

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

**APPEAL NO. 870/ATMCD/24**

- 1. Shri Chandan Dhillon,  
S/o Shri C.B. Dhillon,  
R/o C-57, Gali No.3,  
G.T. Karnal Road  
Mahendru Enclave, Delhi.**
- 2. Ms. Manju Matharu,  
D/o Shri Harcharan Singh Bedi,  
R/o 5C/17, New Rohtak Road  
Karol Bagh, New Delhi.**
- 3. Ms. Madhu Dayal,  
W/o Shri Upender Dayal,  
R/o A-50, Mahendru Enclave,  
Delhi.**

**.....Appellants**

**Vs**

**Municipal Corporation of Delhi  
Through its Commissioner,  
SPM Civic Centre,  
Near Minto Road, New Delhi.**

**.....Respondent**

**Date of Filing of Appeal                   :       30.09.2024**  
**Date of Judgment                            :       02.12.2024**

**JUDGMENT**

1.           The present appeal has been filed impugning the sealing order dated 12.08.2024 passed in respect of property No.A-40/2, Mahendru Enclave, Delhi.
2.           It is submitted by the Ld. counsel for the appellants that the show cause notice dated 12.07.2024 was not served upon appellants. He submits that show cause notice and sealing order are addressed to ‘owner/builder’ and the name of any individual is not specified in notice. He submits that no opportunity of hearing was granted to the appellants as per the mandate given by the Hon’ble High Court in their various judgments. He submits that appellants have placed on record the documents i.e. title documents, property tax returns, as well as electricity bills showing the energization date prior to cutoff date. He submits that no opportunity to place the said record

before the Quasi Judicial Authority was granted and the said documents were never considered by the Quasi Judicial Authority while passing the impugned order.

3. Ld. counsel for the respondent MCD submits that the show cause notice was sent to appellants through speed post but returned unserved. Thereafter, it was served through affixation. The appellants failed to participate in the hearing before the Quasi Judicial Authority and the sealing order was passed after following the due process of law.
4. Arguments heard. Record perused. A bare perusal of the show cause notice shows that it does not specify the name of any individual and is addressed to owner/builder. The show cause notice was initially sent through speed post but tracking report placed at page 11/C of the MCD record shows remarks that 'item Returned, No such person in the address'. No clarification has been provided as to why the service was not attempted on appellants as per Section 444 of DMC Act, 1957 before opting the mode of service through speed post. Affixation proceedings were not witnessed by any public person. In these circumstances, it is clear that service of show cause notice is not free from doubt and no opportunity of hearing was provided to appellants.
5. Apart from that appellants have placed on record the title documents, the property tax returns and the electricity bills. The electricity bills shows the date of energization prior to cutoff date. The said documents are required to be appreciated by the Quasi Judicial Authority on merits after giving due opportunity of hearing and participation to the appellants.
6. From the record it is clear that the impugned order has been passed without affording any opportunity of hearing to the appellants and without considering the documents placed on record by the appellants.
7. Accordingly on the basis of the said observations the appeal is allowed and the impugned sealing order dated 12.08.2024 is set aside and the property in question be de-sealed. The matter is remanded back to the Quasi Judicial Authority to decide the same afresh.
8. Appellants shall appear before the Quasi Judicial Authority on 12.12.2024 at 3.00 p.m. The Quasi Judicial Authority shall provide an opportunity to appellants to submit reply and documents and also grant them personal hearing. The appellants are directed to place on record all relevant documents pertaining to the property in question before the Quasi Judicial Authority.

9. The Quasi Judicial Authority thereafter shall pass a speaking order after dealing with all the submissions, pleas and defences raised by the appellants and shall communicate the said order to appellants.
10. Appellant shall however not raise any unauthorized construction in the property in question without necessary permission as per law.
11. 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 02.12.2024**

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