

# Mohd. Kashif vs The State (Govt. Of Nct Of Delhi) And Ors on 21 February, 2023

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 17655/2022 and CM APPL. 56420/2022

MOHD. KASHIF

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Through: Mr. I. Ahmed, Advocate for  
Ansari, Advocate.

versus

THE STATE (GOVT. OF NCT OF DELHI)  
AND ORS.

..... Responde

Through: Mr. Santosh Kumar Tripathi, Mr.  
Arun Panwar & Ms. Mahak  
Rankawat, Advocates for R-1, 3  
(M: 9643647008) with Mr. Vijay  
Kumar Shrotrya, Inspector, Lice  
Unit.  
Mr. Abhay Pratap Singh with Mr.  
Nayan Mishra, Advs. for R-2/MCD  
(M: 7000171681)  
Mr. Raghav Nagar, Advocate for  
(M: 9811588507)

CORAM:

JUSTICE PRATHIBA M. SINGH  
ORDER

% 21.02.2023

1. This hearing has been done through hybrid mode.

2. The Petitioner - Mohd. Kashif has filed the present petition seeking action to be taken against the alleged unauthorized construction and running of a guest house by the Respondent No.5 - Mohd. Ashfaq under the name 'M/s Al Ashfaq Guest House' at Property No.955, Gali Shyam Lal, Jama Masjid, Delhi-110006. The case of the Petitioner is that he is in the lawful occupation of the shop situated on the ground floor at Property No.956, Gali Shyam Lal, Jama Masjid, Delhi-110006 and that the Respondent No.5, in collusion with the statutory authorities such as MCD, GNCTD and police, has raised unauthorized construction and is running a guest house. The Petitioner claims to have made representations on 13th April, 2022 against the said illegal activity. However, no action is stated to have been taken, hence, the present petition has been filed. Mr. Ahmed, ld. counsel for the Petitioner submits that the Petitioner is living in the vicinity and therefore, is affected by the activities of the guest house.

3. On behalf of the MCD, it is submitted that the photographs itself would show that there is no unauthorized construction being carried out. Further, Mr. Abhay Pratap Singh, ld. Counsel for MCD submits that the guest house is duly licensed till 31st March, 2024. This position is confirmed by ld. counsel appearing for the GNCTD.

4. Mr. Nagar, Ld. Counsel for Respondent No.5 submits that the entire petition itself is mala fide, inasmuch as the Petitioner is illegally squatting in Property No.956 qua which eviction proceedings have been initiated by the Respondent No.5 against the Petitioner. He submits that the matter is pending before the Additional Rent Controller ('ARC') and today is the date for final pronouncement of the order in that matter.

5. On a query from the Court, as to why the Petitioner has not disclosed the eviction proceedings, ld. Counsel for the Petitioner submits that since the property is different, the need for disclosure of the said dispute was not felt.

6. The Court has considered the matter. The scope of this writ petition is in respect of the Respondent No.5's property and the guest house being run. The governmental authorities have confirmed that there is no unauthorized construction, which is currently taking place. The guest house is duly licensed. Hence, the directions sought cannot be passed in this matter.

Further, it is also a cause for concern that the present petition appears to have been a vexatious attempt by the Petitioner to cause unnecessary harassment to Respondent No.5. The Petitioner has nowhere disclosed the proceedings for eviction, which were pending between the Petitioner and the Respondent No.5. A fair disclosure of the same was required in these circumstances.

7. Accordingly, the writ petition is dismissed with costs of Rs.25,000/- to be paid to the Respondent No.5. The same shall be paid within a period of 4 weeks failing which the Respondent No.5 is free to take steps to recover the same.

8. The petition is dismissed. Pending application is also disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 21, 2023 dk/rp