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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 13th April, 2026

Uploaded on: 16th April, 2026

+ CONT.CAS(C) 660/2025

SMT. KAMLA SETH SINCE DECEASED THROUGH HER
LEGAL HEIR & ORS.Petitioners

Through: Mr. Rohit Gandhi & Mr. Hargun Singh
Kalra, Advs. (M: 9818610321)

versus

SH. PANKAJ NARESH AGRAWAL & ANR.Respondents

Through: Mr. Kapil Dutta Standing counsel
MCD.

Mr. Anand Prakash Standing Counsel
MCD alongwith Ms. Varsha Arya and
Mr. Satbeer and Geet Batra, Advs. for
MCD.

Mr. Sanjay Kumar Pathak (Standing
Counsel), with Mr. Sunil Kumar Jha,
Mr. M. S Akhtar, Ms Joohu Kumari,
Advs.

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+ W.P.(C) 5270/2013

KAMLA SETHPetitioner

Through: Mr. Rohit Gandhi & Mr. Hargun Singh
Kalra, Advs.

versus

ADDITIONAL DISTRICT MAGISTRAE-CUM-LAND
ACQUISITION COLLECTOR (EAST) & ORSRespondents

Through: Mr. Anand Prakash Standing Counsel
MCD alongwith Ms. Varsha Arya and
Mr. Satbeer and Geet Batra, Advs. for
MCD.



Mr. Sanjay Kumar Pathak (Standing Counsel), with Mr. Sunil Kumar Jha, Mr. M. S Akhtar, Ms Joohu Kumari, Advs. for R-1, 3 and 4.

Mr. Praveen Chaturvedi, Mr. Ameet Singh, Ms Jyoti Chaturvedi and Mr. Tarun Kumar, Advs. for R-5 & 6.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. These are two matters which arise out of the subject land *i.e.*, Plot no. 16 *Khasra* no. 465/865/1 at Kailash Nagar, Seelampur, Gandhi Nagar, Delhi. The erstwhile Petitioner- Smt. Kamla Seth was the owner of this plot. The Petitioner had filed *Suit No. 422/04* titled '*Smt. Kamla Seth v. Municipal Corporation of Delhi Town Hall, Chandni Chowk, Delhi Th: its Commissioner*' which was rejected by the Id. Civil Judge on the ground that the Delhi Rent Control Act, 1958 would apply *vide* order dated 7th February, 2005.
3. The Petitioner had appealed against the said order and the Appellate Court in *RCA No. 36/2005* had allowed the said appeal on 3rd October, 2005. The suit was decreed by the Appellate court. This was again challenged by the Municipal Corporation of Delhi (hereinafter, '*MCD*') by way of *RSA 249/06* titled '*MCD v. Kamla Seth*' which was dismissed on 2nd September, 2009. In the meantime, an execution petition being *Ex. No. 298/08* was filed to execute the judgment and decree dated 3rd October, 2005.



4. In the judgment dated 2nd September, 2009 in ***RSA 249/06***, the MCD had given an undertaking to hand over the land in question to the Petitioner and sought time for the same. The relevant portion of the order dated 2nd September, 2009 reads as under:

“14. Mr. O.P. Saxena, learned counsel for the appellant has sought some time to hand over the vacant possession of the suit property to the respondent as a school is being run there and the students are in the midst of the session for the year 2009-2010.

*15. Keeping in mind the fact that studies of the students would be disrupted, which are likely to adversely affect their career if immediate possession of the property in suit is sought to be delivered to the respondent, request is allowed. **The appellant is directed to hand over the vacant possession of the suit property to the respondent on or before 30.6.2010.**”*

5. However, the MCD failed to hand over the land in question. This led to ***Cont. Cas. (C) No. 312/2011*** titled ‘***Kamla Seth v. KS Mehra MCD v. Ors.***’ being filed by the Petitioner. In the said contempt petition, the Court had recorded the MCD’s undertaking to vacate the subject property on 2nd September, 2009. The relevant paragraphs of the order dated 2nd September, 2009 are as under:

“14. Mr. O.P. Saxena, learned counsel for the appellant has sought some time to hand over the vacant possession of the suit property to the respondent as a school is being run there and the students are in the midst of the session for the year 2009-2010.

