

# Rwa Makdum Sahab Sonburj Mehrauli ... vs Municipal Corporation Of Delhi & Ors on 6 September, 2023

**Author: Satish Chandra Sharma**

**Bench: Chief Justice, Sanjeev Narula**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
W.P.(C) 8610/2023 & CM APPL. 32680/2023  
RWA MAKDUM SAHAB SONBURJ MEHRAULI (REGD.

Through: Mr. M. Hasibud  
Himanshu, Advo

versus

MUNICIPAL CORPORATION OF DELHI & ORS. ..

Through: Mr. Vikas Chopra a  
Kumar, Advocates f  
Mr. Rishikesh Kuma  
with Ms. Sheenu Pr  
Kumar Shukla, Mr.  
Ms. Roshini Haldha  
Advocates for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJEEV NARULA

OR

% 06.09.2023

1. The Petitioner - RWA Makdum Sahab Sonburj Mehrauli (Regd.), has filed the present petition being aggrieved by installation of mobile tower over a building owned by Respondent No. 4 - Mr. Mehraj located at House no. 898-A, Ward No. 8, Dargah Maqdoom Shah, Near Aulia Masjid, Mehrauli, New Delhi ("Subject Property"). The Petitioner's contentions are that the necessary permissions for installation of the mobile tower have been obtained fraudulently, and the installation of the tower poses a grave danger to adjacent houses, due to the structural weakness of the Subject This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 16/09/2023 at 15:21:19 Property and the impossibility of emergency vehicles such as fire trucks and ambulances to access the Subject Property. In these circumstances, the Petitioner has prayed for the following relief:

"a. Direct the respondent no.1 to cancel the license/permission for installation/erection of RTP site granted in favour of respondent no.3 vide Letter

dated 09.05.2023 thereby remove the tower installed by the respondent no.3 from the property no.:898-A, Ward No.:8, Dargah Maqdoom Shah, Near Aulia Masjid, Mehrauli, New Delhi of respondent no.4 in the interest of public at large."

2. A detailed and exhaustive counter-affidavit has been filed by Municipal Corporation of Delhi ("MCD") and paragraph nos. 8, 9, 10 and 11 have been reproduced below:

"8. That considering the aforementioned relief of the petitioner so far as it pertains to answering Respondent -MCD, it is submitted that as per record, a permission for erection/ installation of Cell Tower in respect of subject property i.e. bearing No. 898-A, Ward No. 8, Dargah Magdoom Shah, Near Aulia Masjid, Mehrauli has been granted vide letter bearing No. D/382/ Tower /AE(B)/EE(B)2023 dated 09/05/2023 in terms of MCD Cell Tower Policy issued vide letter no. D/167/SE (B)/HQ/Addl. Cm. (Engg) SDMC/17 dated 16/11/2017 in pursuance of order dated 28/08/2017 passed by Hon'ble High Court of Delhi in LPA NO. 572/2011.

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9. That it is also submitted that the Cell Tower permissions are issued on "Online Portal of MCD". This permission has been issued vide ID No. DMC005181 dated 25/04/2023 and the aforementioned permission has also been granted after scrutinizing all necessary documents uploaded on this portal by Cell Tower Company.

10. That as per record, it has also been observed that for obtaining the aforesaid Cell Tower permission the applicant has uploaded the requisite documents as per policy on the portal which includes building plan, location plan, Indemnity bond, License agreement, property documents, Siting clearance issued by Ministry of communications, Dept. of IT, dated 28/03/23, self-declaration, building feasible report dated 15/03/23...

11. That the petitioner has alleged that the building where the tower is permitted to be installed is not safe; however, the petitioner has not supported his contention with any research or report from any structural This is a digitally signed order.

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3. The aforesaid averments made in the affidavit makes it very clear that the MCD has granted permission for erection of installation of a cell tower over the Subject Property on 9th May, 2023, keeping in view the policy framed on a subject dated 16th November, 2017. The MCD categorically stated that permission has been granted after duly scrutinizing all necessary documents, namely, building feasibility report dated 15th March, 2023, structural stability certificate dated 10th March,

2023, 'siting clearance' issued by Ministry of Communications dated 28th March, 2023, etc.

4. As the mobile tower has been erected with due permissions and consideration of the structural integrity of the subject property as required under the law, no further orders required to be passed in the present Public Interest Litigation.

5. The same stands disposed of accordingly, along with the pending application.

SATISH CHANDRA SHARMA, CJ SANJEEV NARULA, J SEPTEMBER 6, 2023 as This is a digitally signed order.

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