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

% **Date of Decision: 29.05.2025**

+ W.P.(C) 7957/2025, CM APPL. 34974, CM APPL. 34975/2025

ANILPetitioner

Through: Mr. Shakil Sheikh, Adv.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondents

Through: Mr. Raj Kumar Yadav, SPC with Ms. Tripti, Advs. for R-3.

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CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL):

1. The present petition has been filed seeking directions to the respondent nos. 1 to 3 to stop the illegal and unauthorized construction being carried out by respondent nos. 4 and 5 at *H No. 1088-C/1, Near Gurudwara, Mehrauli, New Delhi -110030.*

2. Learned counsel appearing for respondent nos. 1 and 2-Municipal Corporation of Delhi ("MCD"), at the outset, draws the attention of this Court to the Memo of Parties, wherein, the address of the petitioner is *H No. A-354, Kusumpur Pahari, Vasant Vihar, New Delhi -110057.*



3. Attention of this Court has also been drawn to paragraph 6 of the present petition, wherein it is stated as follows:-

“xxx xxx xxx

6. That the petitioner is a peace loving and law abiding citizen and **has been residing at the property i.e. H No A-354, Kusumpur Pahari, Vasant Vihar, New Delhi -110057 which is situated 10 Km away from the respondents and the petitioner used the Gali, while coming and going office, where the aforesaid property in question is situated and the illegal and unauthorized construction are going on therein.** The respondent no4 to 5 have been carrying out unauthorized and illegal construction at H No. 1088-C/1, Near Gurudwara, Mehrauli, New Delhi - 110030 and they succeeded to construct the structure up to 6th floor and planning to construct multi storey building upto 7th floor and have also constructed jetty (chajja) of 4ft width beyond the permissible limit.

xxx xxx xxx”

(Emphasis Supplied)

4. Perusal of the aforesaid paragraph, as well as considering the submission made by learned counsel appearing for the MCD, it is apparent that the petitioner lives 10 kms away from the property *qua* which, the present petition has been filed. The only ground for filing the present petition is that the petitioner uses the same street while coming and going to the office.

5. The present case is clearly an abuse and misuse of the process of law. Filing of such petitions, wherein, the petitioners have no direct interest, is deprecated by Courts. In the present case, it is evident that the petitioner does not have any connection with the property in question and is staying far away from therein. Thus, there is no cause of action in favour of the petitioner to file the present writ petition under Article 226 of the Constitution of India, as no right of the petitioner has been violated, for enforcing which, a writ petition could have been filed.

6. This Court in the case of *Satish Kumar Tomar Versus North Delhi*



Municipal Corporation and Others, 2022 SCC OnLine Del 1383, has held as follows:

“xxx xxx xxx

9. There is no gainsaying that a petition under Article 226 of the Constitution of India lies only for enforcement of a fundamental or legal right.

10. Notably, a Co-ordinate Bench of this Court in *Rajendra Motwani v. MCD* reported as 2017 SCC OnLine Del 11050 has held as follows:—

“10. ...that an illegal construction in itself does not give any legal right to a neighbor. An illegal construction always no doubt gives locus standi to the local municipal authorities to seek removal of the illegal construction, but, a right of a neighbor only arises if the legal rights of light and air or any other legal right is affected by virtue of the illegal construction of the neighbour...”

11. Recently, in *Pawan Kumar Saraswat v. North Delhi Municipal Corporation* reported as 2021 SCC OnLine Del 4530, another Co-ordinate Bench of this Court took note of a petition filed under Article 226 of the Constitution of India, invoking extraordinary jurisdiction of this Court for relief such as the one sought in the present petition. The learned Judge observed as follows:—

“15. Though unauthorized illegal construction, which is becoming rampant, cannot be countenanced however, I am of the view that a party that does not approach the Court with clean hands and files a petition with ulterior motives should not be permitted to invoke the extraordinary Writ jurisdiction of this court. I am of the view that the petition deserves to be dismissed.”

12. In the present case, the petitioner admittedly does not have any connection with the property in question. The petitioner has further failed to show as to which fundamental or legal right of his is being affected by any alleged construction activity carried out in the subject property. It is quite apparent that the present petition has not been filed for enforcement of any fundamental or legal right, but rather for some motivated reasons.

xxx xxx xxx”

(Emphasis Supplied)



7. It is evident that no legal or fundamental right of the petitioner is affected in any manner by any construction activity taking place in a property, which is situated approximately 10 KMs away from the residence of the petitioner. The present petition has clearly been filed for ulterior motives and not for enforcement of any fundamental right of the petitioner. Such a petition cannot be entertained by this Court.

8. This Court is informed that the premises involved in the present petition, are already subject matter of another petition being *W.P.(C) 3610/2025*, titled as “*Dharmender Panwar vs. Municipal Corporation of Delhi & Ors.*”, which is next listed on 29th October 2025. Learned counsel appearing for MCD submits that part action has already been taken *qua* the property in question on 06th May 2025.

9. Considering the aforesaid, the present petition is dismissed with cost of Rs. 50,000/-, payable by the petitioner to Delhi High Court Advocates’ Welfare Trust (‘A/c No. 15530210002995, Bank Name: UCO Bank, Branch Address: Delhi High Court, IFSC: UCBA0001553’), within a period of four weeks from today.

10. The present petition, along with the pending applications, is accordingly disposed of, with the aforesaid directions.

11. List before the Joint Registrar for compliance regarding payment of costs on 18th July, 2025.

MINI PUSHKARNA, J

MAY 29, 2025/neha