

I-33

VINOD K. GUPTA

B-5 Marble Arch,
9 Prithvi Raj Road, New Delhi - 110011
Tel: + 91 11 24690242, Fax : + 91 11 24692806 Email: agcoindia@gmail.com

By Hand / Speed Post

26/09/2012

The Hon'ble Minister
Ministry of Urban Development
Nirman Bhawan
New Delhi - 110011

The Joint Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi - 110011

OFFICE OF UDM
Dy. No. 4729
Date 4/10/12

25
0/12

MD 2021 Review
4/10
Kee (uo)

Ref: - Master Pan 2021

Reg:- Property No. 9 Prithvi Raj Road, New Delhi - 110011

Sir,

Secy. (UD)

We have a group housing at 9 Prithvi Raj Road, New Delhi known as "Marble Arch" which was sanctioned in 1980 and constructed in 1983-84 after receiving clearance from the Urban Land & Ceiling Authority.

There are 4 blocks A - 1, A - 2, B & C of which Blocks A - 1, A - 2 and B have basements and stilts. When the Completion Plans were filed and sanctioned on 21/11/1984, the stilts were sanctioned for Residence and Office for reception and a compounding fees of Rs. 10,000/- was also paid. The stilts portions were allotted to individuals even before the construction had started.

Commercial electricity was sanctioned for Block B and House Tax assessment was done in March, 1985. Despite all this, NDMC in December, 1989 issued notice for the stilts being used illegally.

We have about 14% ground coverage and have ample parking space.

Pl. spk
4/10/12
USIB

4/11/12
AS (uo)

I now request your good self to kindly look into the matter as the Master Plan 2021 is being revised and the Building Bye Laws were relaxed in and around 2004. We should be given the benefit of that and all premises being used since before 2004 should be legalized and compounding / penalty fees charged.

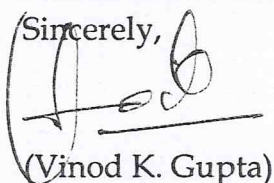
Along with this representation, I am also filing copies of letters and reports from the NDMC.

1. Copy of letter dtd. 30/11/1984 from NDMC Chief Architect informing sanction of Revised / Completion Plans after payment of compounding fees and corrections.
2. NDMC letter of Chief Architect dtd 22/01/1985 releasing the Revised / Completion Plans after payment of Compounding Fees and Corrections.
3. Copy of Resolution No. 51 dated 25/03/1985 of NDMC for the assessment of house tax for the stilts and the flats.
4. Copy of electricity load sanction for B - Block Stilts sanctioned as office.
5. Copy of Speaking Order of Chief Architect dtd. 23/05/2002 which on page 2 para 2 mentions that the unauthorized construction has not come up after issuance of completion certificate (Completion Certificate was issued on 31/07/1985).
6. Report by J. E. (UACC) NDMC regarding the unauthorized construction to Chief Architect which clearly states that the same should be regularized.

A FAR of 75% was given to us for this group housing. Later the Far has been increased by the Government of India. Our case may be considered under this as well.

I once again request you good self to consider the matter favorably and do the needful at the earliest.

Thanking you.

Sincerely,

(Vinod K. Gupta)

Encl : As above



ARCHITECTURE DEPT. NEW DELHI
Despatch No. 1253/40/84
Date 30/11/84

नई दिल्ली नगर पालिका
NEW DELHI MUNICIPAL COMMITTEE
पालिका केन्द्र, नई दिल्ली
PALIKA KENDRA, NEW DELHI 110001

Shri Vinod Kumar Gupta & Others,
9 Prithvi Raj Road,
New Delhi.

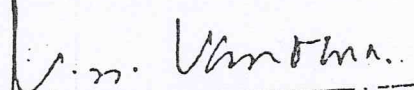
Completion
Sub: Revised Plans in respect of 9 Prithvi
Raj Road, New Delhi.

.-.-.-.

