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

% *Date of decision: 6th May, 2026*

+ W.P.(C) 6205/2026 & CM APPL. 29929/2026

MALAYA KUMAR CHAND

.....Petitioner

Through: Mr. Aanchal, Advocate.
Mr. Malaya Kumar Chand, petitioner-
in-person.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.....Respondents

Through: Ms. Mehrunisa A Jaitley, Advocate
for R-1.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present writ petition has been filed under Article 227 of the Constitution of India impugning the order dated 17th February, 2026, passed by the Appellate Tribunal, Municipal Corporation of Delhi (hereinafter 'ATMCD'), dismissing the application filed on behalf of the petitioner under Order I Rule 10 of the Civil Procedure Code, 1908 (hereinafter 'CPC'). By way of the said application, the petitioner sought impleadment as a party respondent in the appeal preferred by the private respondents no.2 and 3 against the demolition order passed by the respondent no.1/MCD.

2. Brief facts necessary for deciding the present petition are as follows:

2.1. The petitioner is a resident and owner of two (2) floors of the property bearing no.11/8, *West Patel Nagar, New Delhi* (hereinafter 'subject



- property’).
- 2.2. The petitioner made several complaints to the MCD as well as other authorities regarding the unauthorised construction being carried out by the private respondents no.2 and 3, on the upper floors of the subject property, particularly on the 4th and 5th floors.
 - 2.3. On account of inaction by the MCD, the petitioner had earlier approached this Court by way of W.P.(C) No. 10712/2023. The said writ petition was disposed of by this Court *vide* order dated 17th August, 2023, taking note of the submission on behalf of the MCD that illegal construction has been found on the 5th floor of the said property and recording the statement of the counsel for MCD that the necessary action shall be taken up against the unauthorised construction.
 - 2.4. Pursuant to the aforesaid order, a demolition order was passed by the respondent/MCD on 5th February, 2024, for the construction on the entire 4th floor of the subject property.
 - 2.5. Against the aforesaid demolition order, the private respondents no.2 and 3 filed an appeal, being Appeal No. 209/2024, before the ATMCD. During the pendency of the said appeal, the petitioner herein filed an application for impleadment, which has been dismissed by the impugned order.
 - 2.6. The petitioner also filed Contempt Petition No.792/2024 alleging non-compliance with the earlier order passed by this Court. The said contempt petition was disposed of on 9th April 2025, while directing the MCD to continue monitoring the property and ensure that no further unauthorised construction was carried out.



3. Aggrieved by the aforesaid impugned order, the present petition has been filed.

4. In terms of the impugned order dated 17th February 2026, the ATMCD dismissed the petitioner's application for impleadment while observing that the petitioner could not be treated as an aggrieved person against the demolition action since he was supporting the same. However, liberty was granted to the petitioner to file documents and argue the matter at the final stage. The relevant extract from the said order is set out below:

“6. In view of the same this application is dismissed with liberty to the intervener to file document and argue the matter at the final stage. The application is disposed of.”

5. It is contended on behalf of the petitioner, who appears in person, that the petitioner was a proper and necessary party in the said appeal filed by the private respondents no.2 and 3 before the ATMCD, as the demolition order was passed by MCD pursuant to the writ petition filed by the petitioner, being W.P.(C) 10712/2023.

6. Ms. Mehrunisa Jaitley, counsel appearing on behalf of respondent no.1/MCD, submits that the petitioner is not entitled to impleadment as the *lis* is between the appellants before the ATMCD, *i.e.* the private respondents no.2 and 3 herein, and MCD. She has placed reliance on the order passed by this Court in ***Hardayal Singh Mehta & Anr. v. MCD & Ors.***¹

7. *Per contra*, the petitioner has placed reliance on the judgments of this Court in ***“Meena Sharma v. Seema and Ors.”***² and ***ANZ Grindlays Bank Plc. v. MCD***³, to contend that ‘any person aggrieved’ can prefer an appeal

¹ 1990 SCC OnLine Del 7.

