

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

**APPEAL NO. 961/ATMCD/24**

**Shri Parminder Singh,  
S/o Shri Inder Pal Singh,  
R/o H-1/First Floor,  
H- Block, Vikas Puri, New Delhi,**

**..... 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 : 28.10.2024**  
**Date of Judgment : 18.11.2024**

**JUDGMENT**

1. The present appeal is filed against the impugned order of demolition dated 16.10.2024 passed in respect of property of the appellant bearing flat GG-2/75A, Vikaspuri, New Delhi.
2. Ld. counsel for appellant submits that the impugned demolition order has been passed alleging the excess coverage/deviations against the DDA layout plan. He submits that nature of such deviations and measurement are not specified in the impugned order. He submits that the appellant gave a detailed representation dated 14.10.2024 before the Quasi Judicial Authority but in the impugned order no deliberation has been made on the said representation and the pleas taken therein. The impugned order has rejected the pleas by merely stating that reply is not found satisfactory.
3. Ld. counsel for the respondent MCD submits that the impugned order was passed after providing due opportunity of hearing to the appellant and the excess construction done against the DDA layout plan was booked being unauthorized.

4. Arguments heard. Record perused. A bare perusal of the demolition order shows that it merely mentions unauthorized construction in the shape of excess coverage /deviation against DDA layout plan at ground floor. The impugned order does not clarify anywhere what was the covered area in the standard plan and what is the covered area which existed in the property at the time of booking. It is not clarified as to what is the measurement of the excess coverage and what is the portion/ area MCD proposes to be demolish in terms of the demolition order. The demolition order is vague and is passed in disregard of the directions of the Hon'ble High Court of Delhi in the case of **Masonic Club vs MCD &Anr**, (2001) 91 DLT 149, wherein the Hon'ble High court of Delhi held that:

“Aggrieved by the order of sealing, this petition has been filed by the petitioner. It has been contended that no show cause was given to the petitioner before sealing the property. It has also been contended that no notice was served upon the petitioner after 15.9.2000 when according to the record of the respondent, which has been perused by me, the alleged unauthorised construction was booked. The method and manner in which the original notice dated 25.10.2000 is prepared by the respondent, create doubt about the genuineness of the same. Even the same has not been properly served on the petitioner. In any event of the matter, I have perused the notice in question. No specific mention has been made in the notice as to which portion of the property in question in unauthorised, as to what is the approximate or alleged date of construction, the area of unauthorised construction. Notice dated 21.9.2000 is no notice in the eye of law. As the premises of the petitioner is sealed without giving any opportunity to the petitioner, I direct Mr. Rajesh Mishra, Zonal Engineer (Building) and Mr. S.M.R. Zaidi, Junior Engineer (Building), Who are present in Court, to de-seal the property of the petitioner forthwith. However, respondents will be at liberty to give notice of any unauthorised construction in the premises in question to the petitioner in accordance with law.”

5. Apart from that the appellant has filed reply/representation dated 14.10.2024 before the Quasi Judicial Authority. In the said reply the appellant

has taken a plea that no construction has been done by them in the property afresh 03.12.1996. Other pleas have been also raised in the reply. None of the pleas has been appreciated on merits in the impugned demolition order and the Quasi Judicial Authority has shed its burden only by passing remarks that the “reply received and upon scrutiny found not satisfactory”. The Quasi Judicial Authority is required to give sound reasons and pass speaking order appreciating pleas of appellant. The impugned order is bereft of any reasoning and the same is in disregard of the directions issued by the Hon’ble High Court of Delhi in case titled **Jaspal Singh Jolly v. Municipal Corpn. of Delhi**, (2005) 125 DLT 592 wherein it has held that:

“13. ....Noting the decisions of the Supreme Court as *Erusia Equipment & Chemicals Ltd. v. State of West Bengal*, (1975) 1 SCC 70 : AIR 1975 SC 266 (at p. 269); 106 (2003) DLT 573, *Mekaster Trading Corporation v. Union of India*; and (1990) 4 SCC 594, *S.N. Mukherjee v. Union of India*, I had held that the aforesaid decision established the legal proposition that orders which are subject to judicial review must be in compliance with the principles of natural justice, namely (a) proper hearing, (b) decision by an unbiased mind; (c) taking into consideration all relevant factors and excluding the irrelevant factors; and (d) reasons to be recorded.

14. Needless to state, reasons enable the superior Court to effectively exercise supervisory jurisdiction. Additionally, when reasons are stated, the person affected knows the mind against him. A decision may be right, but not sound. Such a decision leaves a grievance in the mind of the person affected that he was not told why the decision was taken.

15. Form or scope of reasons cannot be judicially laid down in a strait-jacket. The extent and nature of the reasons depend upon each case. What is essential is that the order must state the elements which had led to the decision. The order much reflects the process of the mind. The reasons must show that the decision maker successfully came to grips with the contentions advanced. Reasons are links between material on which conclusions are based and the decision. Conclusions are not reasons.”

6. 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 nature, extent and measurement of deviations. Accordingly the impugned demolition order dated 16.10.2024 is set aside and the matter is remanded back to the Quasi Judicial Authority to decide the same afresh.

7. Appellant shall appear before the Quasi Judicial Authority on 22.11.2024 at 2.00 p.m. The Quasi Judicial Authority shall provide an opportunity to appellant to submit additional reply and documents and also grant her 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.
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. All the proceedings shall be complete by the Quasi Judicial Authority expeditiously.
9. 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.
10. 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 18.11.2024**

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