With reference to your Building application received vide Scheme No.124 dated 15.11.84 on the subject cited above, it is to inform you that Plans have been approved by the Administrator vide Committee's Resolution No.9 dated 21.11.84 subject to the following:-

- i) Corrections.
- ii) Compounding charges of Rs. 10,000/-.
- iii) Party to shift the boundary wall so as to leave the area for road widening.
- iv) No Objection from CFO/Fitness Certificate from Insp. of Lifts.

You are, therefore, required to do the needful and get the Plans released.


(V.N. Vasudeva) 29/11/84
Chief Architect



ARCHITECTURE DEPTT.
N.D.M.C., NEW DELHI.

Despatch No. 189/CA/84

Date 22.1.85

नई दिल्ली नगर पालिका
NEW DELHI MUNICIPAL COMMITTEE

पालिका केन्द्र, नई दिल्ली
PALIKA KENDRA, NEW DELHI 110001

Shri Vinod Kumar Gupta & Others,
9-Prithvi Raj Road,
New Delhi.

Sub: Revised/Completion Plans in respect of
9 Prithvi Raj Road, New Delhi.

With reference to your Building application received
vide Scheme No.124 dated 15.11.84 on the subject cited
above, I have to inform you that the Plans have been
sanctioned by the Administrator vide Committee's Reso.
No.9 dated 21.11.1984.

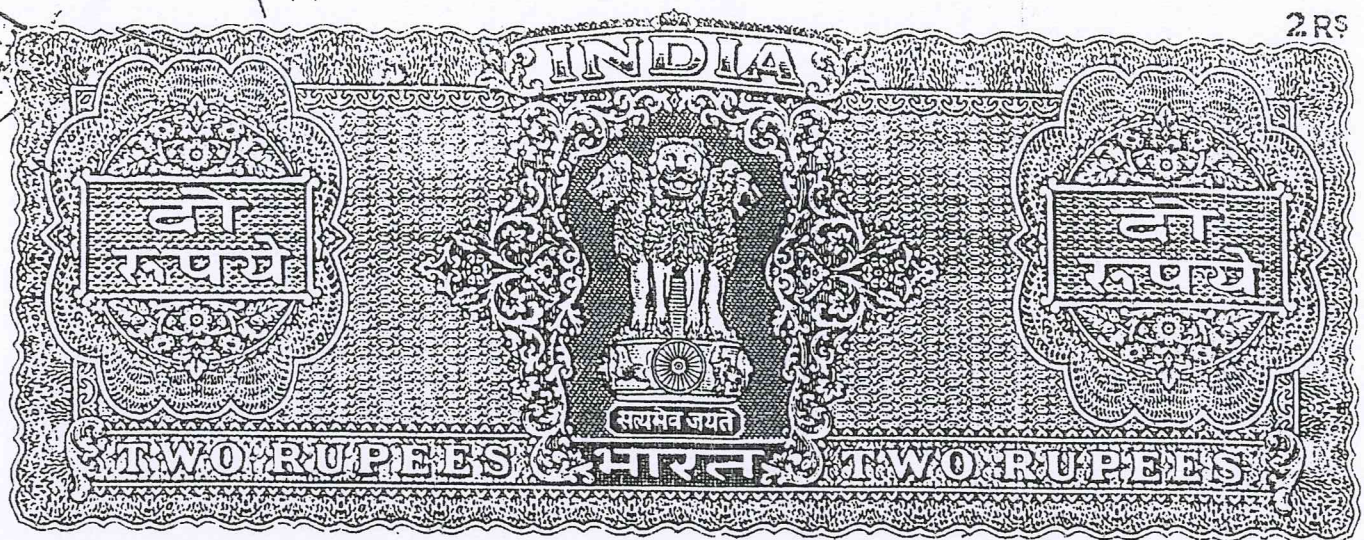
A set of sanctioned Plans is enclosed herewith.

The Plans under the terms of lease deed may please be
got approved from the Office of Land & Development
separately.

Encl: One set of Plans

V.N. Vasudeva
(V.N. Vasudeva)
Chief Architect

Recd
22/1/85



COPY OF THE RESO. No-51 dated 25.3.85.

