

IN THE COURT OF SH. ABHILASH MALHOTRA:
ADDL. DISTRICT & SESSIONS JUDGE-CUM-PRESIDING OFFICER,
APPELLATE TRIBUNAL, M.C.D., DELHI.

APPEAL NO. 359/ATMCD/2024

Sh. Nawab Khan @ Nawabuddin
S/o Late Sh. Allauddin
R/o 174, Gali No.3, Near Mustafabad,
Karawal Nagar, Delhi -110094

..... Appellant

Versus

Municipal Corporation of Delhi
(Through its Commissioner)
Shyama Prasad Mukherjee Civic Centre,
Minto Road, New Delhi.

..... Respondent

Date of Filing of Appeal : 21.05.2024
Date of Order : 20.09.2024

ORDER

1. By way of present appeal, the appellant has impugned the demolition order dated 06.05.2024 passed under Section 343 of the DMC Act, 1957 in respect of the property bearing no. **11386, Bandariya Wali Masjid, Qutub Road, Ram Nagar, New Delhi -110055.**
2. It is the case of the appellant that the property in question is an old property and he has only carried out the minor repairs. The appellant has also disputed the service of demolition order and stated that the order has been passed without providing proper hearing.
3. On the other hand, Ld. counsel for respondent corporation submits that the appellant was provided proper hearing and he participated in the proceedings before the Quasi Judicial Authority and also submitted his reply dated 12.03.2024 which was duly considered and

appreciated by the Authority while passing the impugned order. It is submitted that the appellant has raised unauthorized construction in the shape of three numbers of shops at the ground floor with projection on Municipal Land including raising of roof slab at shop no. 3, by approx. one foot which does not fall in the exempted category as per UBL.

4. Arguments heard and record perused. P-60/C of the record produced by the respondent shows that the appellant participated in the proceedings before the Quasi Judicial Authority and submitted his reply dated 12.03.2024. In the said reply, he has admitted about raising of the slab of shop no. 3. After considering the reply and submissions of the appellant, the Quasi Judicial Authority has passed detailed order dated 06.05.2024.
5. The demolition order was affixed at the property in question and the photographs are placed on record. The service by way of affixation is permissible mode of service as per Section 444 (i) (d) (ii) of the DMC Act, 1957.
6. The appellant has placed on record the electricity and water bills to show that the property is an old structure. The disputed property comprises of three different shops and no shop numbers mentioned on the said bills and the appellant has failed to show that the bills in question relate to the shops which have been booked by the respondent Corporation.
7. The impugned order dated 06.05.2024 mentions that the appellant has raised the roof slab of shop no. 3. The said fact is not disputed. The appellant in his reply dated 12.03.2024 submitted before the Quasi Judicial Authority admitted raising of the roof slab. As per Clause 2.0.1 (d) (ii) of Unified Building Bye Laws for Delhi 2016 re-roofing or renewal of roof falls in the exempted category only if it is kept

at the same height and appellant's case does not fall in this exempted category.

8. In the present case, from the photographs as well as admission made by the appellant in his reply dated 12.03.2024, it is amply clear that the roof slab of shop no. 3 was raised and the same falls within the definition of unauthorized construction. The documents placed on record does not show that the shops in question are constructed before the cut off date as prescribed in National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
9. From the aforesaid discussion, it is clear that the appellant is not able to give any sufficient explanation in respect of unauthorized construction booked by the MCD vide demolition order dated 06.05.2024. Accordingly, the appeal is dismissed.
10. The file of the respondent be send back along with copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court
today i.e. on 20.09.2024 (s)**

**(ABHILASH MALHOTRA)
AD&SJ-cum-P.O.
Appellate Tribunal : MCD Delhi.**