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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8446/2025, CM APPL. 36749/2025, CM APPL. 36863/2025
& CM APPL. 38551/2025

ANITA VASHISHT

.....Petitioner

Through: Mr. J.C. Mahindro and Mr. Jasmeet
Singh, Advocates.
Mob: 9810138091
Email: jcmahindro@gmail.com

Versus

MUNICIPAL CORPORATION OF DELHI, SERVICE
TO BE EFFECTED THROUGH ITS COMMISSIONER
& ORS.

.....Respondents

Through: Mr. Manoj K. Sharma, ASC for MCD
Mob: 9811139236
Email: adv.manoj.s@gmail.com
Mr. N. S. Dalal, Ms. Nidhi Dalal, Mr.
Alok Kumar, Mr. Rachana Dalal, Mr.
Karan Mann, Advocates for R-4
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Mr. Peeyoosh Kalra, Mr. Yashwant
Singh, Advocates for R-5
Mob: 9891244186
Mr. Satinder Singh Bawa, Advocate
for R-6 and 7.
Mob: 7840075581

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
04.07.2025

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CM APPL. 38551/2025

1. The present application has been filed on behalf of respondent no. 4



seeking dismissal of the present writ petition.

2. Issue notice. Notice is accepted by non-applicants.
3. Learned counsel appearing for the petitioner submits that he shall file a reply to the present application.
4. Let the needful be done within a period of two weeks.
5. Rejoinder thereto, if any, be filed within a period of one week, thereafter.

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6. Short affidavit on behalf of Municipal Corporation of Delhi (“MCD”) and reply/counter affidavit on behalf of respondent no. 4, are on record.
7. Learned counsel appearing for the petitioner submits that unauthorized construction has been carried out in the property in question, i.e., *H-160, Ashok Vihar, Phase I, New Delhi-110052*, for which the present writ petition has been filed.
8. *Per contra*, learned counsel appearing for respondent no. 4 submits that respondent no. 4 is the owner of third floor of the property, while the petitioner owns the first floor of the property.
9. It is submitted that earlier with the consent of all the parties, a lift was sought to be installed. However, subsequently, the petitioner withdrew the consent for installation of the lift.
10. Thereafter, a Civil Suit, i.e., *CS SCJ 427/2012*, titled as *Anita Vashisht and Anr. versus Bharat Bhushan*, has also been filed by the petitioner herein, which is pending before the learned Civil Judge, North-West, Rohini Courts and the next date being 19th July, 2025.
11. Learned counsel appearing for respondent no. 4 draws the attention of this Court to the order dated 21st February, 2025 passed in *Appeal No.*



375/2013, which appeal had been filed by the predecessor-in-interest of respondent no. 4.

12. Learned counsel appearing for respondent no. 4 submits that the respondent no. 4 has made a categorical statement before the learned Appellate Tribunal MCD (“ATMCD”) that respondent no. 4 does not wish to pursue the appeal, and is willing to remove the unauthorized construction.

13. The order dated 21st February, 2025, passed in *Appeal No. 375/2013* by the ATMCD, is reproduced is under:

*“1. An application under Order 1 Rule 10 CPC moved by the appellant is listed for today. **Non-applicant Mr. Anil Kumar Tewatia, who is stated to be subsequent purchaser has appeared in the Court and submits that he does not want to pursue this case and willing to remove the unauthorized construction. Separate statement of Mr. Anil Kumar Tewatia has been recorded in this regard.***

2. Appellant No.2 Ms. Monika Kataria submits that in view of the statement given by Mr. Anil Kumar Tewatia, non-applicant she is not pressing the aforesaid application and seeks permission to withdraw the same. Accordingly, application under Order 1 Rule 10 CPC is dismissed.

3. Appellant No.2 further submits that she is authorized by appellant No.1 Mr. Bharat Bhushan Kataria to withdraw the present case. She seeks permission to withdraw the present case as the appellants have already sold the property in question. Separate statement of appellant No.2 has been recorded in this regard.

*4. **In view of the aforesaid statements, the appeal is dismissed as withdrawn.***

5. Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

6. Copy of this order be sent to the AE(B) for his information.”

(Emphasis Supplied)

14. Learned counsel appearing for respondent no. 4 submits that no unauthorized construction is being carried out by the respondent no. 4, and the only action which is being undertaken by the respondent no. 4, is with regard to removal of the deviations and unauthorized construction, as per the



undertaking given before the learned ATMCD.

15. He further submits that the present petition would not be maintainable, as the petitioner has already filed a suit.

16. Accordingly, let response be filed by the petitioner to the affidavit of MCD as well as to the counter affidavit of the respondent no. 4.

17. Let the needful be done by the petitioner within a period of two weeks from today.

18. Re-notify on 5th August, 2025.

MINI PUSHKARNA, J

JULY 4, 2025

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