HOUSE TAX ASSESSMENT LIST FOR THE YEAR 1985-86 IN RESPECT OF 9-PRITHVI RAJ ROAD, NEW DELHI.

In compliance with ~~the~~ Reso. No-354(928) dt. 28.12.84 in which the Committee approved the proposal of House Tax assessment of the following buildings at the annual values as noted against each with effect from the dates as in Col.No. 5 below a notice in terms of Section 65 of P.M. Act, inviting objections and intimating date and time when the Committee would hear objections was issued and served upon the owner Smt. Urmila Rani Gupta & others on 23rd day of January, 1985. The owners have not submitted any written objections so far. They may, if they puts in appearance be heard and their objections be considered.

S.No.	Particulars of the building	M.C. No.	Proposed A.V.	Date of effect of House Tax Assessment
1.	2.	3.	4.	5.
1.	<u>Block No. 1 & 2</u> Basement msg. 485 sft. at 9-Prithvi Raj Road, N.Delhi	III-P/H-81	Rs. 58,212/- less 10% on the basis of Standard Rent	1.4.85
2.	Stilt Ground Floor msg. 4672 sft. --do--	--do-- 86	Rs. 1,12,128/- less --do--	--do--
3.	F. Floor msg. 4600 sft. --do--	--do-- 87	Rs. 1,10,400/- less --do--	--do--
4.	IIInd Floor msg. 4600 sft. --do--	--do-- 88	Rs. 1,10,400/- less Rs. 1,10,400/- less --do--	--do--
5.	IIIrd Floor msg. 4600 sft. --do--	--do-- 89	Rs. 1,10,400/- less --do--	--do--
6.	IVth Floor msg. 4600 sft. --do--	--do-- 90	Rs. 1,10,400/- less --do--	--do--
7.	Vth Floor msg. 3033 sft. --do--	--do-- 91	Rs. 72,792/- less --do--	--do--
8.	VIth Floor msg. 3033 sft. --do--	--do-- 92	Rs. 72,792/- less --do--	--do--

Block 'B'

S. No.	Particulars of the building	M.C. No.	Proposed A.V.	Date of effect of House Tax Assessment
1	2	3	4	5
9.	Basement msg. 3331 sft. -do-	-do- 93	Rs. 39972/-less --do--	--do--
10.	Stilt Ground Floor msg. 3591 sft. ..	-do- 94	Rs. 86184/-less --do--	--do--
1.	F. Floor msg. 3555 sft. -do-	-do- 95	Rs. 85,320/-less --do--	--do--
2.	IInd Floor msg. 3555 sft. -do-	-do- 96	Rs. 85320/- less --do--	--do--
3.	IIIrd Floor msg. 1710 sft. --do--	-do- 97	Rs. 41040/- less --do--	--do--

Block 'C'

4.	Ground Floor msg. 3002 sft. at 9-Prithvi Raj Road, N.D	III-P/H- 98	Rs. 72048/-less 10% on the basis of Standard Rent	1.4.85
5.	F. Floor msg. 2966 sft. -do-	-do- 99	Rs. 71184/-less --do--	--do--
6.	IInd Floor msg. 2966 sq. ft. -do-	-do- 100	Rs. 71184/- less --do--	--do--

ADMINISTRATOR'S DECISION.

Nobody appeared before the Committee. However, written filed have been considered. It has been contended that the property, as per Agreement dt. 31.3.82, has been delivered to M/s Ramesh Apartments and the said party has delivered the flats to different owners. Further, the premises is still under construction and the same be assessed to house tax as per the Supreme Court judgment, under the provision of D.R.C. Act.

Mutation is to take place after they approach the office of the L&DO. Pending receipt of the same, the assessment of the House Tax is to be finalised.

For determination of S/Rent under Sec. 6(1)(B)(2)(b) of the D.R.C. Act reasonable cost of construction and market price of the land comprised in the building on the date of commencement of construction are required. The objector has not furnished any documentary evidence in regard to the cost of land & cost of construction. The aggregate value of the plot and cost of construction works out to Rs. 3,09,97,000/- and based on it, the S/Rent @ 8-1/4% comes to Rs. 25,81,412.50/- which is the S/Rent.

