



2026:DHC:8500-DB



\$~57 & 58

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 29.09.2026*

(57)

CNR No. DLHC010470132026

+ LPA 798/2026, CM Nos.67694/2026 & 67695/2026

SMT NIRMALA DEVI GARG & ORS.Appellants

Through: Dr. Anurag Kumar Agarwal, Mr.
Umesh Mishra and Ms. Surbhi Mittal,
Advs.

Versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Tushar Parashar, Panel Counsel,
Mr. Bhanu Pratap Singh Phore,
Advocate, with Mr. Raja Ram Meena,
AE, MCD

(58)

CNR No. DLHC010470162026

+ LPA 799/2026, CM Nos.67697/2026 & 67698/2026

SH NARAYAN PRASAD & ORS.Appellants

Through: Dr. Anurag Kumar Agarwal, Mr.
Umesh Mishra and Ms. Surbhi Mittal,
Advs.

Versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Tushar Parashar, Panel Counsel,
Mr. Bhanu Pratap Singh Phore,
Advocate, with Mr. Raja Ram Meena,
AE, MCD**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA**

Signature Not Verified

Signed By: NEELAM
SHARMA
Signing Date: 29.09.2026
18:19:56



DEVENDRA KUMAR UPADHYAYA, J. (Oral)

CM No. 67695/2026 (Exemption) in LPA 798/2026

CM No. 67698/2026 (Exemption) in LPA 799/2026

1. Exemptions are allowed, subject to all just exceptions.
2. The Applications stand disposed of.

LPA 798/2026, CM No.67694/2026;

LPA 799/2026, CM No. 67697/2026

3. Heard the learned counsel for the Parties.
4. Since the facts and issues in these two Letter Patent Appeals are intertwined, with the consent of the learned Counsels for the Parties, we proceed to decide both the Appeals by the common Judgment, which follows:-
5. The subject matter of these appeals are two buildings situated opposite each other, namely WP-489 and WP-531, Shiva Market, Wazirpur Village, Ashok Vihar, Delhi – 110052.
6. On the basis of visual inspection said to have been conducted by the authorities of the MCD, two separate Orders, both dated 15.09.2026 were passed by the Executive Engineer concerned on behalf of the Municipal Commissioner directing the occupants of the buildings to vacate and thereafter, demolish the same.
7. The said Orders have purportedly been passed by the authority concerned in exercise of its powers vested under Section 348 / 349 of the Delhi Municipal Corporation Act, 1957 (“Act”). It has been stated by learned Counsel for the Appellants that though Section 348 & 349 of the Act vests power with the Commissioner or any other authority authorised by him



in that behalf to pass an order vacating and also demolishing the dangerous buildings, however, such order should be based on some relevant and relatable material.

8. His further submission is that so far as the instant cases are concerned, the only material relied upon by the authorities of the MCD for passing the order of demolition or vacation is some kind of a visual inspection of the buildings, based on which it is allegedly reported that the buildings are in a dilapidated and ruinous condition.

9. Learned Counsel representing the MCD has, however, submitted that the photographs appended with these appeals itself are testimony enough to form an opinion that the building are in dilapidated and ruinous condition and therefore, are liable to be removed. The submission thus is that the authority concerned while passing the order of demolition has exercised its powers available to it statutorily under Section 348 / 349 of the Act and therefore, no fault can be found in the same.

10. We have considered the respective submission made by the Counsels for the Parties.

11. Section 348 of the Act vests power in the Commissioner of the Municipal Corporation to require the owner or occupier of any building to demolish or secure or repair, in case he forms an opinion that the building is in ruinous condition or is likely to fall or in anyway dangerous to any person occupying, resorting to or passing by such building.

12. The provisions of Sub-Section 2 of Section 348 of the Act clearly provides that the concerned authority of the Municipal Corporation can direct the occupier or owner of the said building to secure or repair the



building or to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and handrail wherever practicable.

13. Certain other powers have also been vested in the authorities of Municipal Corporation under Section 348 for removal of the dangerous buildings. Section 348 of the Act reads as under:-

“348. Removal of dangerous buildings

(1) If it appears to the Commissioner at any time that any building is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such building or any other building or place in the neighbourhood of such building, the Commissioner may, by order in writing, require the owner or occupier of such building to demolish, secure or repair such building or do one or more of such things within such period as may be specified in the order, so as to prevent all cause of danger therefrom.

(2) The Commissioner may also, if he thinks fit, require such owner or occupier by the said order either forthwith or before proceeding to demolish, secure or repair the building, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and handrail wherever practicable to serve as a foot-way for passengers outside of such board or fence.

