



2025:DHC:8891-DB



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

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Judgment reserved on: 26.09.2025

Judgment delivered on: 08.10.2025

+ LPA 607/2025 & CM APPL Nos.61710-11/2025

HANSRAJ GOSWAMI

....Appellant

versus

MUNICIPAL CORPORATION OF DELHI

....Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Rohit Shukla, Mr. Vivek Kumar Gaurav, Mr. Kaushal Raj and Mr. Sunil Prajapati, Advocates

For the Respondent: Ms. Sunieta Ojha, Standing Counsel with Ms. Vasudha Priyansha and Ms. Pragti Bhatia, Advocates for MCD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

1. The present Letters Patent Appeal has been filed challenging the order dated 20.08.2025 passed by this Court in W.P.(C) 1839/2025, titled "*Hansraj Goswami vs. Municipal Corporation of Delhi*", whereby the learned Single Judge dismissed the writ petition without examining the matter on merits, holding that the title of the subject property itself was in dispute.

2. The appellant claims to be the lawful owner of the property earlier owned by Smt. Amrita Devi, bearing Khasra No. 1092, Khatauni No. 369, Khavet No. 199, admeasuring 10 Bigha 04 Biswa, situated at Mauja Patti Bans, Koli Mauja, Aram Bagh, Rani Jhansi Road, Delhi-110055 (hereinafter



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referred to as the “*Subject Property*”).

3. It is the case of the appellant that the erstwhile owner, Smt. Amrita Devi, whose name was reflected in the revenue records of the said property, executed a registered Will dated 03.09.2019 in favour of the appellant. The said Will was registered before the Sub-Registrar-I, Central Delhi, *vide* Registration No. 7667 dated 03.09.2019. It is further stated that Smt. Amrita Devi, being of advanced age, passed away on 04.09.2023.

4. The appellant claims that, by virtue of the aforesaid registered Will, upon the demise of Smt. Amrita Devi, he became the absolute owner of the subject property, there being no other legal heir as Smt. Amrita Devi died issueless.

5. The appellant further states that he preferred a representation dated 14.10.2024 before respondent no.1, Municipal Corporation of Delhi (hereinafter “*MCD*”), seeking mutation of the subject property in his favour. However, no action was taken. Consequently, the appellant filed W.P.(C) No.17134/2024 before this Court, wherein *vide* order dated 11.12.2024, the MCD was directed to decide the appellant’s representation.

6. Pursuant thereto, *vide* notice/letter dated 08.01.2025, MCD imposed a pre-condition of payment of property tax for the last 20 years for effecting mutation of the property in the appellant’s name. Aggrieved by the said notice/letter, the appellant filed the underlying writ petition seeking quashing of the notice/letter dated 08.01.2025 and further praying for a direction to MCD to reassess the property tax due on the subject property and thereafter effect mutation in his favour.

7. The learned Single Judge, however, *vide* order dated 20.08.2025, dismissed the writ petition without entering into the merits of the matter,



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holding that the title of the subject property itself was in dispute. Hence, the present appeal.

8. Mr. Rohit Shukla, learned counsel appearing for the appellant submitted that the entire premise of the impugned judgment dismissing the underlying writ petition is on an erroneous presumption that there are disputed questions of fact as also a cloud over the title of the appellant.

9. Learned counsel submitted that even after filling all the relevant documents including the official death certificate of Lt. Smt. Amrita Devi and the registered Will dated 03.09.2019, the MCD could not have refused to carry out the mutation of the subject property in the name of the appellant. Equally, according to learned counsel, the MCD could not have demanded the property tax dues for the last 20 years from the time the appellant submitted the application for mutation without any justification. He further contended that, purportedly at the behest of someone masquerading as Smt. Amrita Devi as per the letter dated 20.03.2025 received by the MCD, that too during the pendency of the underlying writ petition, the MCD did not have any right or authority to create an ownership or title dispute. He submitted that on the pretext of carrying out inspection of the subject property and merely on the basis of a finding that neither Lt. Smt. Amrita Devi nor the appellant was found in the subject property at the relevant time, the learned Single Judge could not have conclusively recorded that there was a cloud over the title of the appellant. He further argued that when clear title documents are available on the Courts' records, passing a direction for inspection of the subject property as also relying upon a letter of the purported Lt. Smt. Amrita Devi without confirmation as to who the person is, the learned Single Judge could not have created a doubt over the ownership rights of the appellant. He also



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contended that the underlying writ petition was filed seeking a direction to the MCD to mutate the property in the name of the appellant and, therefore, it was not mandated for the learned Single Judge to divert into areas which were not called for. On the aforesaid basis he prays that the present appeal may be allowed in terms of the prayers made. Learned counsel for the appellant relies upon the judgements of the Hon'ble Supreme Court in ***Rajinder Singh vs. State of Jammu and Kashmir & Ors.: (2008) 9 SCC 368*** and ***A.P. Electrical Equipment Corporation vs. Tahsildar & Ors.: 2025 SCC OnLine SC 447***.

