

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

APPEAL NO. 138/ATMCD/24

**M/s National Tile Works,
Through its Partner Shri Hemant Kumar,
S/o Late Shri Chiranji Lal,
R/o 10944/4, Third Floor, Dori Walan,
Subzi Bazar, Karol Bagh,
New Delhi.**

..... Appellant

Vs

**Municipal Corporation of Delhi
Through its Commissioner,
Civic Centre, 9th Floor,
Jawahar Lal Nehru Marg, New Delhi.**

..... Respondent

Date of Filing of Appeal : 26.02.2024
Date of Judgment : 27.11.2024

JUDGMENT

1. The present appeal is filed impugning the demolition order dated 21.08.2019 passed in respect of property of the appellant bearing No.B-160 and B-161, S.P. Mukherjee Market, Junk Market, Jhandewalan, New Delhi.
2. Ld. counsel for appellant submits that the impugned order has been passed without providing any opportunity of hearing to the appellant. He submits that the MCD record shows that there is no service report of show cause notice and demolition order. He submits that the appellant has placed on record the documents to show that the property is covered under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, but as no opportunity of hearing was provided appellant could not place these documents before the Quasi Judicial Authority.
3. Ld. counsel for the respondent submits that the show cause notice was issued in the matter and when the appellant failed to file the reply, the impugned demolition order was passed after following due process of law.

4. Arguments heard. Record perused. A perusal of show cause notice dated 13.08.2019 (page-3/C of MCD record) shows that it is addressed to owner/builder and not to any individual. There is no service report of show cause notice as well as demolition order on record. There is no office noting or endorsement on MCD record clarifying how the service of show cause notice and demolition order has been effected.
5. . In these circumstances, it is clear that the service of show cause notice and demolition order is not free from doubts and opportunity of hearing has not been provided to the appellant before passing of the impugned order. Appellant has placed on record the documents claiming protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act. The said documents need to be appreciated on merits by the Quasi Judicial Authority before arriving at any conclusion.
6. In view of the aforesaid facts and circumstances, the impugned demolition order dated 21.08.2019 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 **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.
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 within six months from 04.12.2024.
9. Appellant shall 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.
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 27.11.2024**

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