

29.04.2026

Present: Ms. Chandni, Ld. counsel for plaintiff with plaintiff.

The case is passed over to be called out again at 11.00 a.m. to enable Ld. counsel for defendants to appear.

(Ashish Aggarwal)
District Judge-III
North-West District,
Rohini Courts, Delhi
29.04.2026

At 11.00 am

Present : Ms. Chandni, Ld. counsel for plaintiff with plaintiff.
Mr. Ashok Kumar, contractor/defendant no.2 in person.
Ms. Manya Batra, Ld. counsel for defendant no. 3/MCD.
Sh. Rajesh, MTS from MCD.

Mr. Ashok Kumar, contractor/defendant no.2 states that he had raised construction and had constructed the entire building at G-98, J.J. Colony, Mangolpuri, Delhi between April 2025 and October 2025. He further submits that the entire building has been constructed during the last six months and he did not get any plan sanctioned from M.C.D. He further submits that he carried the said construction as contractor and there was no requirement of getting any plan sanctioned because it was a J.J. Colony and the construction was raised on a plot of 22½ square yards and he constructed five floors.

Statement of Mr. Ashok Kumar, contractor/defendant no.2 is recorded separately.

Ld counsel for plaintiff submits that there is not only unauthorised construction but also encroachment at the site in as much as the defendant no. 1 has, through defendant no. 2 contractor, has raised construction in excess of the area owned by him.

It is appropriate to reproduce the status report submitted before this court by MCD. The status report reads as under:

“Status Report on behalf of the Municipal Corporation of Delhi (MCD)

1. That the present matter is pending adjudication before this Hon’ble Court and the next date of hearing is 29.04.2026.
2. That vide order dated 20.04.2026, this Hon’ble Court directed that a status report be filed on behalf of MCD before the next date of hearing i.e., 29.04.2026.
3. That the property bearing no. G-98, Mangolpuri, Delhi-110093 was inspected by the JE (B)/RZ on 29.04.2026. During the said inspection and it has been found that the property is occupied and there is no ongoing construction nor any building material stacked at the site.
4. That photographs taken during inspection dated 29.04.2026 are annexed herewith as Annexure-A.

Report is submitted please.

-Sd-
(Subhit Kumar)
Assistant Engineer (Bldg.)
Rohini Zone, MCD

-Sd-
(Amit Gangwar)
Assistant Engineer (Bldg.)
Rohini Zone, MCD”

The falsehood in the stand taken in the status report of MCD is exposed by the admission made by defendant no. 2 before this court that the entire structure comprising five floors was constructed between April 2025 and October 2025 without obtaining sanction of building plan from MCD. The status report filed before this court merely states that upon inspection conducted on 29.04.2026, no ongoing construction activity was found at the site. The report does not disclose whether any action was taken when the construction was in progress.

Annexed to the suit is copy of a complaint made to MCD regarding unauthorised construction. The complaint was received in the office of MCD on 03.10.2025.

The Municipal Authorities are under a statutory obligation to monitor and to prevent unauthorised construction within their jurisdiction.

The statement of defendant no.2 unequivocally establishes that a five-storeyed structure was raised between April 2025 and October 2025 without sanction of any building plan.

Unauthorized constructions of such magnitude do not come up overnight. A five-storeyed structure raised over several months could not ordinarily have escaped the notice of the field staff entrusted with supervision of the area.

The silence of the status report on these aspects is conspicuous. The status report appears carefully worded to avoid addressing the relevant issue, namely whether unauthorized construction was permitted to come up unchecked during the relevant period.

If there had been no complaint made to MCD by the plaintiff, this court might have presumed that inaction of MCD may have been a result of dereliction of duties where the supervising engineers may not have been performing their duties and their superiors may have also remained negligent. Here, the complaint dated 03.10.2025 placed on record shows that information regarding the ongoing construction had already reached MCD while the work was in progress. Yet, neither the concerned engineers took any action, nor their superiors asked them to perform their duties, which shows that officers of MCD may have been in active collusion with the owner or the contractor. The status report filed before this Court is conspicuously silent as to whether any booking, sealing, demolition or preventive action was initiated during the relevant period.

The status report appears carefully confined to the assertion that no construction activity was found during inspection conducted in April 2026, after the structure had admittedly already come into existence. The Court is therefore constrained to observe that the report is a mere eye wash. The circumstances noted above raise serious concerns regarding the manner in which the unauthorised construction was allowed to reach completion.

Municipal administration cannot be compartmentalized in a manner that permits responsibility to disappear between departments or officers. The Corporation, as a statutory body, is accountable for the acts and omissions of its functionaries.

Accordingly, it is directed that the Commissioner, MCD shall file an affidavit explaining:

- (i) the action taken on the complaint dated 03.10.2025;
- (ii) whether inspections were conducted during the relevant period;

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- (iii) the officers responsible for supervision of the area; and
- (iv) the circumstances in which the present status report came to be filed.

The Commissioner, MCD shall also examine lapses attributable to the concerned engineers and supervising Deputy Commissioners and take appropriate action in accordance with law, if warranted.

The aforesaid directions have been passed in light of the decisions of Hon'ble High Court of Delhi in the case of Smriti Bhatia vs Municipal Corporation of Delhi & Ors. W.P.(C) 3759/2024 decided on 9 August, 2024 and other similar decisions where a duty has been cast upon MCD to identify erring officers and to initiate departmental action where unauthorized construction has been found to have continued.

Copy of this order, copy of status report, copy of complaint made by plaintiff to MCD and copy of the statement of defendant no. 2 shall be sent to the Commissioner, MCD for compliance.

List on 15.05.2026.

(Ashish Aggarwal)
District Judge-III
North-West District,
Rohini Courts, Delhi
29.04.2026