

(2025) 11 DEL CK 1836

In the Delhi High Court

Case No : Writ Petition (C) No. 12677 Of 2025 & Civil Miscellaneous Application
No. 51717 Of 2025

Rajesh

APPELLANT

Vs

Municipal Corporation Of Delhi And Ors

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Delhi Municipal Corporation Act, 1957 — Section 349

Citation : (2025) 11 DEL CK 1836

Hon'ble Judges : Mini Pushkarna, J

Bench : Single Bench

Advocate : Shivani Verma, Prem Shankar Jha, Piyush Singh, Arthana Brahma, Kamlesh Kr. Mishra, Dushyant Yadav, Pankaj Kumar Yadav, Ravinder Kumar, Vipul Garg, Gulshan Kr. Maurya, Adarsh

Final Decision : Disposed Of

Judgement

Mini Pushkarna, J

1. A Status Report dated 02nd November, 2025 has been filed on behalf of the Municipal Corporation of Delhi ("MCD"), which reads as under:

"xxx xxx xxx

"

2. Perusal of the aforesaid Status Report shows that the property of the petitioner also stands booked, along with the property of respondent no. 3.

3. As per the Status Report of MCD, demolition action on the property of the petitioner, as well as respondent no. 3, has been fixed for 19th

4. At this stage, learned counsel appearing for respondent no. 3 has handed over a copy of the order dated 28th March, 2023 passed in W.P.(C) 10710/2019, titled as "Deepak Kumar Versus North Delhi Municipal Corporation & Anr.", and relies upon the Status Report filed on behalf of MCD in the said order.

5. By referring to the same, learned counsel appearing for respondent no. 3 submits that the subject matter of the said writ petition was property No. 2835, Gali Rajputana Wali, Old Subzi Mandi, Delhi, which was stated to be protected under the NCT of Delhi Laws (Special Provisions) Second Act, 2011 ("Delhi Special Laws 2011"), by the MCD in its Status Report filed in the said petition. He further submits that in the present case, the property of the respondent no. 3 being property No. 2837 and 2839, Gali Rajputana Wali, Old Subzi Mandi, Delhi, is also protected under the Delhi Special Laws 2011.

6. Para 3 of the aforesaid order dated 28th March, 2023, passed in W.P. (C) 10710/2019, reads as under:

"xxx xxx xxx

3. A Status Report on behalf of MCD has been handed over in Court today which is taken on record. The same reads as under:-

"4. That this report is being filed in compliance of directions of Hon'ble High Court dt. 20.03.2023 vide which Hon'ble court has directed at point no.3 that "In so far as unauthorized construction in the subject property is concerned, learned counsel for MCD submits that the Status Report would be placed on record within one week from today". In this regard, the property wise detail are as:-

Property No.2835, Gali Rajputana Wali, Old Subzi Mandi Delhi.

a) That as per record, the property in question i.e. 2835, Gali Rajputana Wali, Old Subzi Mandi, Delhi was inspected by the field staff on 10.10.19. During the inspection it was noticed that unauthorized construction in the shape of entire first floor, second floor, third floor & projection on Govt. land have been raised by the owner/occupier. Accordingly, action u/s 343/344 of the DMC Act has been initiated and the said unauthorized construction has been booked vide file No. 187/C-13/B1/UC/CLZ/2019 dated 10.10.19 and after following due process of law including grant of personal hearing the speaking order had been passed on dated 30.01.2020 vide which unauthorized construction upto second floor has been protected under Delhi Laws (Special Provision Act) 2011. The copy of speaking order dated 30.01.2020 is annexed herewith and marked as Annexure "A".

That demolition action against unauthorized construction had been attempted on 12.02.2020, 13.03.2023, but action could not be taken due to non-availability of police force and property found occupied, hence vacation notice under section. 349 of DMC Act has been issued to owner/occupier with direction to vacate the property within stipulated time and a copy of same has been forwarded to SHO PS Subzi Mandi with request to get the premises vacated if the same is not vacated by the owner within stipulated time The copy of vacation notice is annexed herewith and marked as "Annexure B" Further action shall be taken after following due process of law.

Property no. 2837 & 2839, Gali Rajputana Wali, Old Subzi Mandi Delhi.

b) It is further submitted that as per record the petitioner's property bearing no. 2837 & 2839, Gali Rajputana Wali, Old Subzi Mandi, Delhi was also inspected by the field staff as the some portion of balcony of respondent/Rajesh was found overlapping on petitioner property. During the inspection it was noticed that unauthorized construction in the shape of entire ground floor, first floor & second floor have been raised by him. Accordingly, action u/s 343/344 of the DMC Act has been initiated and the said unauthorized construction has been booked vide file No. 188/C-13/B-1/UC/CLZ/2019 dated 10.10.19 and after due process of law including grant of personal hearing demolition order had been passed on dated 05.12.2019. The copy of demolition order is annexed herewith and marked as "Annexure C".

That demolition action against unauthorized construction had been attempted on 12.02.2020, 22.09.2020 & 13.03.2023 but action could not be taken due to non-availability of police force and also the property being occupied, hence vacation notice under section 349 of DMC Act was issued to owner/occupier with direction to vacate the property and a copy of same has been forwarded to SHO PS Subzi Mandi with request to get the property vacated if the same is not vacated by the owner within stipulated time. The copy of vacation notice is annexed herewith and marked "Annexure D" Further action shall be taken after following due process of law."

xxx xxx xxx"

7. Perusal of the aforesaid Status Report shows that as regards the properties, which were subject matter of the aforesaid writ petition, which exist in the vicinity of the properties that are subject matter of the present writ petition, it was the clear stand of the MCD that the said properties were protected under the Delhi Special Laws 2011. This Court notes the submission made by learned counsel appearing for respondent no. 3 that the properties owned by respondent no. 3 are also entitled to protection under the Delhi Special Laws 2011.

8. Considering the submissions made before this Court, liberty is granted to respondent no. 3 to make a representation to the MCD in regard to seeking protection under the Delhi Special Laws 2011.

9. The MCD shall consider the representation of respondent no. 3 and make an assessment as to whether the property of respondent no. 3 is also entitled for the protection under the aforesaid Delhi Special Laws, 2011.

10. The MCD will take action against the properties, which are subject matter of the present writ petition after deciding the representation filed on behalf of respondent no. 3.

11. Accordingly, let representation be made by respondent no. 3, within a period of two weeks from today.

12. Upon the respondent no. 3 filing a representation with the MCD, the same shall be decided, expeditiously, preferably, within a period of six weeks, from

receipt of the representation from respondent no. 3.

13. It is directed that no coercive action shall be taken by the MCD against the properties, which are subject matter of the present writ petition, till the representation of respondent no. 3 is decided.

14. The MCD shall also consider whether protection of the aforesaid Delhi Special Laws 2011, is also to be extended to the property of the petitioner.

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