

16.05.2026

Present : Ms. Chandani, Ld. Counsel for plaintiff.
Ms. Vasu Singh, Ld. Counsel for MCD/defendant no.3.

1. Pursuant to the directions issued by this Court by order dated 29.04.2026, an affidavit has been filed on behalf of the Municipal Corporation of Delhi (MCD), sworn by Additional Commissioner (Engg.), MCD.
2. The present suit has been filed complaining of illegal construction allegedly carried out by defendant nos. 1 and 2. It is stated in the plaint that the said construction has been done in collusion with officers of MCD, local administration and police officers.
3. It is stated in the affidavit of MCD that a building exists at the site. It is further stated in the affidavit that there is no sanctioned building plan in the records of the MCD. How and when the said building came into existence, has not been commented upon. In fact, MCD does not even find this to be worthy of its attention. When a status report was called for, MCD reported no illegality in

the raising of the said structure without getting any building plan sanctioned. The status report simply stated that there is no construction which is ongoing and that the property has already been occupied. This court then had to invite the attention of the Commissioner of MCD towards the misleading report, which had suppressed crucial facts. Thereupon, some officer to whom the Commissioner delegated the task of examining the issue, reported, through the instant affidavit, that there are some deviations in the building, again suppressing the fact the entire building was raised without any sanctioned plan and is, therefore, illegal.

4. In the case of Supertech Limited vs. Eneald Court Owner Resident Welfare Association and others Civil Appeal No. 5041 of 2021 decided on 31 August, 2021, the Hon'ble Supreme Court noted as under:

"The rampant increase in unauthorized constructions across urban areas, particularly in metropolitan cities where soaring values of land place a premium on dubious dealings has been noticed in several decisions of this Court. This state of affairs has often come to pass in no small a measure because of the collusion between developers and planning authorities.

147. From commencement to completion, the process of construction by developers is regulated within the framework of law. The regulatory framework encompasses all stages of construction, including allocation of land, sanctioning of the plan for construction, regulation of the structural integrity of the structures under construction, obtaining clearances from different departments (fire, garden, sewage, etc.), and the issuance of occupation and completion certificates. While the availability of housing stock, especially in metropolitan cities, is necessary to accommodate the constant influx of people, it has to be balanced with two crucial considerations – the protection of the environment and the well-being and safety of those who occupy these constructions. The regulation of the entire process is intended to ensure that constructions which will have a severe negative environmental impact are not sanctioned. Hence, when these regulations are brazenly violated by developers, more often than not with the connivance of regulatory authorities, it strikes at the very core of urban planning, thereby directly resulting in an increased harm to the environment and a dilution of safety standards.

Hence, illegal construction has to be dealt with strictly to ensure compliance with the rule of law.

148. The judgments of this Court spanning the last four decades emphasize the duty of planning bodies, while sanctioning building plans and enforcing building regulations and bye-laws to conform to the norms by which they are governed. A breach by the planning authority of its obligation to ensure compliance with building regulations is actionable at the instance of residents whose rights are infringed by the violation of law.”

5. The contents of the affidavit of MCD appear to be designed to shield erring officials, which is apparent from the fact that in paragraphs 5 and 6 of the affidavit, the MCD has taken a stand that the complaint regarding unauthorized construction was received in the office of MCD on 21.10.2025. This is a false statement made on affidavit and the complaint bears the stamp of MCD which is not disputed and it shows that the complaint was received in the office of MCD on 03.10.2025 itself.
6. It is possible that false statements are being made before the court to explain why no action was taken on the said complaint till

24.10.2025, and this is being done because officers of MCD may be remaining designedly dormant in order to help the builder complete the construction. When the builder succeeded in brazenly completing the entire construction of five floors without any sanctioned plan, as admitted by him in his statement before this court, MCD decided to pay a visit on 24.10.2025 only to find, as calculated, that “no ongoing construction activity or stacking of building material was found at the site.” Instead of initiating corrective measures, the MCD filed an affidavit which shows intentional obfuscation and lack of accountability. This appears to be a fallout of systemic lethargy that seems to plague the Corporation's building regulatory enforcement machinery.

7. The plea taken before this court by MCD is difficult to fathom, in the wake of the admission made by Defendant No. 2 (the contractor, Mr. Ashok Kumar) before this Court. Defendant No. 2 unequivocally stated that he raised a five-storeyed structure over a tiny plot of 22½ square yards between April 2025 and October 2025. How the officers of MCD managed to turn a blind eye to such manifest violation of the law in full public view, has not been explained by its Commissioner despite grant of an opportunity to do so.