(3) If it appears to the Commissioner that danger from a building which is in a ruinous condition or likely to fall is imminent, he may, before making the order aforesaid, fence off, demolish, secure or repair the said building or take such steps as may be necessary to prevent the danger.

(4) If the owner or occupier of the building does not comply with the order within the period specified therein, the Commissioner shall take such steps in relation to the building as to prevent all cause of danger therefrom.

(5) All expenses incurred by the Commissioner in relation to any building under this section shall be recoverable from the owner or occupier thereof as an arrear of tax under this Act.”



14. Similarly, Section 349 of the Act vests power in the Commissioner or any other Officer authorised on his behalf to vacate the building in certain circumstances. The order of vacation can be passed in a situation where the building, in the opinion of the authority concerned, is in a dangerous condition or is not provided with sufficient egress in case of fire or is occupied in contravention of the provisions of Section 346. The Proviso appended to Section 349 of the Act makes it mandatory for the Commissioner to record a brief statement of reasons for vacation.

15. When we peruse the Order of demolition/vacation, which was challenged before the learned Single Judge in proceedings of the respective Writ petitions, what we find is that the only reason indicated in the said orders is that on visual inspection, the buildings in question were found to be in dilapidated and dangerous condition.

16. Recording of reasons in support of any direction, which needs to be issued by the authorities under Section 348 / 349 of the Act does not mean that such reasons should be based on no material at all or on unrelatable and irrelevant material. Any opinion formed by the authorities for passing an order of demolition or vacation under Section 348 / 349 of the Act based on a visual or virtual inspection without getting some kind of structural audit or structural inspection conducted by the persons having technical knowledge, in our opinion, cannot be said to be either relatable or relevant.

17. Accordingly, it is difficult for us to find ourselves in agreement with the reasons given by the authorities concerned for passing the order of demolition/vacation of buildings in question.



18. However, having observed as above, we cannot ignore the condition of the buildings, which is apparent from a bare perusal of the photographs of the said buildings enclosed with these appeals.

19. Learned counsel for the Appellants himself has stated that so far as the structure in the same building on the first and second floor are concerned, they are in not in a safe condition and *prima facie* appear to be dangerous.

20. In view of the aforesaid facts, we are of the opinion that proceeding under Section 348 and 349 of the Act needs to be drawn afresh by the Delhi Municipal Corporation, however, for the said purpose, they need to collect relevant material, if they have to pass any order of removal or vacation of the building.

21. In view of what has been observed by us above, we dispose of the instant appeals with the following directions:-

- (a) The Municipal Corporation of Delhi shall get the structural data/inspection of the buildings in question conducted within two days by some experts, to be engaged by them.
- (b) The experts should, accordingly furnish their report within three days, which shall be furnished to all the Appellants within a day thereafter, whereupon it will be open to the Appellants either personally or through their own technical representative to file objection to report of the structural audit of the inspection.
- (c) The Appellants shall have two days' time to respond to such report, thereafter, within two further days, the final decision in the



matter would be taken by the Commissioner or any other Officer authorised on his behalf under Section 348 / 349 of the Act.

- (d) We further direct that the report of the technical audit / inspection shall be served upon Dr. Anurag Kumar Agarwal, Advocate, representing the Appellants by the MCD. The service of the report of the technical audit on the learned Counsel will be deemed to be service on the Appellants, who shall participate in the proceedings further as directed above.
- (e) The shops existing in these two buildings on the ground floor will not be operated by the Appellants from today till the final decision is taken by the competent authority of the MCD under this Order. Any violation of this condition would be viewed seriously by the Court and may amount to contempt of this Court.
- (f) On conclusion of the process as aforesaid, if any order of demolition / removal is passed against the Appellants and they feel aggrieved, it will be open to them to take recourse any legal remedy as available to them under law.
- (g) We further direct that while considering the report of technical audit / inspection and the submissions in respect thereof on behalf of the Appellants, the appropriate decision will be taken by the Authorities of the MCD, which may be, if facts and circumstances so require, an order for repair and taking steps for strengthening the building as well.



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22. The impugned order dated 24.09.2026 passed by the learned Single Judge in WP(C) Nos. 14108/2026 and 14111/2026 stands modified in the aforesaid terms.

23. In view of the aforesaid and on the request of learned Counsel for the Parties WP(C) Nos. 14108/2026 and 14111/2026 are also finally disposed of. Let a copy of this order be placed on the aforesaid Writ Petitions by the office. The date already fixed in the Writ Petitions i.e. 01.10.2026 stands cancelled.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

SEPTEMBER 29, 2026/ss