

18.08.2026

Present : Sh. Purshkar Arya, Ld. counsel for plaintiff with plaintiff.
Sh. Hitesh Dabas, Ld. counsel for defendants no. 1 and 2 with
defendants no. 1 and 2.
Ms. Vasu Singh, Ld. counsel for defendant no. 4/MCD.
ASI Devinder Kumar from PS Kanjhawala is also present.

1. Fresh vakalatnama is filed on behalf of plaintiff. It shall be taken on record.
2. In the present suit, the plaintiff has complained of unauthorized and illegal construction being raised in the suit property. Directions of removal of the said construction have been prayed for in the suit. By an application for interim relief, the plaintiff sought to restrain the defendant no. 1 and his agents from raising further illegal construction. The defendant no. 1, on the other hand, stated that it is the plaintiff who is carrying out illegal construction and he must be restrained. He too filed an application for restraining the plaintiff from carrying out the said construction. The court, by order dated 19.07.2022 passed by my Ld. Predecessor, called for a status report from MCD.
3. On 08.07.2024, MCD stated before the court that the entire structure that has come up on the suit property is unauthorized and illegal, and that no plan was got sanctioned in respect of the said construction.

MCD later stated before the court that they have booked the property for the said unauthorized construction. However, no definite statement was made as to whether any order of demolition has been passed and whether such an order has been carried into effect. When the court, on 06.07.2026, inquired into this, a statement was made on behalf of MCD that demolition action did not take place on 18.02.2026 and on 06.04.2026 because on those scheduled dates, police force was not provided despite request of MCD.

4. In the case of Kaniz Ahmed Vs. Sabuddin & Ors. 2025 INSC 610, the Hon'ble Supreme Court observed as follows:

“4. We admire the courage and conviction with which the High Court has proceeded to take care of unauthorised construction in exercise of its jurisdiction in public interest.

5. In one of our recent pronouncements, in the case of Rajendra Kumar Barjatya and Another v. U.P. Avas Evam Vikas Parishad and Others reported in 2024 INSC 990, we have made ourselves very explicitly clear that each and every construction must be made scrupulously following and strictly adhering to the rules and regulations. In the event of any violation, being brought to the notice of the courts, the same should be dealt with iron hands and any leniency or mercy shown to the

person guilty of unauthorised construction would amount to showing misplaced sympathy. In our decision referred to above, we have issued the following directions:

“(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the

authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories

in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including

the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in

addition to the prosecution under the respective laws.”

6. The learned counsel appearing for the petitioner would submit that her client be given one chance to pray for regularisation of the unauthorised construction. We do not find any merit in such submission. A person who has no regards for the law cannot be permitted to pray for regularisation after putting up unauthorised construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorized Development Act based on payment of impact fees.

7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a

firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society.[See: Ashok Malhotra v. Municipal Corporation of Delhi, W.P. (c) No. 10233 of 2024 (Delhi High Court)]

8. The Special Leave Petitions stand dismissed.

9. Pending applications, if any, shall also stand disposed of.

10. Registry is directed to circulate one copy each of this order to all the High Courts.”

5. It was thus held that if the Municipal Corporation seeks assistance of the police, the police authorities are bound to provide force. Failure to do so would amount to contempt of court. It is the duty of this court to inform the Hon'ble Court wherever breach of directions passed by it comes to its notice.

6. The police has filed its report before this court. It is mentioned in the said report that police aid could not be provided on 18.02.2026 because there was shortage of staff on account of an AI Summit. In order to evaluate the correctness of the plea, it is directed that the SHO of PS Kanjhawala shall submit his report before this court disclosing as to how many police officers were posted in the police station on 18.02.2026, how many of them were deployed in the arrangement for the AI Summit, how many were available for police station duties, and how they were deployed.
7. Regarding 06.04.2026, according to the report of SHO, PS Kanjhawala, adequate police force had been provided to MCD. Despite this, MCD did not carry out the order of demolition.
8. From the report of the SHO of PS Kanjhawala, it appears that MCD may have taken a false statement before this court that police force had not been provided, possibly in order to cover up its failure to carry out demolition on the scheduled date.
9. Ld. counsel for MCD submits that she had made the said submission on the instructions of MCD officers.
10. Let notice be issued to Commissioner, MCD to explain whether police force had been sought for 06.04.2026, and if so, how it was requested,

whether force had been provided to MCD, whether a false statement was made before this court about police force not having been provided, and whether the making of the said statement had the approval of the Commissioner.

11. On 06.07.2026, MCD had undertaken to file copies of letters written by MCD by which police force had been requested and the communication whereby police force had been declined to be provided. The said documents have not been filed by MCD. Let the documents be filed by the next date.

12. Copy of this order be sent to the SHO of PS Kanjhawala and to the Commissioner of MCD for compliance.

Renotify on 02.09.2026.

(Ashish Aggarwal)
District Judge-III
North-West District,
Rohini Courts, Delhi
18.08.2026