

MCD APPL 14/23

**MST. JUBEDA BEGUM Vs. MUNICIPAL CORPORATION
OF DELHI**

09.06.2025

Present : Sh. Danish son of the appellant with Ld. counsel
Sh. Vineet Jain.
Sh. Ashutosh Gupta, Ld. counsel for respondent /
MCD alongwith Sh. N. K. Meena, LO, Sh. Sanjay
Gupta, ALO and Sh. R. K. Garg, AE (Building).
Applicant with Ld. counsel Sh. Javed Khan.

On 05.06.2025 report was filed by the Deputy
Commissioner (City) SP Zone.

Ld. counsel for the respondent showed noting in the
file addressing concern of the Court that all the orders of the
Court and the proceedings were put before the Worthy
Commissioner MCD.

Ld. counsel for the appellant seeks adjournment on
personal grounds stating that he is not feeling well.

Heard arguments on the application under Order I
Rule 10 CPC filed by the applicant.

Put up for orders at 4.00 pm.

(SANJAY GARG-I)
Principal District & Sessions Judge (Central)
Delhi/09.06.2025(D)

At 4.10 pm

ORDER-

1. Vide this order, I shall dispose of the application moved on

behalf of Mohd. Tariq, s/o Late Modh. Arfin under Order I rule 10 r/w Sec. 151 CPC requesting to implead the applicant Mohd. Tariq as respondent no.2 in the array of parties.

2. Heard arguments of Sh. Javed Khan, Ld. Counsel for the applicant and Sh. Vineet Jain, Ld. Counsel for the appellant/non applicant.
3. Ld. Counsel for the applicant Sh. Javed Khan has submitted that the first floor of the property bearing no.7917-7918, Gali Karamatullah, Mohalla Shekhan, Bara Hindu Rao, Delhi-06 (hereinafter referred to as 'subject property') was purchased by Mohd. Arfin who was father of the applicant vide registered sale deed dated 09.11.2000 and after his death, the applicant became one of the co-owners of the said property along with the appellant. He submitted that applicant had filed a suit for permanent and mandatory injunction against his brothers which is now pending before Ld. ASCJ-cum-ARC-cum-CJ, Central and in the said suit MCD had filed its written statement and status report stating that other sons of appellant has raised unauthorized construction in the subject property and show cause notice u/s 344/348 DMC Act had been issued. In view of the said status report filed by MCD, Ld. SCJ vide order dated 06.03.2017 had restrained the sons of the appellant from raising any unauthorized construction in the subject property. Thereafter, appellant had challenged the demolition order which was set aside with direction to the appellant to appear before Quasi-Judicial authority and he

was provided an opportunity to file additional reply. Appellant had appeared before Quasi Judicial authority and again MCD passed demolition order dated 26.07.2022. Against said order appellant filed an appeal before ATMCD, which was dismissed vide order dated 12.12.2022. Appellant had preferred the present appeal against the said order. It is stated that as per sale deed dated 09.11.2000 executed by Sh. Parvez Akhtar in favour of Mohd. Arfin, the first floor of the property is an open area and construction of two rooms were done in 2017. It is stated that the applicant also filed a writ petition in the Hon'ble High Court of Delhi bearing WP(C) No. 12162/2022. Thereafter, appellant filed contempt petition bearing CCP No.642/2023 wherein MCD filed its status report wherein they stated that construction so raised on the first floor is illegal and unauthorized and they are bound to demolish the same. It is stated that appellant herein is not the sole owner of the suit property as applicant is one of the co-owner, hence liable to be heard having interest in the subject property. In support of his submissions he has relied upon **Hardayal Singh Mehta & Anr. Vs. M.C.D. & Ors.: AIR 1990 DELHI 170.**

4. On the other hand, Ld. Counsel for the appellant has opposed the application by submitting that the applicant cannot be added as a respondent at the stage of second appeal. Ld. Counsel has further submitted that the judgment relied upon by the applicant itself provides that this court has no power to add the applicant as a

respondent in this appeal and prayed orally to dismiss the application.

5. As is evident, as claimed by the applicant, he is one of the co-owner of the subject property. The same has not been denied by the appellant anywhere. It is also clearly evident that this applicant and the appellant are not having harmonious relations and there seems to be dispute between them regarding the subject property. In view of this Court, in MCD matters, like the present one, contest is between the property (through its owners) and MCD. The purpose of trial or appeal is quest for truth. It is relevant to mention here that this Court in this appeal is not deciding or even touching the issue regarding ownership or inheritance of the subject property.
6. Ld. Counsel for the appellant has urged that this applicant was not a party before Ld. ATMCD, hence he cannot be allowed to join the proceedings here. As already discussed, the applicant seems to be stake holder in the subject property and there seems to be no harm or prejudice to either of the party in this appeal, if applicant is allowed to present his views/submissions in this appeal.
7. In view of these facts and circumstances, since applicant was not party before ATMCD, he is not required to be impleaded as respondent here. However, as discussed in the above para, he being stake holder in the subject property, he is allowed to make submissions at the stage of final disposal of the appeal. Accordingly, this application stands disposed.

8. Put up for arguments on appeal on **11.07.2025**.

9. *Interim order to continue till NDOH.*

(SANJAY GARG-I)
Principal District & Sessions Judge (Central)
Delhi/09.06.2025_(D)