the property in question, which is unauthorized and non-compoundable.

7. He submits that the construction in the property in question, which is



compoundable in nature, may be regularized by the MCD.

8. This Court is informed that respondent no. 3, i.e., Smt. Rita Arora, has sold the property in question to a third party, i.e., namely, Ms. Kulvinder Kaur, in respect of whom, another appeal is pending before the ATMCD tomorrow, i.e., 23rd September, 2025.

9. Having heard the learned counsels appearing for the parties and considering the submissions made before this Court, the MCD is directed to consider the case of respondent nos. 2 and 3, for de-sealing of the property in question.

10. Respondent nos. 2 and 3 shall given an undertaking before the MCD that they shall remove the non-compoundable deviations from the property in question.

11. Accordingly, respondent nos. 2 and 3 are directed to appear before the concerned official of the MCD, i.e., Deputy Commissioner, West Zone, MCD, on Friday, i.e., 26th September, 2025 at 11:00 AM.

12. Upon respondent nos. 2 and 3 appearing before the Deputy Commissioner, West Zone, MCD, the respondent nos. 2 and 3 shall be indicated as to the extent of construction in the property in question, which cannot be compounded. If need be, directions would be given to the respondent nos. 2 and 3 to apply for regularization of the existing construction as per the rules and norms of the MCD, in the format as prescribed for the said purpose.

13. Upon the MCD indicating to respondent nos. 2 and 3 as regards the non-compoundable deviations existing in the property in question, the respondent nos. 2 and 3 shall carry out the requisite demolition of the non-compoundable portions in the property in question.



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14. After the non-compoundable deviations have been removed by respondent nos. 2 and 3, the MCD shall inspect the property.

15. In case, the MCD is satisfied that the non-compoundable deviations have been removed by the respondent nos. 2 and 3, the MCD shall proceed to pass appropriate orders with regard to regularization of the property of respondent nos. 2 and 3, if everything else is in order.

16. Further, it is directed that in case, the non-compoundable deviations are not removed by the respondent nos. 2 and 3, the MCD shall be at liberty to take requisite action, in accordance with law.

17. With the aforesaid directions, the present writ petition is accordingly disposed of.

MINI PUSHKARNA, J

SEPTEMBER 22, 2025

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