

\$~15 to 18, 20, 22

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

+ W.P.(C) 8977/2021 & CM APPL. 27937/2021

M/S C.S. BHATNAGAR AND COMPANY & ORS. .... Petitioners

Through Mr. Ajay Kapur, Senior Advocate  
with Ms. Mahima Dang, Advocate

versus

NEW DELHI MUNICIPAL COUNCIL & ANR. .... Respondents

Through Mr. Tushar Sannu, Standing Counsel  
with Ms. Ankita Bhadouriya,  
Advocate for NDMC  
Mr. Siddharth Yadav, Senior  
Advocate with Wasim Ashraf,  
Advocate for Intervenor

+ W.P.(C) 11142/2021 & CM APPL. 34303/2021

M/S CELLAR ENTERPRISES PRIVATE  
LIMITED & ANR. .... Petitioners

Through Mr. Siddharth Yadav, Senior  
Advocate with Wasim Ashraf,  
Advocate

versus

NEW DELHI MUNICIPAL COUNCIL & ORS. .... Respondents

Through Mr. Anirudh Sharma, Advocate with  
Ms. Lavanya Dhawan, Advocate for  
NDMC  
Mr. Abhinav Bajaj, ASC with Mr.  
Saksham Ojha, Advocate for NDMC  
Mr. Anupam Srivastava, ASC with  
Mr. Dhairya Gupta and Mr. Vashu  
Misra, Advocates for R-3

+ W.P.(C) 11454/2021 & CM APPL. 35258/2021, 38557/2021

ACHAL BHASIN & ORS. .... Petitioners  
Through Mr. Siddharth Yadav, Senior  
Advocate with Wasim Ashraf,  
Advocate

versus

NEW DELHI MUNICIPAL COUNCIL & ANR. .... Respondents  
Through Mr. Bhupendra Pratap Singh, ASC for  
NDMC  
Mr. B.P. Singh, ASC with Mr.  
Nirvikar Verma, ASC and Mr. Amit,  
Advocate for NDMC/R-5

+ W.P.(C) 12075/2021 & CM APPL. 37722/2021

M/S. COMPUTER MART .... Petitioner

Through

versus

NEW DELHI MUNICIPAL COUNCIL & ORS. .... Respondents  
Through Mr. Anupam Srivastava, ASC with  
Mr. Dhairya Gupta and Mr. Vashu  
Misra, Advocates for R-3

+ W.P.(C) 12769/2021 & CM APPL. 47648/2021

INDRAESH DEVELOPERS PVT. LTD. .... Petitioner

Through Mr. Siddharth Yadav, Senior  
Advocate with Wasim Ashraf,  
Advocate

versus

NEW DELHI MUNICIPAL COUNCIL & ORS. .... Respondents  
Through Mr. Jagdeep Sharma, Advocate for R-  
1/NDMC

Mr. Md. Zaryab Jamal Rizvi,  
Advocate for R-7

Mr. Ajay Kapur, Senior Advocate  
with Ms. Mahima Dang, Advocate for  
R-4 & R-8

Mr. Kuljeet Rawal, Advocate for  
Regal Building Association

+ W.P.(C) 9719/2021 & CM APPL. 29992/2021

VEENA KOHLI

..... Petitioner

Through Mr. Siddharth Yadav, Senior  
Advocate with Mr. Wasim Ashraf,  
Advocate

versus

NEW DELHI MUNICIPAL  
CORPORATION & ORS

..... Respondents

Through Mr. Tushar Sannu, Standing Counsel  
with Ms. Ankita Bhadouriya,  
Advocate

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**ORDER**

**14.03.2022**

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**CM.APPL9979/2022 in W.P.(C).8977/2021**

**CM.APPL4894/2022 in W.P.(C).12769/2021**

Allowed, subject to all just exceptions. \_

**W.P.(C) 8977/2021, W.P.(C) 11142/2021, W.P.(C) 11454/2021,**  
**W.P.(C) 12075/2021, W.P.(C) 12769/2021 & W.P.(C) 9719/2021**

1. Status report dated 07.03.2022 of Department of Civil Engineer, Indian Institute Technology of Delhi has been circulated by learned counsel appearing for NDMC over the e-mail of the Court

Master. Let the same be filed in the Registry.

2. The recommendations given in the report are as under: -
- *Due to the high risk of further collapses of the top slab of the building, the top floor must be vacated as soon as possible as a precautionary measures to avoid any loss of life.*
  - *The debris from the collapses should be immediately cleared so as to reduce the load on the lower slabs.*
  - *A survey of the complete structure must be carried out and the drawings of all the structural elements must be prepared in order to understand the current structural arrangement. This survey shall include all masonry, reinforced concrete, reinforced brick concrete, steel and timber members that are part of the structural system. Architectural features such as false ceilings, panelling, glazing, tiling, stones, etc. may have to be removed for the observations and measurements required in this survey. So as to preserve the heritage nature of the building, the façade shall not be disturbed.*
  - *A survey of the condition of all structural elements, including all masonry, reinforced concrete, reinforced brick concrete, steel and timber members that are a part of the structural system, must be carried out in order to assess their condition and to estimate their residual capacity.*
  - *A structural analysis, as detailed as possible must be carried out so as to identify locations of potential weakness in the structure and to identify any measures required to repair/restore the structure.*
  - *Any ad-hoc modifications of the structure, without carrying out the above-mentioned analysis, should not be encouraged so as to not disturb the present load distribution of the structure.*

3. As per the report, a survey of the building structure is required to be carried out. The report has suggested that the ad-hoc modification or repair is not to be encouraged. The recommendations have been issued on the ground that additions, alternations and modifications have been carried out to the structure over the year and further that the normal expected life 50 to 75 years is over as the building is approximately 80 years old.