Resolved by the Committee of Officers & decided by the Administrator that the objections are over-ruled and the assessments as proposed in Cols. No.4 & 5 above are confirmed for the year, 1985-86.

Compared with the Original Proceedings
K. Singh
D. Asst.

[Signature]

Filed to be a true copy

[Signature]

Record Keeper
Municipal Committee

- 4 -

sh. should be inspected & given the
technical feasibility.



04/1/92

As per Post copy Ref No-1620/EE(DIS) dated-13-4-87 the
2kw power class sanctioned for reception cum security office
on Stilted portion B. Block of A.C. Load sanctioned by Delhi Administration
vide Ref no 3(31) & 7-EB/490 dated-6-6-1988 for commercial
purpose vide Ref no F 5(31) & 7-EB/1716 dated 23rd-09-1988
Consumer department the security & need connection for in room
cash branch vide CR no-8401 dated 26-10-88 for Rs 2000 + CR no 8400
dated 26-10-88 for Rs-1000 within a time. During inspection the
site only one single meter is found. AEE(M) Plan intimate
the ~~power~~ meter for power connection A/C on room already not
installed at site etc.

AEE(M)

Shy

13/1/92

A.E.E. (M) pl. examine the case as
above pl.

263/EE(DIS)
16/1/92

AEE(M)

2-1/1/92

15/1/92

A.C Load of 7.5 Kva R/c has already
been released on dated 28-9-88

B-32986-4-11-91
B-3275

507/EE(M)
20/1/92

against KNO-77006/PC for the use

of office in 'STILTS B Block'
in the name of Mrs. Lata Gupta as confirmed
for the KNO record no.

/A/

HIRAMAN RA

Head Ass. r. (I)

NDMC, Kidwai Nagar, N. Delhi-29

17/1/92

AEE(M)

17/1/92

NEW DELHI MUNICIPAL COUNCIL
PALIKA KENDRA: NEW DELHI

No: CA/163-167/4C/3

Dated: 23.5.02

SPEAKING ORDER

- 1) Vimla Rani & another Vs NDMC
2) Ramesh Apartments Vs NDMC

Appeal No. 149/A1/TMCD/89
Suit No. 578/2001

This is a case of unauthorized construction of enclosing stilt floor of 9, Prithvi Raj Road, New Delhi. Demolition orders were issued on 4.10.99 in case of stilted part of A3 & A2. The ATMCD vide his order dt. 9.5.2000 set aside the demolition order and remanded the case back to the undersigned for fresh hearing. Accordingly Sh. Vinod Gupta along with others appeared on 9.7.2001. They submitted a representation and house tax assessment list of NDMC as evidence of oldness of construction. During the discussion residential use of space at that time as per house tax record could not be proved. On their request another hearing on 3.8.2001 was fixed. In the meantime Sh. Vinod Gupta, Director, Ramesh Apartments, submitted a representation to the Chairman wherein he contended that unauthorized construction was done during 1984-1985 before the issue of Completion Certificate and further requested for regularization of unauthorized construction being old.

After considering the facts put up to him, the Chairman ordered to take action for removal of unauthorized construction if there was no legal impediment.

In another similar case of stilted part B block the Additional District & Sessions Judge remanded the case of 7.12.89 on 19.3.2002 and called upon the undersigned to start proceedings and decide the matter afresh. In response to this Sh. Vinod Gupta appeared on 3.4.2002 and submitted a representation. In his representation he stated that situation was similar and dispute was related to stilts A1, A2, A3, A4 & B Block. He further stated that the questions were identical to all the cases which could be disposed of simultaneously. Case of A1 was remanded earlier in 1997. In case of A4 demolition orders were issued and party in their representation stated that the decision taken in the other cases would be acceptable to them. Parties concerned with other flats did not appear or represent separately. In the annexures attached to his representation Sh. Vinod Gupta reiterated his stand that stilted portions were covered way back in 1984-85. Therefore, NDMC had no jurisdiction to raise objection and take demolition action as per provisions of PM Act applicable at that time. Main contention of Sh. Gupta has been that the conversion of stilted portion to residential units have been done when the provisions of PM Act were applicable whereby it was necessary to take action within six months.