² Judgment dated 28th November, 2019 in CM(M) 589/2017 and CM APPL.20235/2017.

³ 1995 SCC OnLine Del 376.



under Section 343(2) of the Delhi Municipal Corporation Act, 1957 (hereinafter 'DMC Act'), as also under Section 347B of the said Act.

8. In *Hardayal Singh* (supra), it was held that the proceedings under Section 343 of the DMC Act are not adversarial proceedings between the complainant and the owner/occupier of the property, but between the MCD and the person against whom demolition action is initiated. Paragraphs 25 and 27 of the said judgment are set out below:-

“25. There is yet another way to test the argument of Mr. Sabharwal in the context of the scheme of the provisions made in Ss. 343, 347-C and 347-D of the Act. The Commissioner has the power under sub-sec. (1) of S. 343 to make an order directing that any unauthorised erection or work shall be demolished by the person at whose instance it has been commenced or has been carried on or has been completed. The proviso prohibits the making of an order of demolition unless the concerned person has been given a reasonable opportunity of showing cause why such order shall not be made. The unauthorised construction could be detected by the officers or servants of the Corporation or an information in respect of the same could be given to the Commissioner by anyone else. Irrespective of the source of the information, the exercise of power by the Commissioner must be based upon the material on record and the concerned person must have a reasonable opportunity to controvert the same. This is the first stage, and this is also the foundation on which the subsequent proceedings would rest. At this stage itself, a question must be asked whether a person, like respondent No. 4, has a right to participate in the proceedings. Even if it be assumed, for the sake of discussion, that the Commissioner may have initiated action under sub-sec. (1) on the basis of some information or material furnished by such a person; yet, the proceedings before the Commissioner would not partake the character of a dispute or a contest between the informant and the concerned person. As discussed earlier, in the event of exercise of power by the Commissioner under sub-section (1) of Section 343, the contest would still be between the Commissioner proposing to do the act, namely, to make the order of demolition, and the concerned person opposing it. The determination of the matter by the Commissioner is a quasi-judicial act. The Commissioner, after considering the cause shown



by the concerned person, may think it fit to drop the notice or he may proceed to make an order directing that the unauthorised construction shall be demolished. If the Commissioner decides to drop the proceedings, that would be the end of the matter. In such a case, the person on whose information the Commissioner may have initiated the action has not been given a right to appeal against the decision of the Commissioner. **The reason for it is, as earlier mentioned, that the proceedings under Section 343(1) are not adversary proceedings and there cannot be a rival party to the proceedings other than the Commissioner. Therefore, the person who may have given information or supplied material to the Commissioner which may be relevant for the purposes of an action under sub-section (1) of Section 343, would not be the person aggrieved by the decision or the order of the Commissioner refusing to proceed in the matter.** On the other hand, when the Commissioner makes an order of demolition, sub-section (1) of Section 343 enjoins upon the Commissioner a duty to deliver to the concerned person the order of demolition with a brief statement of the reasons therefor. This provision has been made to enable the concerned person to prefer an appeal against the order of demolition. Sub-section (2) of Section 343 gives a right to the “person aggrieved” by the order of the Commissioner to prefer an appeal to the Tribunal. **It is obvious that the person aggrieved will be only he whose building is sought to be demolished and not any other person who may be interested, for whatever reasons, to get the building demolished.**

