

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

**APPEAL NO. 930/ATMCD/2024**

**Sh. Bihari lal**  
**S/o Sh. Sukh Ram**  
**R/o H. No.B-67, Kh. No.23/17, 23/18/1,**  
**Qutub Vihar, Phase-II,**  
**New Delhi-110071.**

**..... Appellant**

**Vs**

**Municipal Corporation of Delhi**  
**(Through its Commissioner)**  
**17<sup>th</sup> Floor, Civic Centre,**  
**Minto Road, New Delhi.**

**..... Respondent**

**Date of Filing of Appeal           :     21.10.2024**  
**Date of Order                           :     14.11.2024**

**JUDGMENT**

1.           The present appeal has been filed by the appellant impugning the demolition order dated 08.10.2024 passed in respect of property in question bearing H.No.68, Khasra No.23/17, 23/18/1, B-Block, Qutub Vihar, Phase-II, New Delhi-110071.
2.           It is the case of the appellant that the property is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act. It is stated that the appellant has placed on record the electricity bill, property tax return and the title documents etc which have not been appreciated properly by the Quasi Judicial Authority. It is submitted that appellant had filed writ petition before the Hon'ble High Court objecting to the unauthorized construction done by Mr. Narender and to suppress the voice of the appellant the MCD

has booked the property belonging to the appellant and has not taken any action against Mr. Narender.

3. Ld. counsel for respondent submits that the appellant initially filed the appeal bearing No.339/20 before the Tribunal against the demolition order dated 02.11.2020. The said demolition order was set aside and the matter was remanded back for fresh hearing. Thereafter opportunity of hearing was provided to the appellant. After considering all the relevant record the impugned demolition order dated 08.10.2024 has been passed by the Quasi Judicial Authority.
4. I have heard the arguments and perused the record. Before proceedings further in the matter, it will be prudent to produce the relevant extract of the impugned order which is as under:

“Whereas, however in the interest of natural justice, Sh. Bihari Lal was asked to appear before the QJA on 11.07.2024 for personal hearing, vide letter No.344 dt. 03/07/2024. Accordingly, Sh. Bihari Lal appeared in person before the undersigned on 11.07.2024. During course of hearing, he stated that his property in question was constructed before June 2014 hence it covers under the Special Laws Act, GNCT. In support of his contention, he submitted copy of ownership documents (GPA, not registered) dated 26.12.2011 and copy of electricity supply meter having Energisation dated 29.01.2016. The documents submitted by appellant have been taken on record.

Whereas, the matter has been got examined and found that the Appellant has not been able to establish the valid status of unauthorized construction booked by the Department. He has not submitted any document i.e. sanctioned building plan or regularization plan, to indicate and establish the valid status of construction. Hence, the undersigned has come to the conclusion that the impugned property/ unauthorized construction, as has been booked by the Department, is liable for action under DMC Act-1957. The Appellant has also failed to submit any concrete / cogent document to indicate that the existing construction at the impugned

property has existed prior to cut of date i.e. 01.06.2014. Thus, the case is not entitled for any relief under the National Capital Territory of Delhi Laws (Special Provision) Act.”

5. A bare perusal of the aforesaid order shows that Quasi Judicial Authority has acknowledged filing of various documents before them. Page No.77 of the MCD record is the property tax return starting from the year 2004. The impugned order does not acknowledge the receipt of said document. No endeavor has been made to appreciate the said document. The aforesaid property tax return shows the property tax payment in respect of property for the year 2004-05 and the document needs to be appreciated on merits to ascertain whether the structure in question existed at spot prior to cutoff date or not. I am afraid that impugned order does not whisper anything about the appreciation of such crucial document. Without appreciating the property tax return, the Quasi Judicial Authority has come to the conclusion that the appellants property is not entitled to protection.
6. In view of the above facts and circumstances, the appeal filed by appellant is allowed. The impugned demolition order dated 08.10.2024 is set aside. The matter is remanded back to the Quasi-Judicial Authority for deciding the same afresh.
7. The appellant shall treat this order as show cause notice. The appellant shall appear before the Quasi Judicial Authority on **22.11.2024 at 02.00 PM**. The Quasi Judicial Authority shall provide an opportunity to appellant to submit reply / additional reply (if any) and also grant him personal hearing.
8. 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.

Appellant shall however not raise any unauthorized construction in the property in question without necessary permission as per law.

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.

10. 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 14.11.2024 (J)**

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