15. Keeping in mind the fact that studies of the students would be disrupted, which are likely to adversely affect their career if immediate possession of the property in suit is sought to be delivered to the respondent, request is allowed. The appellant is directed to hand over the



vacant possession of the suit property to the respondent on or before 30.6.2010.

16. Under these circumstances, there are no orders as to costs.”

6. The MCD, however, passed a resolution bearing no. 238 on 14th November, 2009 in respect of two plots including the Petitioner’s plot for acquisition of the same.

7. The MCD had, thus on the one hand undertaken to vacate the property but on the other hand, took a decision to commence acquisition proceedings. Since the MCD had agreed to vacate the property on 30th June, 2010, but failed to adhere to the said undertaking which was given to the Court on 1st August, 2011, the Commissioner, MCD was directed to be present. The said order reads as under:

“CONT. CAS (C) No.312/2011

Reply has not been filed. Learned counsel for the petitioner points out that learned counsel for the respondent/MCD on 02.9.2009 had sought time to hand over vacant possession of the suit property; the appellant has accordingly been directed to hand over possession latest by 30.6.2010. Record show that on the first date before this Court time had been taken by learned counsel for the respondent to take instructions; on the second date he had sought time to file reply. Neither instructions have been taken nor has the reply been filed. Status report on affidavit be filed in two weeks. Let Commissioner, MCD also be present in the Court on the next date of hearing.

Renotify for 21.9.2011.”

8. On 21st September, 2011 and on 28th September, 2011 again the Commissioner, MCD was directed to be present in Court. On 29th September, 2011, the Commissioner, MCD appeared before the Court and it is recorded



as under:

“CONT. CAS (C) No.312/2011

Mr. K.S. Mehra, Commissioner, MCD, is present.

Learned counsel for the respondent states that the department is in the process of acquisition of the said land; and in fact a survey of the said land had commenced way back on 01.6.2010; he further states that efforts will be made if the petitioner can be adequately compensated and the land can be acquired as the department is of the view that the public purpose enjoins that the land should be acquired for the running of the school which is already functioning from the said property. The petitioner is not present today. Learned counsel for the petitioner will also take instructions from his client. The parties will sit together to work out the possibility in terms of the aforementioned proposal. In case no settlement is arrived at till the next date the case shall be heard on its merits.

Renotify for 31.10.2010.”

9. As can be seen from the above, the Commissioner, MCD had made a statement that the MCD is in the process of acquisition of the land but the Court had directed that an amicable resolution should be attempted. However, no amicable resolution took place and the MCD, thereafter, went ahead with the acquisition. This led to notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 and the Award was passed acquiring the subject land. It is this award that is under challenge in the present petition.

10. The Court has heard Mr. Rohit Gandhi, Id. Counsel for the Petitioner and Mr. Anand Prakash, Id. Counsel appearing for the MCD. Mr. Anand Prakash, Id. Counsel submits that a full house of the MCD has taken a decision to acquire this land and a school is running from the said premises.

11. *Prima facie*, after having seen the chronology of events in this case, it becomes clear that the MCD took the decision to acquire this land after having



failed to honour the undertaking given to the Court. Thus, at this stage, it appears that the acquisition would not be *bona fide* in the opinion of this Court.

12. Mr. Pathak, ld. Counsel, relies upon the decision of the Supreme Court in *State of A.P. & Ors. v. Goverdhanlal Pitti (2003) 4 SCC 739* to argue that acquisition under such circumstances, cannot be held to be *mala fide*.

13. On the other hand, Mr. Gandhi, ld. Counsel relies upon the decision in *Gojer Brothers Pvt. Ltd. & Anr. v. State of West Bengal & Ors. (2013) 16 SCC 660*.

14. At this stage, Mr. Pathak, ld. Counsel submits that the Petitioner ought to establish the title of the land in question because there is difference in the *khasra* no. between the sale deed and the land which has been acquired. Mr. Gandhi, ld. Counsel for the Petitioner submits that in fact the *khasra* no. has been changed by the authorities just before the acquisition in a *mala fide* manner.