4. Perusal of the report indicates that major structural additions, alternations repair would be required to secure the structural integrity of the building. The building is a heritage building and as such heritage structure of the building has to be protected and preserved.

5. For the purposes of carrying out the repair and renovation, addition and alternation not only the Heritage Conservation Committee but all occupiers/owners of the building have to be taken on board for the reasons that the same cannot be carried out in piecemeal and consolidated efforts need to be put in by all the stakeholder. Further the expenditure would be required to be incurred for the purposes of testing and carrying out the work for restoring the structural integrity and that also has to be done by all the stakeholders.

6. As of now a sum of Rs. 2 lakhs besides GST is to be paid to the IIT, Delhi for carrying out the survey and submission of the present report.

7. Further as per the recommendations, a detailed survey of the building structure needs to be carried out which would require further expenditure and payments to be made.

8. Learned counsel appearing for the Regal Building Welfare Association submits that all the occupiers/owners are not members of the Association and since the survey has been carried out for part of the building, they have been making an effort to put all the stakeholders to notice about the pending proceedings.

9. In view of the above, a copy of the report be circulated by the Association to all the owners/occupiers and stakeholders of the *left side of Regal Building when facing Regal building commencing from Regal building going on to Parliament Street.*

10. The owners/occupiers and stakeholders be informed that expenditure for the purposes of testing and repair/renovation would have to be incurred and shared by them and in case they do not join then as per the recommendations made in the report dated 07.03.2022 that there is a higher risk of further collapse of the top floor of the building, coercive measures would be required to be taken by the NDMC to secure the building so as to prevent any mishap.

11. The report further suggests that the *Debris* from the collapses that have already taken should be immediately cleared so as to reduce the load on the load stand.

12. The owners/occupiers of the said portions, where the *Debris* of

the collapses are lying, are directed to forthwith take steps to remove the *Debris*.

13. It is contended by learned Senior Counsel for the petitioner in W.P. (C) No. 12769/2021 that M/s Indraesh Developers Pvt. Ltd. is the owner/occupier of premises bearing Nos. 64 & 64-A, Second Floor, Regal Building which has collapsed. However said portion has been sealed by the NDMC and the debris cannot be removed unless the property is desealed.

14. This is disputed by some of the respondents.

15. However, without prejudice and without accepting and acknowledging any ownership rights, since M/s Indraesh Developers Pvt. Ltd. were admittedly in possession when the portion had collapsed, M/s Indraesh Developers Pvt. Ltd. are directed to forthwith remove the Debris from the said portion.

16. For the said purpose, NDMC is directed to de-seal the premises on 21.03.2022 at 11 am to enable M/s Indraesh Developers Pvt. Ltd. to commence the work of removal of Debris.

17. The work of removal of Debris shall be carried out expeditiously under the supervision of officers of the NDMC. Once the removal of Debris work is concluded, the premises shall once again be sealed and the sealing shall be subject to further orders to be passed by the Court.

18. Learned counsel appearing for the Association submits that

there is a difference of opinion amongst some of the members and owners/occupiers as to their respective contribution for the purposes of creating a corpus for spending on the testing, repair and renovation etc.

19. Prima Facie, it is suggested that the members, owners/occupiers and stake holders may consider contributing in proportion to the area occupied/owned by them.

20. For the payment to IIT for the work already carried out, a sum of Rs. 2 lakhs plus GST is required to be paid.

21. Learned counsel appearing for Respondent No.7 – M/s Apsara Transport Pvt. Ltd and respondent No.6 – Mr. S.C. Mathur Co. submit that subject to final adjustment, they shall deposit a sum of Rs.25,000/- each. Learned counsel appearing for M/s. C.S. Bhatnagar and Co., respondent No.4, submits that his client shall deposit a sum of Rs.55,000/- and learned senior counsel appearing for M/s Indraesh Developers Pvt. Ltd. submits that his client shall deposit a sum of Rs.1,20,000/-.

22. Let the said amount be deposited with the Registrar General of this Court within a period of one week from today.

23. Out of the said amount, the Registrar General shall disburse a sum of Rs.2,00,000/- + GST @ 18% to IIT Delhi for the report already submitted.

24. It is clarified that contribution of the above payment is without



prejudice to the rights and contentions of the parties and subject to pro rata adjustment towards further expenditure to be incurred.

25. NDMC is directed to further inquire from the Joint Registrar (Legal) IIT as to the tentative expenditure further required to be incurred for the purposes of detailed survey/testing as suggested in their report.

26. List for further directions on 11.04.2022.

**SANJEEV SACHDEVA, J**

**MARCH 14, 2022**

**'rs'**