27. The pertinent question is: who are the parties to the appeal? The answer is simple and there can be no doubt about it. **The appeal is preferred by the aggrieved person who would be the appellant. The grievance in the appeal would be against the demolition order made by the Commissioner. So, the Commissioner, who is an Authority under the Corporation, would be called upon to defend the order in appeal. Thus, the Corporation and the Commissioner would be the respondents in the appeal. Any other person, like respondent No. 4, who may have furnished any information or material to the Commissioner for initiating action for demolition could be only a witness or the source from which relevant material or information could be obtained in the appeal also because it is merely a continuation of the proceedings under Section 343. The Tribunal may, in the exercise of its power under Rule 14(4) direct such a person to produce any document or it may even direct the examination of such a person as a witness, to enable the Tribunal to dispose of the appeal. But, this would not justify**



the addition of such a person as a party to the appeal. Only a person who has an interest in the subject matter of the appeal can be a party. Since such a person, as already discussed, has no interest in the order made by the Commissioner refusing to demolish or directing demolition of the building he cannot claim any interest in the decision of the appeal either.”

[Emphasis Supplied]

9. The judgment in **Meena Sharma** (supra) was noted by the ATMCD in the impugned order, and the same has been distinguished in the following manner:-

“4. Now coming to the facts of the case of **Meena Sharma** (Supra). In that case the Hon’ble High Court was pleased to note that while disposing of application seeking revival of contempt petition, the Hon’ble High Court vide order passed on 18.12.2015 noted that the petitioner therein is necessary and proper party. In view of that observations the Hon’ble High Court permitted the impleadment of **Meena Sharma**. Further it was noted that the regularization application of the respondent therein be disposed of within 15 days and petitioner be intimated in writing. This was also a reason for impleading **Meena Sharma** as respondent. The intervener admittedly is not an aggrieved person against the impugned demolition order as he is supporting that order and does not fall in the category of aggrieved person as defined in the case of **ANZ Grindlays Bank Vs The Commissioner MCD 1995 II AD Delhi 573**.

5. The facts herein are totally different. The Hon’ble High Court never observed that the intervener is necessary and proper party. The Hon’ble High Court never observed that the intervener shall be informed about the decision in writing. The intervener can assist this court through arguments and documents as permitted by the judgment passed in **Hardayal Singh Mehta** (Supra).”

10. The impugned order has correctly distinguished the case of **Meena Sharma** (supra) from the present case. In the said case, while disposing of the petition filed by the petitioner therein, the Court had clearly noted that the petitioner was a necessary and proper party to the proceedings pending before the ATMCD and had further directed that the order passed by MCD on the regularisation application be supplied to the petitioner. Accordingly,



the Court directed impleadment of the petitioner therein. However, in the present case, no such observation or direction was issued by this Court in its order dated 17th August, 2023, passed in the petitioner's writ petition, being W.P.(C) No. 10712/2023.

11. The judgment of this Court in *Grindlays Bank* (supra) is also distinguishable from the present case. The said judgment interprets the expression 'person aggrieved' in a broader sense and does not deal with the issue of impleadment of a complainant in demolition proceedings under Section 343 of the DMC Act. In the said judgment, the Court held that although a tenant or third party may not be entitled to notice under Sections 343/344 of the DMC Act, such a person may still qualify as a "person aggrieved" if the demolition order directly affects his possessory or proprietary interest in the premises. Thus, a tenant in occupation, whose use and enjoyment of the premises would be prejudicially affected by demolition, was held entitled to maintain an appeal. In the present case, however, the petitioner is neither a tenant nor an occupier against whom demolition action has been initiated. Rather, the petitioner is supporting the demolition action. Therefore, he cannot be said to be an "aggrieved person" in the context contemplated under Section 343(2) of the DMC Act.

12. In my view, the present case is squarely governed by the judgment in *Hardayal Singh* (supra). Merely on account of furnishing information regarding unauthorised construction, the petitioner does not acquire the status of an "aggrieved person" or a necessary/proper party in the appeal. The interest of the petitioner has been adequately protected by the ATMCD in the impugned order by granting him liberty to file documents and argue the matter at the final stage.



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13. Accordingly, no grounds for interference with the impugned order are made out under Article 227 of the Constitution of India and the writ petition is dismissed.

14. Pending application stands disposed of.

MAY 6, 2026

Vivek/-

AMIT BANSAL, J