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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CNR No. DLHC010076312025

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W.P.(C) 2020/2025 & CM APPL. 55416/2025

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.....Petitioner

Through: Mr. Shailendra Bhatnagar, Mr.
Animesh Gautam and Mr. Rudra
Pratap Singh, Advs.

versus

STATE GOVT OF NCT OF DELHI

THROUGH ITS CHIEF SECRETARY & ORS. Respondents

Through: Ms. Vaishali Gupta, Panel Counsel
(Civil) GNCTD, Advocate for R-1
Ms. Kangan Roda, SPC and Ms.
Apoorva Sharma, Adv. for R-2.
Mr. Vikas Chopra, Standing Counsel
MCD and Mr Neeraj Kumar,
Advocate for R-3/MCD
Mr. Neeraj Kumar, Adv.
Ms. Pratima N. Lakra, CGSC with
Mr. Shailendra Kumar Mishra,
Advocate and SI RAJU SINGH Roop
Nagar PS for R-5/Delhi Police

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJAY SHARMA

ORDER

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09.10.2026

1. Since the private respondent/respondent no.4/owner of the property in question carried out construction within the '*regulated area*', as provided under Section 20B of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 as amended by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010,



without the approval/sanction from the competent authority, this Court, in view of the order dated 04th August, 2025 passed by the Hon'ble Supreme Court in SLP (C) No. 20689/2025 wherein a direction was passed for the Hon'ble High Court to consider the question of interim relief within a period of 4 weeks, passed an interim order on 09th September, 2025 which reads as under:-

“10. In the aforesaid facts we pass the following orders as interim measure:-

(i) Respondent no.4/owner of the property in question is restrained from raising any construction, whatsoever of any nature henceforth.

(ii) It shall be the responsibility of the SHO of the concerned Police Station to ensure that the order being passed today is complied with in its letter and spirit.

(iii) Let an additional affidavit be filed by the respondent-ASI by the next date of listing, clearly stating as to whether, the construction in question lies in the prohibited area or regulated area. The said affidavit shall be filed after conducting a survey by the respondent-ASI.

(iv) Respondent-ASI apart from filing the additional affidavit as directed above, shall also file the latest Status Report by the next date of listing.”

2. In compliance of the said order, the respondent no.2-Archeological Survey of India has filed the additional affidavit along with the Latest Status Report dated 07th October, 2025, a part of which reads thus:-

“8. The Respondent No. 2 further wishes to highlight specific events that have transpired. These events form the basis for the forthcoming submissions:

a. That on 15.02.2024, a Work Stop Notice was issued to Shri Santosh Shanna, owner of the property bearing address 6/3, Block-40, Singh Sabha Road, Shakti Nagar, Delhi-110007, on account of unauthorized construction activities being undertaken within the Regulated Area of the Nationally



Protected Monument, namely the Tomb of Raushanara and the Barahdari. A copy of the Stop Work notice is annexed and marked as ANNEXURE-R2.

- b. That despite the issuance of the aforementioned Stop Work Notice, the same was wilfully disregarded and unauthorized construction activities continued unabated. Consequently, on 15.02.2024, a formal police complaint was lodged by the Conservation Assistant of the Kashmere Gate Sub-circle, Archaeological Survey of India, at Police Station Roop Nagar, New Delhi, against the continued illegal construction at property bearing No. 6/3, Block-40, Singh Sabha Road, Shakti Nagar, Delhi-110007. The said complaint specifically pertained to the ongoing unauthorized construction within the Regulated Area of the Nationally Protected Monument, namely, the Tomb of Raushanara and the Barahdari. A copy of the complaint filed before the Station House Officer, Police Station Roop Nagar, New Delhi, is annexed herewith and marked as ANNEXURE-R3.*
- c. That on 10.04.2024, a Show Cause Notice was issued by the Superintending Archaeologist, Archaeological Survey of India, Delhi Circle, to Shri Santosh Sharma, resident of House No. 6/3, Block-40, Singh Sabha Road, Shakti Nagar, Delhi-110007. The said notice was issued in respect of unauthorized construction carried out within the Regulated Area of the Nationally Protected Monument, namely, the Tomb of Raushanara and the Barahdari. A copy of the notice was also endorsed to the Deputy Commissioner (Revenue), Central District, 14, Darya Ganj, Delhi-110002. A Copy of the Show Cause notice is annexed and marked as ANNEXURE-R4.*
- d. That on 10.04.2024, the Superintending Archaeologist, Archaeological Survey of India, Delhi Circle, addressed a letter to the Deputy Commissioner, North Delhi Municipal Corporation, Near Ambedkar Hospital, Rohini, Delhi-110085, requesting that necessary instructions be issued for the immediate stoppage and removal of the unauthorized construction being carried out within the Regulated Area of the Nationally Protected Monument, namely the Tomb of Raushanara and the Barahdari. A Copy of the letter to the Deputy Commissioner, North Delhi Municipal Corporation, is*



annexed and marked as ANNEXURE-R5.