10. Ms. Sunieta Ojha, learned counsel appearing for the MCD, objects to the maintainability of the present appeal. She would contend that the issue raised by the appellant appears to be simple yet involves too many disputed questions of facts which cannot be adjudicated either under Article 226 of the Constitution of India, 1950 or in the present appeal. She submitted that the inspection of the subject property was conducted in compliance of the order dated 03.07.2025 of this Court. During such inspection, neither the appellant nor Smt. Amrita Devi were found in the subject property or in possession of the same. In fact, a third party was found in possession. In such circumstances, the authorities could not have mutated the property in favour of the appellant since it appeared to the said authorities that there is some dispute in the ownership or perhaps the title too. According to her, the refusal to mutate the subject property, particularly in view of the inspection report, cannot be found fault with.

11. Having heard learned counsel for the parties and minutely perusing the impugned order, we do not find any merit in the present appeal.

12. It may be true that the appellant is in possession of relevant documents which may, in the ordinary course, be sufficient to effect mutation in his



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name; however, in view of the fact that a letter from a person named Smt. Amrita Devi dated 20.03.2025 and claiming to be alive, appears to be, *prima facie*, sufficient to create doubt in the mind of the competent authority of the MCD. The said letter asserts that a registered GPA as also a registered Will, both dated 18.02.2015, were issued in favour of one Mr. Murari Lal Gupta by Smt. Amrita Devi. Apart from the above, the inspection carried out by the MCD on 11.07.2025 in compliance with the order dated 03.07.2025 of the learned Single Judge also reveals that neither Smt. Amrita Devi nor the appellant were found at the subject premises. That apart, the person who was found in possession also submitted documents including a lease deed of the year 1939 executed by the Chief Commissioner Delhi in favour of Secretary, Shri Sanatan Dharma Sabha, New Delhi for the subject property to the MCD. The official of the MCD who had visited the subject premises also took photographs which have been annexed to the affidavit filed before the learned Single Judge. The photographs clearly indicate, *prima facie*, that an entity other than the appellant or Smt. Amrita Devi is in possession of the subject property.

13. We also find that the learned Single Judge has extracted the relevant portions of the affidavit filed by the MCD after the inspection was conducted alongwith extraction of the relevant photographs of the subject property. It appears to us that the facts revealed in the affidavit alongwith the documents enclosed and the photographs of the subject premises verily propelled the learned Single Judge to conclude that there are disputed questions of fact as also cloud over the title of the appellant. We, too, do not find any reasons to take a divergent view. This is for the reason that on one hand the appellant claims that Smt. Amrita Devi expired on 04.09.2023 and has filed the Death



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Certificate in support thereof, yet, the MCD claims to have received a letter purportedly from Smt. Amrita Devi. This issue itself appears to be sufficient for the MCD to refrain from carrying out mutation. Moreover, not only the inspection report and the photographs reveal that the subject property is in possession of a third party, but the documents like the lease deed of the year 1939 furnished by the said third party, *prima facie*, create a doubt as to who is the true owner of the subject property.

14. Though the appellant claims to be the caretaker of the subject property on the alleged asking of Smt. Amrita Devi, yet, no document worth the name has been placed on record. Admittedly, the appellant is also not in possession of the subject property as revealed by the learned counsel on a query by the Court.

15. Learned counsel also relied upon **Rajinder Singh** (*supra*) to submit that when facts are clear a writ can be entertained and the constitutional court need not enter into larger questions like issue of title etc. He also relied upon **A.P. Electrical Equipment Corporation** (*supra*) to submit that even if there are disputed questions of facts, in cases where the facts which do not require any elaborate evidence to be adduced, High Court in a petition under Article 226 of the Constitution of India, can still decide the case accordingly. The reliance on the judgements is misplaced for the reason that in the present case there appear to be disputed questions of ownership, title and possession which can be ascertained only by a Civil Court after a full-fledged trial involving both oral as well as documentary evidence. A Constitutional Court does not have the wherewithal to appreciate the evidence or adjudicate disputed questions of facts like possession and title.

16. In the aforesaid circumstances, without recording any observation or a



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finding on the truthfulness, authenticity or veracity of any of the documents placed on record in the underlying writ petition by any of the parties, we are of the considered opinion that the facts are highly disputed and hotly contested and as such the impugned judgment rightly relegates the appellant to the appropriate remedies in law.

17. In view of the above, the appeal *sans* merit, is dismissed without any order as to costs. Pending applications, if any, also stand disposed of.

TUSHAR RAO GEDELA, J

DEVENDER KUMAR UPADHYAY, CJ

OCTOBER 08, 2025/rl/aj