2025 INSC 610

REPORTABLE

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION

Petition for Special Leave to Appeal (C) Nos.12199-12200/2025

KANIZ AHMED — Petitioner(s)

VERSUS

SABUDDIN & ORS. — Respondent(s)

Certified to be true copy
Assistant Registrar (Judl.)
5-5-25
Supreme Court of India

25064914

O R D E R

1. Heard the learned Senior counsel appearing for the petitioner.

2. The High Court in Paras 21 and 22 of its impugned judgment and order has observed thus:-

> *"21. Therefore, the police authorities are directed to give notice to all the occupants to vacate the premises by themselves by April 30, 2025. If any of them still continued to remain in occupation, they shall be evicted by deployment of adequate police force and such process shall be completed by not later than May 16, 2025. After the three floors are vacated, the KMC authority shall initiate demolition proceedings for which also the police authorities shall deploy adequate police force and such demolition shall be completed and a report be filed before this Court supported by photographs on June 19, 2025. During the process of vacating the occupants of the building as well as during the process of demolition, the entire events shall be videographed and such cost shall be borne by KMC.*

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Date: 2025.05.01 13:29:53 IST
Reason:

> *22. Needless to state that this writ petition being a public interest litigation, it goes without saying that not only the construction, which has been put up by the private respondents is to be dealt with, but the KMC authority should also cause inspection of all the*

neighbouring properties and if any violation is found, the above directions will apply mutatis mutandis to such constructions as well. Of course, action be taken after issuing notice to the owners/occupants of those properties".

3. We are in complete agreement with what has been observed by the High Court in the above referred paragraphs.

4. We admire the courage and conviction with which the High Court has proceeded to take care of unauthorised construction in exercise of its jurisdiction in public interest.

5. In one of our recent pronouncements, in the case of *Rajendra Kumar Barjatya and Another v. U.P. Avas Evam Vikas Parishad and Others* reported in 2024 INSC 990, we have made ourselves very explicitly clear that each and every construction must be made scrupulously following and strictly adhering to the rules and regulations. In the event of any violation, being brought to the notice of the courts, the same should be dealt with iron hands and any leniency or mercy shown to the person guilty of unauthorised construction would amount to showing misplaced sympathy. In our decision referred to above, we have issued the following directions:

"(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws."

6. The learned counsel appearing for the petitioner would submit that her client be given one chance to pray for regularisation of the unauthorised construction. We do not find any merit in such submission. A person who has no regards for the law cannot be permitted to pray for regularisation after putting up unauthorised construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorized Development Act based on payment of impact fees.

7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society.[See: Ashok Malhotra v. Municipal Corporation of Delhi, W.P. (c) No. 10233 of 2024 (Delhi High Court)]

8. The Special Leave Petitions stand dismissed.

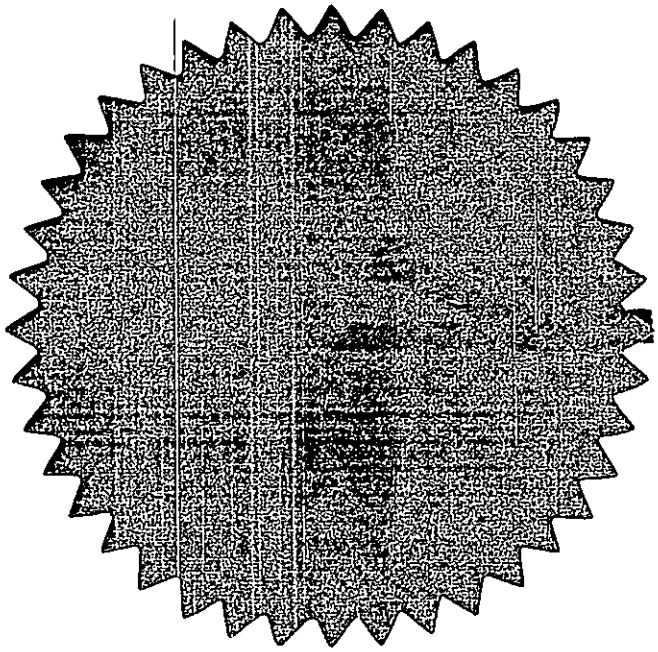
9. Pending applications, if any, shall also stand disposed of.

10. Registry is directed to circulate one copy each of this order to all the High Courts.

Sd/-
.....J.
(J.B. PARDIWALA)

Sd/-
.....J.
(R. MAHADEVAN)

NEW DELHI.
30th APRIL 2025.



SEALED IN MY PRESENCE