- e. *That on 10.04.2024 itself, the Superintending Archaeologist, Archaeological Survey of India, Delhi Circle, also addressed a Jetter to the Deputy Commissioner of Police, North West District, Police Station Ashok Vihar, New Delhi, requesting that appropriate directions be issued to halt the unauthorized construction being carried out within the Regulated Area of the Nationally Protected Monument, namely, the Tomb of Raushanara and the Barahdari. A Copy of the letter to the Deputy Commissioner of Police, North West District is annexed and marked as ANNEXURE-R6.*
- f. *That the site was inspected on 20.02.2024 by the In-Charge, Kashmere Gate Sub-circle, Archaeological Survey of India, at which time it was observed that the construction activities had been halted by the owner and no active construction work was in progress. However, as per the latest status report received from the In-Charge, Kashmere Gate Sub-circle, Archaeological Survey of India, dated 27.03.2025, it has been noted that construction at House No. 6/3, Block-40, Singh Sabha Road, Shakti Nagar, Delhi-110007, has progressed up to four floors, and that plastering and tile work is presently underway. A copy of site inspection report along with photographs dated 20.02.2024 and 27.03.2025 is annexed and marked as ANNEXURE-R7 (Colly).*
9. *In light of the aforementioned facts and submissions, it is respectfully submitted before this Hon'ble Court that Respondent No.02 is diligently undertaking all necessary measures to safeguard the visual integrity and surroundings of the Nationally Protected Monument as per the provisions of Ancient Monuments and Archaeological Sites and Remains Act (Amendment and Validation) Act, 2010. Furthermore, the authorities empowered to take appropriate action have been duly notified, with a view to initiating necessary steps against the offender within the Regulated Area. This affidavit is submitted to place on record all relevant facts and to highlight the prompt and proactive actions undertaken by Respondent No.02/ASI."*

3. In paragraph 9 of the said additional affidavit, the respondent no.2-



ASI has claimed that they have diligently undertaken all necessary measures to safeguard the visual integrity and surroundings of the National Protected Monuments as per the Act of 2010.

4. Drawing support from Rule 38 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, it is urged by the learned counsel for the respondent no.2-ASI that within a period of two weeks appropriate action will be taken under the said provision against the respondents including the other defaulters in the same area.

5. The fact remains that on 10th April, 2024, the Superintending Archaeologist-respondent no. 2/ASI had addressed a letter to the Deputy Commissioner, North Delhi Municipal Corporation as well as to the Deputy Commissioner of Police, North West District, New Delhi, requesting them for issuance of appropriate directions to immediately halt and remove the unauthorized construction.

6. The fact remains that the unauthorized construction that was being carried out within the Regulated Area was a fact which was brought to the notice of the respondents way back on 10th April, 2024.

7. It is a complete failure on the part of the North Delhi Municipal Corporation, now termed as the Municipal Corporation of Delhi, who for the first time issued a show cause notice only on 21st March, 2025. It appears that not only the officials of the ASI/respondent no. 2 but also the officials of the Municipal Corporation of Delhi/respondent no. 3 have not conducted themselves in accordance with the statutory provisions under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and the Rules framed thereunder so also the Delhi Municipal Corporation Act, 1957. Such conduct of the officials of respondent no. 2 and respondent no. 3 has aided



the private respondent/respondent no. 4 to complete the unauthorized construction in question.

8. In our order dated 09th September, 2025, a direction was passed to the SHO-Delhi Police/respondent no. 5 to ensure that the interim order that was being passed shall be complied with in its letter and spirit as regards that the private respondent/respondent no. 4 shall not be permitted to carry out any further construction, however, the same has not been adhered to. It is this conduct of the officials of the respondents which has led to the completion of the unauthorized construction.

9. We are informed that the building in question is presently occupied by the private respondent/respondent no. 4.

10. In the aforesaid background, when confronted, the counsel for private respondent/respondent no. 4 states that once there was permission from the local planning authority, *i.e.*, the Municipal Corporation of Delhi, there is enough compliance on their part. It is further urged that the private respondent had taken the advice of the planning architect, who certified that the construction was within the permissible area and in accordance with law, which had led to the permission being granted by the Municipal Corporation of Delhi. He would further urge that repeated attempts on the part of the private respondent to secure the '*No Objection*' from ASI remained unattended which led to the construction being continued on the plot.

11. We fail to understand that once the ASI had issued a Work Stop Notice to the private respondent on 15th February, 2024, thereby requesting him to immediately stop the unauthorized construction, what prompted the private respondent to continue the work thereafter, whereby his conduct can be *prima facie* viewed as conducting a disregard to the relevant statutory



provisions. Rightly so, the same calls for an action against the private respondent.

12. Though the respondent no. 2/ASI has assured that action will be taken, however, there is neither a sense of sensitivity nor that of determination.

13. Similarly, too callous of an approach and attitude can be noticed on the part of the officials of the respondent no. 3/Municipal Corporation of Delhi.

14. In the aforesaid background, the respondents, in our opinion, are free to take such steps in accordance with law that are permissible and provided, however, we expect the Highest Officers of the Municipal Corporation of Delhi, the Archaeological Survey of India and that of Delhi Police to file their respective personal affidavits, thereby disclosing the names of the Senior officers who are responsible for the laches in overlooking such a serious default on the part of the private respondent in carrying out and continuing the unauthorized construction in absence of there being any sanction/approval from the Competent Authority, *i.e.*, the ASI.

15. As far as the ASI is concerned, the Incharge/Director who is responsible for the decisions taken in the matter should file an affidavit disclosing the details of the officers who have been responsible for such a default. Similarly, we direct the Special CP-Delhi Police to file an affidavit disclosing the names and designations of the officers of the police station who have overlooked the illegal/unauthorized construction in the matter. Similarly, we direct the Commissioner of the Municipal Corporation of Delhi to file a similar affidavit disclosing the designation and names of the highest officers who are responsible for such default. Let the affidavit be



placed on record within a period of two weeks.

16. List on 28th October, 2026.

NITIN WASUDEO SAMBRE, ACJ

SANJAY SHARMA, J

OCTOBER 9, 2026/rk/pr/gs