After going through the documents carefully, the following facts have emerged :

1. Whereas in the representation he has been saying that unauthorized construction was done in 1984-85, it has been mentioned by him in his

Sub: U/A construction at 9, Prithvi Raj Road.

113

Placed below a representation from the Director of Ramesh Apartment (Delhi) Pvt. Ltd., Sh. Vinod Kumar Gupta who is also owner the property known as 9, Prithvi Raj Road New Delhi. For ownership party has submitted a copy of mutation vide letter No. L & DO/L 1-9/1(19-A)/96/24 dated 25/07/1996 issued by L & DO, according to which property stands in the books of L & DO in the name of Sh. Vinod Kumar Gupta i.e. the applicant.

In his representation Sh. Vinod Kumar Gupta has mentioned that the plans for the construction^{of} group Housing Scheme were sanctioned by the NDMC in the year 1981 after getting the requisite NOC from the concerned Department. The plans were than revalidated by the NDMC vide reso No. 15 dated 08/04/1983 and C.C for the same was issued by NDMC dated 03/07/1985.

Sh. Gupta has further mentioned that the total stilt area in all blocks m.a. 8298 sq. ft was enclosed by window's & wall may back in 1984-85 i.e. before grant of completion and issurance of C.C. The total stilt area was than allotted to different parties by the owner namely

- | | | |
|----|---|--------------|
| 1. | Sh. Parmod Kumar Gupta | stilt No. A1 |
| 2. | Sh. J.P. Aggarwal | stilt No. A2 |
| 3. | Pranav Barathi & Smt. Sarej Barathi | stilt No. A3 |
| 4. | Adml M.N. Vasudeva & Mrs. Asha Vasudeva | stilt No. A4 |
| 5. | Mrs. Lata Gupta | B- Block |

Sh. Gupta in his representation has mentioned that notice for the U/A construction i.e. for enclosing stilt area were first issued in 1989 and thanⁱⁿ 1995, notices were issued to previous allottees there after notices were again issued in the year 1999. All the notices were the stayed by the ATMCD and the cases were remanded back to NDMC. However the case for which notices was issued for the stilt of B- Block



सर्वोदयार्थं नमो भगवते वासुदेवाय

नमो दिनेशाय नमो

व. ड. म. स.

304/CA/1996/CA
19/11/97

114

in the year 1989 and which was also remanded back to NDMC is still pending in the Honorable high court as party filed a suit against NDMC. The proceeding were stayed by the Hon'ble high court, NDMC again issued notices for the same construction during the pendency of the case in High Court and that to has been stayed by the Hon'ble High Court.

Sh. Gupta in his representation has further stated that all the stilted portion in the premises were enclosed way back in 1984-85 for which he has enclosed a copy of the House Tax assessment order resolved by the NDMC vide res. No. 51 Dt : 25/03/85 indicating the assessment also made for the stilted portion in Block No. 1 & 2 (A1 & A2 Block) m.a. 4672 sq. ft mentioned at S.No. 2 and in Block B stilted area m.a. 3591 sq. ft mentioned at S.No. 10.

Sh. Gupta has also clarified that the notices were than issued by New Delhi Municipal Committee and the successor now New Delhi Municipal Council has no jurisdiction to raise objections against the alleged constructions raised in the year 1984-85 as the action could have been taken within six months from the date of construction as such no action can be initiated under the present act. Sh. Gupta has requested for Regularization / Compounding of the total stilted area existing at 9, Prithvi Raj Road. He has also mentioned that he is ready to pay charge as may be levied upon for the Regularization / Compounding of the same.

