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Date: 28/10/2025

Friends of Rajouri Garden Environment (Regd.) Vs M.C.D. and Others

Writ Petition (Civil) No. 9315 of 2009

Court: Delhi High Court

Date of Decision: May 25, 2011

Hon'ble Judges: Dipak Misra, C.J; Sanjiv Khanna, J

Bench: Division Bench

Advocate: Rohan Tiwari and Shashi Shekhar, for the Appellant; Meera Bhatia, ASC for State, Kaushik Gole, R.V. Singh, I.O. Insp., Darpan Wadhwa and Sheena Iype, for the Respondent

Judgement

Sanjiv Khanna, J.
This Public Interest Litigation-writ petition was filed in the year 2009, seeking demolition of unauthorised construction

on Major Sudesh Kumar Road, Ring Road and Maharishi Dayanand Marg, Rajouri Garden, New Delhi. It is also alleged that there has been a

deviation/excess coverage resulting in unauthorised construction. Violation of the terms of the lease and misuse is also alleged.

2. On 22nd July, 2009, learned Counsel for the MCD had stated that action would be taken against all unauthorized constructions and the same

would be demolished within three months. A Survey carried out by the MCD was directed to be filed in the Court.

3. In the next order dated 29th July, 2009, it is recorded that Respondent MCD should take action against the properties mentioned in the

annexure to the status report as per the Delhi Municipal Corporation Act, 1957 within a period of four months. An undertaking was given to the

same effect before the Court and was accepted.

4. By order dated 2nd December, 2009, the Registrar General of this Court was directed to nominate a senior officer to visit and inspect the area

and to file a report as a Local Commissioner on the aspect of unauthorised construction and change of user.

5. The Local Commissioner submitted his report dated 6th January, 2010. He had inspected 40 properties as mentioned in the order dated 24th

February, 2010. In this order, it is recorded that there was variance in the report of the Local Commissioner and the Action Taken Report filed by

the MCD. The order records that the Action Taken Report was misleading and, therefore, action should be taken by the MCD to implement the

Local Commissioner''s report. Action should also be taken against the person who filed the Action Taken Report on 4th November, 2009.

6. The order sheets, thereafter, reveal that from time to time the MCD has been filing Action Taken Reports with regard to the said properties. The

last order dated 2nd February, 2011, records that out of 40 properties, construction in one property has been regularized and in respect of nine

properties, demolition qua unauthorised portion had been undertaken. With regard to the balance 30 properties, it was submitted that unauthorised

portions in part had been demolished. Further time of 2 months was pleaded and granted to complete the demolition in these properties.

7. It is clear from the aforesaid that there is a list of 40 properties in which there was unauthorised construction, as reported by the Local

Commissioner in his report dated 6th January, 2010. Details of the properties are mentioned in the order dated 24th February, 2010. More than

one year has elapsed since then. Under these circumstances, it is directed that the Respondent MCD will carry out demolition of unauthorised

construction in the aforesaid 39 properties as mandated and required by law, if not already undertaken, within a period of 6 months. The

Respondent/MCD will form a Task Force for the said purpose. The said Task Force will mention the details of unauthorised construction in each

of the 39 properties; whether any of the said portion is compoundable; whether owner/ occupant has applied for compounding and paid the

compounding fee, if so, on which date; whether the compounding application has been allowed. The Task Force will also examine whether even

after compounding, there exists any unauthorised construction. Such unauthorised construction will be demolished. Similarly, in case the

occupants/owners do not apply for compounding, or meet and satisfy the requirement of compounding, the unauthorised construction will be

demolished. Photographs of the properties along with the site plan will be taken/prepared and kept on record.

8. During the course of hearing today, learned Counsel for the Petitioner has submitted that the service lane is blocked by the shop keepers due to

encroachment and unauthorised and illegal parking of cars. The said aspect will be examined by the traffic authorities and they shall take

appropriate action as may be required in this regard.

9. With the aforesaid directions, the writ petition is disposed of. Liberty is, however, granted to the Petitioner to approach this Court in case the

Respondent does not take action inspite of directions given above. The MCD will file a status report in this Court on or before 31st December,

2011 clearly indicating that whether or not they have complied with the above directions/order. In case there is any default in filing the status

report, the matter will be listed before the Court.