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

% ***Date of Decision: 27.08.2025***

\+ W.P.(C) 13054/2025 & CM APPL. 53432/2025, CM APPL. 53433/2025

JAVED AHMAD AND ANR. .....Petitioners

Through: Mr. Sanjeev Kumar and Mr. M.M. Siddiqui, Advs.
Mob: 9891490070
Email: sanjeevadvocate6@gmail.com

versus

MUNICIPAL CORPORATION OF DELHI .....Respondent

Through: Mr. Anand Prakash, SC for MCD with Ms. Varsha Arya and Mr. Satbeer, Advs.
Mob: 8851801293

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J: (ORAL)

1. The present writ petition has been filed seeking quashing of the Demolition Order dated 27th June, 2025, issued under Section 343 of the Delhi Municipal Corporation Act, 1957 ("DMC Act") and the subsequent Vacation Order dated 06th August, 2025, in respect of the property bearing no. *R-98, Khasra No. 1 ETC/113, Gali No. 21, Brahampuri, Delhi-110053*.

2. Learned counsel appearing for the petitioners submits that the petitioners are the owners and have been in possession of property bearing no. *R-98, Third Floor, Khasra No. 1 ETC/113, Gali No. 21, Brahampuri, Delhi-110053*, against which the common Demolition Order dated 27th June,

2025, and subsequent Vacation Order dated 06th August, 2025, has been issued.

3. It is submitted that the aforesaid Demolition and Vacation Order have been issued against the erstwhile owner, namely, Nafees Khan, as the subject property stands mutated in the name of the said owner. However, it is submitted that at present there are six flats, including, ground floor in the property in question, and different persons are living therein after purchasing the said flats.

4. It is submitted that the petitioners did not receive any Show Cause Notice despite the fact that the petitioners are in possession of the property in question since 26th April, 2025. It is submitted that the petitioners are the second subsequent purchaser of the property in question from the owner/ builder of the property in question. However, a common Show Cause Notice dated 30th May, 2025 has been issued by the respondent, which was never received by the petitioners.

5. Thus, it is submitted that the Demolition Order passed against the property in question is unsustainable as the respondent has neither assessed the status of the property in question, nor verified the ownership thereto, on account of which the common Show Cause Notice and Demolition Order have been passed.

6. It is submitted that appeal has already been filed on behalf of the petitioners before the Appellate Tribunal Municipal Corporation of Delhi ("ATMCD").

7. It is submitted that an the present writ petition has been filed by the petitioners before this Court, as the post of the Presiding Officer of the ATMCD is vacant, and the remedy provided under the DMC Act against the

said orders cannot be availed.

8. Issue notice. Notice is accepted by learned counsel appearing for the respondent-MCD.

9. Learned counsel appearing for the respondent-MCD has handed over a copy of the various documents, including, booking of the property, Show Cause Notice as well as the Demolition Order passed against the property in question.

10. The said documents are taken on record.

11. By referring to the aforesaid documents, learned counsel appearing for the MCD submits that the petitioners have already been served with a Show Cause Notice and a Demolition Order on 10th June, 2025 and 3rd July, 2025, respectively.

12. Learned counsel appearing for the respondent relies upon the Tracking Report to submit that despite receipt of the aforesaid Show Cause Notice and Demolition Order, the petitioners has chosen to file an appeal before the ATMCD only now.

13. It is further submitted that the whole property in question, from the ground floor to the fifth floor, is unauthorised.

14. At this stage, learned counsel appearing for the petitioners submits that since the appeal has already been filed before the ATMCD, they may be granted limited protection to make their submissions before the ATMCD.

15. Having heard learned counsels appearing for the parties, this Court notes the submissions made by the learned counsel appearing for the petitioners that appeal before the ATMCD has already been filed, and only on account of there being no Presiding Officer in the ATMCD currently, the present writ petition has been filed.

16. This Court is of the view that the matter ought to be heard by the ATMCD.

17. Considering the fact that currently there is no Presiding Officer in the ATMCD, it is directed that no coercive action shall be taken against the property in question, till the matter is heard by the ATMCD.

18. Further, in case the Presiding Officer of the ATMCD does not take charge even on the next date of hearing when the appeal of the petitioners is listed before the ATMCD, the protection granted today shall extend automatically to the next date, which is given by the ATMCD.

19. However, in case, the Presiding Officer of the ATMCD takes charge in the meanwhile, it is directed that the petitioners shall file an appropriate application before the ATMCD, within a period of two weeks of the Presiding Officer of the ATMCD taking charge, for taking up their appeal.

20. It is clarified that this Court has not expressed any opinion on the merits of the case.

21. Rights and contentions of all the parties are left open, and are to be decided in the appropriate proceedings.

22. The present order is being passed only with a view to allow an opportunity to the petitioners to argue their appeal before the ATMCD.

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

MINI PUSHKARNA, J

AUGUST 27, 2025
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