In this connection it is stated that plans for c/o Group Housing Scheme at the above mentioned premises were initially sanctioned by the Committee vide res. NO. 22 Dt: 25/11/81 subject to certain condition. After party complied with the conditions the plans were than released vide letter No. 401-02 / CA / BP Dt : 16.03.83. Thereafter plans were revalidated vide res. No. 15 Dt : 08.04.83. Plans were again revalidated vide res. No. 5 Dt : 21.03.84 for another year. In the mean time party



नमो भगवते वासुदेवाय
M. C.

submitted revised plans vide scheme No. 124 Dt : 15.11.84. Party also applied for C-form vide application Dt : 16.11.84. The Revised / completion plans were approved by the Committee vide res. No. 9 Dt : 21.11.84 subject to certain conditions which were released vide letter No. 180-81 / CA / BP Dt : 22.01.85, but the NOC from CFO was not submitted by the party. Party submitted the NOC from CFO and also submitted Lift Fitness Certificate with formal application for issuance to c.c. Finally c.c. was issued vide letter No. 1390 / CA / CC / BP Dt : 31.07.85. The total area as per revised / completion plan on all floors was 43368.15 Sq. ft. with permissible ground coverage 25% and permissible FAR 75%. The total stilted area was m. a. 8263.31 Sq.ft. and the enclosed area at stilt floor was 1219.64 Sq.ft. i.e. the sanctioned area on stilt.

As mentioned above in the parties representation notices for U/A construction i.e. for enclosing the stilt area in Block B were initially served vide No. CA/ 660-61/UC/ Dt 07-12-89 under section 195 of PM Act. Party filed an appeal before ATMCD. The case was remanded back to NDMC.

Notices were again served by the NDMC in the year 1997 for enclosing stilt area at stilt A; of A block. Party again filed on appeal before AT MCD and this case has also been remanded back to NDMC. Notices were again served in the year 1999 for the stilted portion A2 & A3, which to were remanded, back to NDMC. Notices for stilted portion A4 were also issued in the year 1999 for which party submits a reply that his case may also be considered / decided along with the other cases.

However it is pertinent to mentioned that party also filed a suit before Hon'ble high court in the year 1990 for the stilted portion of B block. Notices in this case were again served in the year 1999 during the pendency of the case, Party went to the Hon'ble court and the same were again stayed by the Hon'ble high court. Irrespective of the High Court case all the remand cases are yet to be finalised.

116

After the receipt of representation of the party inspection of the premises has been made and it has been observed that the construction existing at site seems to be quite old, to prove the contentions party has submitted a copy of Resolution of the House Tax assessment order resolved vide res no. 51 dt 25.03.85.

In which a list of portions of the premises access to house tax is given. Copy of the reso. Clearly shows that a stilt area in block no. 1 & 2 (A Block) m.a. 4672.00 Sq. ft. and in B-Block area m.a. 3591sq. ft. is access to house tax, since the unauthorised construction is accessed to house tax before the amendment of the PM Act and the oldness of the construction is thus proved from the house tax record no action against the old existing U/A construction can be initiated now in light of the amendment made in the PM Act vide notification issued by Govt. of India Dt. 2.12.85

From the above it can be seen that N.D.M.C is barred to initiate action against the old U/A constructions as per the notification and instructions issued by the govt. of India from time to time, In light of the above, representation of the party is put up for consideration and suitable orders for the condonation of the notices served for the unauthorised construction existing before the year 1985.

If the case of the party is to be considered favorably a suitable penalty is to be levied upon the party for carrying out the U/A construction without sanctioned and party may be asked to withdraw the court cases against the NDMC unconditionally.

B. Krishan
13/11/2011

(BAL KRISHIAN)
J.E.(UACC)

AE (UC) 15/11/2011

A (UC) Case is to be discontinued
CA Rtx

Sumi
19.11

AB

Discussed, The brief history of the case is as under:-

In this premises i.e. 9, Pithi Ry Road, there are five Nos. of Cans where stilted parking meant for parking has been converted into Residential units. Party has pleaded that the said