15. In the opinion of this Court, this is a shocking argument of the LAC to say the least.

16. Insofar as this issue is concerned, a perusal of the note sheet which is signed by the Deputy Director of Education dated 9th February, 2012 records as under:

*“It is pertinent to mention that in this land dispute a contempt petition is pending in the Hon'ble High Court wherein next date hearing is 23.03.2012 Even prior thereto, worthy Commissioner of the Corporation has personally appeared before the Hon'ble Court twice. **Therefore, it is necessary that acquisition, process be completed with fast speed for disposal of the contempt petition on the next date of hearing on 23.03.2012.**”*



17. Irrespective of whatever the *khasra no.* is, the identity of the property is not in question inasmuch as the MCD has paid rent for almost five decades to the Petitioner and it was only when the Commissioner, MCD was directed to be present in Court that the acquisition proceedings itself appear to have commenced at the request of the MCD. The note sheet above records that the Commissioner appeared twice before the Court and **therefore**, there is a need to complete the acquisition proceedings. This leaves no doubt as to the identity of the property or its owner.

18. The last pleading filed by the MCD in this case is of 9th January, 2014. Thereafter, an application has been filed by the MCD some time in 2024. The overall facts which have emerged is that the Petitioner had obtained an eviction decree against the MCD in response to which the acquisition has been initiated and award has been passed.

19. The MCD in the opinion of this Court needs to relook at this matter inasmuch as the Petitioner who was 83 years old at the time when the present writ petition was filed has, in fact, passed away and it is her legal heirs who are now pursuing the present writ petition.

20. Public Authorities are expected to conduct their activities in a manner which establishes trust and faith of the citizens in them. The MCD being a tenant in the property ought not be permitted to conduct itself with such high-handedness. The officials of the MCD, who appear to have commenced the acquisition proceedings only because the Commissioner, MCD was called in the Court clearly reflects a conduct which is completely unbecoming of a high ranking public official.

21. Under these circumstances, this Court is of the opinion that another opportunity deserves to be given to the MCD and the authorities running the



MCD currently, to take a fresh look at a matter. The possession of this land was with the MCD in the capacity as a tenant and not as an acquiring authority.

22. The MCD may have deposited a sum of Rs. 40 lakhs with the LAC, however, the market value of this property is much higher. The MCD also tried to raise a permanent construction *qua* which a *status quo* order has been passed by the predecessor Bench of this Court *vide* order dated 26th August, 2013. Thereafter, repairs were permitted *vide* order dated 31st May, 2024, however, the grievance of the Petitioner is that under the garb of this order, the MCD has constructed a permanent structure. The order dated 31st May, 2024 passed by this Court is set out below:

“CM APPL. 34266/2024 (Direction)

1. *The respondent/applicant filed the present application, inter alia, praying as under: -*

“a. The applicant/ respondent may kindly be permitted to carry out repairs/re-roofing of the six classrooms of the writ property, in the interest of justice.”

2. *The learned senior counsel for the applicant submits that urgent orders are required to re-roof the six classrooms to protect them from ensuing monsoon. It is further stated that the schools would be closed for vacation and this would be an opportune time to carry out the repairs. It is stated that the respondent/ applicant would not claim any equities on account of carrying out such repairs.*

3. *In view of above, we do not consider it apposite to defer the hearing of the present application to await representation on behalf of the petitioner.*

4. *The applicant is permitted to carry out the repair/re-roofing work, but will not alter the structure of the*



building.

5. The application is allowed in above terms.”

23. In view of the above, the following directions are issued:

i. The MCD shall file a fresh affidavit by the next date of hearing after the Commissioner, MCD has taken a re-look at the matter along with latest photographs of the school which is allegedly functioning there. The said affidavit shall also mention the number of students in the school, the classes that are being conducted as also the details of the affiliation. Details regarding other MCD/GNCTD schools in the neighbourhood shall also be given.

ii. The school is stated to be in the middle of a busy commercial area. The Petitioner shall place on record the market value of the property as on today along with photographs of the property and surrounding areas by the next date of hearing.

24. This matter shall be taken up as '*Item No. 1*' on the next date of hearing.

25. List on 18th May, 2026.

PRATHIBA M. SINGH
JUDGE

MADHU JAIN
JUDGE

APRIL 13, 2026

dj/ck