

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

APPEAL NO. 947/ATMCD/24

**Shri Jitender Kumar Bhalla,
S/o Shri S.L. Bhalla,
R/o C-4/4122, Ground Floor,
Vasant Kunj, New Delhi,**

..... Appellant

Vs

**Municipal Corporation of Delhi
Through its Commissioner,
17th Floor S.P. Mukherjee Civic Centre,
JLN Marg Minto Road, New Delhi 110002**

.....Respondent

Date of Filing of Appeal : 25.10.2024
Date of Judgment : 27.11.2024

JUDGMENT

1. The present appeal is filed impugning demolition order dated 15.10.2024 passed in respect of property of the appellant bearing No. C-4/4122, Pocket-4, Sector-C, Vasant Kunj, New Delhi.
2. It is submitted by Ld. counsel for the appellant that in response to show cause notice dated 04.10.2024 appellant submitted reply dated 14.10.2024 with the MCD. In the said reply he categorically stated that the property is old and no new construction has been carried out. It was also pointed out that the alleged deviations from standard building plan are also not clarified. It is submitted that despite aforesaid categorical pleas in the reply dated 14.10.2024 the Quasi Judicial Authority proceeded further to pass the impugned demolition order without appreciating the pleas taken by the appellant. It is argued that instead of appreciating the pleas taken in the reply, the impugned order mentions that no reply has been filed by the appellant. He submits that such an order is gross mis-carriage of justice and arbitrary in exercise of powers by the Quasi Judicial Authority.

3. Ld. counsel for the respondent MCD submits that the impugned order has been passed after due process of law as the appellant has carried out unauthorized construction in the property.
4. Arguments heard. Record perused. In the present case there are allegations of deviations against the standard building plan. Copy of standard building plan is not placed on record. The measurement and nature of deviations is not specified. The approximate year of construction is also not specified. In reply dated 14.10.2024 filed before the MCD, the appellant has claimed the property to be old structure. The said reply is not acknowledged and appreciated in the impugned order. The impugned order records that no reply is received. Appellant in his reply has taken a categorical objection that the deviations / unauthorized construction in comparison to standard building plan have not been specified. Despite the said objection the Quasi Judicial Authority failed to awake from their slumber and passed a demolition order without giving the measurement and the nature of deviations.
5. In view of the aforesaid submissions, it is clear that the Quasi Judicial Authority has not considered the reply and the pleas taken by the appellant before passing the impugned demolition order. The impugned order does not specify the year, nature, extent and measurement of deviations. Accordingly the impugned demolition order dated 15.10.2024 is set aside and the matter is remanded back to the Quasi Judicial Authority to decide the same afresh.
6. Appellant shall appear before the Quasi Judicial Authority on 04.12.2024 at 2.00 p.m. The Quasi Judicial Authority shall provide an opportunity to appellant to submit additional reply and documents and also grant him personal hearing. The appellant is directed to place on record all relevant documents pertaining to the property in question before the Quasi Judicial Authority and no further opportunity will be granted.
7. The Quasi Judicial Authority thereafter shall pass a speaking order after dealing with all the submissions, pleas and defences raised by the appellant and shall communicate the said order to appellant. All the proceedings shall be complete by the Quasi Judicial Authority with six months from 04.12.2024.

8. Appellant shall however not raise any unauthorized construction in the property in question without necessary permission as per law. The appellant shall co-operate in inspection of property for the purpose of ascertaining measurements.

9. It is clarified that the observations made while passing of this order by this Court, shall not tantamount to the expression on the merits of this case.

Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

**Announced in the open Court
Today i.e. on 27.11.2024**

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