8. Although the Commissioner of MCD may be having a large array of duties to perform, the acts of its officers had to be brought to his notice because it is the Commissioner of MCD who is enjoined by Section 59 of the Delhi Municipal Corporation Act to perform all executive duties under the Act.
9. It is inexplicable that as per the MCD's own status report, the building was already fully constructed and occupied by April 2026, and yet the concerned engineers of MCD never questioned how the mass of five-storeyed structure which was visible and standing tall on the ground when the JE inspected it on 24.10.2025, came into existence. No such inquiry was found necessary by MCD officers, for reasons best known to them.
10. The facts highlight a deliberate, deeply entrenched pattern of reporting used by the field staff of the MCD, whereby the officers of MCD willfully limit their vision so as to intentionally ignore massive illegal structures so that they do not have to perform their functions under the Act. It was only when this Court repeatedly invited the attention of officers of MCD that they finally conducted an inspection on 11.05.2026, and "discovered" massive unauthorized construction consisting of deviation/excess coverage on the Ground and First Floors, and entirely unauthorized

construction of the Second, Third, and Fourth Floors with projections on municipal land.

11. This sequence of events establishes a clear, indisputable timeline of collusion:

April 2025 – October 2025: A towering 5-storey building is constructed without a single piece of paper approving a building plan.

03.10.2025 : Clear written information/complaint reaches the MCD while the work is in progress

24.10.2025: The JE visits, sees a massive unauthorized building, but records a clinically sterile report ("no ongoing construction") to shield the builder.

29.04.2026: The Assistant Engineer files a status report before this Court, completely suppressing the fact that a 5-storey illegal building exists without any sanctioned plan.

11.05.2026: Facing judicial scrutiny, the MCD finally "books" the property.

12. In the case of M.I. Builders (P) Ltd. v. Radhey Shyam Sahu 1999 (6) SCC 464, the Hon'ble Supreme Court noted as follows:

“A number of cases come to this Court pointing to unauthorised constructions taking place at many places in the country by builders in connivance with the corporation/municipal officials. In a series of cases, this Court has directed demolition of unauthorised constructions. This does not appear to have any salutary effect in cases of unauthorised construction coming to this Court. While directing demolition of unauthorised construction, the court should also direct an enquiry as to how the unauthorised construction came about and to bring the offenders to book. It is not enough to direct demolition of unauthorised construction, where there is clear defiance of law.”

13. Unauthorized construction of this magnitude—five storeys on a minuscule 22½ sq. yards plot—cannot happen without the active connivance of the field staff, including the concerned Junior Engineer (JE), Assistant Engineer (AE), and the supervising Executive Engineer. The case, thus, is a microcosm of the collapse of building regulations in Delhi. The "appropriate action" mentioned in paragraph 11 of the MCD's affidavit appears to be a bureaucratic ritual.

14. The issue before the court is the active facilitation of illegal, unsafe structures that pose severe risks to public safety, civic infrastructure, and the rule of law. This matter is trivialized in the affidavit as one concerning mere submission of an "incomplete report".

15. In the case of Dr.G.N. Khajuria and others v. Delhi Development Authority and others 1995 SCC (5) 762, the Hon'ble Supreme Court observed as follows:

“Before parting, we have an observation to make. The same is that a feeling is gathering ground that where unauthorised constructions are demolished on the force of the order of courts, the illegality is not taken care of fully inasmuch as the officers of the statutory body who had allowed the unauthorised construction to be made or make illegal allotments go scot free. This should not, however, have happen for two reasons. First, it is the illegal action/order of the officer which lies at the root of the unlawful act of the citizen concerned, because of which the officer is more to be blamed than the recipient of the illegal benefit. It is thus imperative, according to us, that while undoing the mischief which would require the demolition of the unauthorised construction, the delinquent officer has also

to be punished in accordance with law. This, however, seldom happens. Secondly, to take care of the injustice completely, the officer who had misused his power has also to be properly punished. Otherwise, what happens is that the officer, who made the hay when the sun shined, retains the hay, which tempts others to do the same. This really gives fillip to the commission of tainted acts, whereas the aim should be opposite.”

16.The aforesaid observations have been approved by Hon’ble Supreme Court in the recent decision of Rajendra Kumar Barjatya vs U.P. Avas Evam Vikas Parishad 2024 INSC 990.

17.This court is not empowered to direct the unwilling administrative superiors of the erring officers to take departmental action. This court can only apprise the said senior officers of the working of MCD and leave it to them whether to take corrective measures.

18.Keeping in view the law laid down by Hon’ble Supreme Court in the aforesaid decisions, it is directed that copy of order dated 29.04.2026, copy of this order and copy of the affidavit submitted by MCD be sent to the Cadre Controlling Authority for its information about palpable neglect on the part of officers of MCD

who, even after being informed of the events, tried to sweep matters under the carpet, and also for appropriate action, if deemed fit, to ensure that public accountability is restored.

19. So far, written statement has not been filed by MCD and by other defendants.

20. The case shall be taken up for further proceedings on 09.06.2026.

(Ashish Aggarwal)
District Judge-III
North-West District,
Rohini Courts, Delhi
16.05.2026