

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

APPEAL NO. 389/ATMCD/2017

Shri Dharampal,
S/o Late Sh. Arjun Singh,
R/o H.No.106, Village Fatehpur Beri,
New Delhi.

.....Appellants

Vs

Municipal Corporation of Delhi
(Through its Commissioner)
Shyama Prasad Mukherjee Civic Centre,
Minto Road, New Delhi.

.....Respondent

Date of Filing of Appeal : 30.05.2017
Date of Order : 12.12.2024

JUDGEMENT

1. In present appeal the appellant has impugned the demolition order dated 03.04.2017 in respect of property bearing Khasra No.920, Aflaton Road (opposite Farm no.10), Fatehpur Beri, New Delhi.
2. It is submitted by Ld. counsel for appellant submits that they were not served upon the show cause notice as well demolition order and no opportunity of personal hearing was provided to appellant as mandated under Section 343 of DMC Act, 1957. He submits that though in demolition order property number is mentioned as K.No.920 (which belongs to Ms. Maya wife of appellant) but show cause notice and demolition order are addressed to Mr .Ramkesh who is not owner of aforesaid khasra. He submits that appellant has also intimated to quasi judicial authority in this regard and letter is available on page 3 /N of MCD

record. He submits that there is a serious dispute of identity of property and no personal hearing was granted in compliance of Section 343 of DMC Act, 1957 and impugned demolition order is liable to be set aside.

3. Ld. counsel for respondent concedes that impugned show cause notice as well as demolition order are addressed to Mr. Ramkesh. He submits that unauthorized structure existed on the spot and the MCD has passed the impugned order after following due process of law.
4. Arguments heard and record perused. The appellant has placed on record copy of land revenue record (at page 35 of the appeal). He submits that revenue record shows that khasra no.920/1695 is endorsed in the name of Smt. Maya W/o Mr. Dharampal. The impugned show cause notice as well as demolition order are addressed to Mr. Ramkesh. It is patently clear from the record that show cause notice and demolition order were not addressed to appellant and he did not get personal hearing to participate in the proceedings. Appellant gave letter (which is at page 3 of MCD record) and made an endeavor to clarify the issue but the quasi judicial authority gave deaf ear to his plea. The endorsement dated 01.05.2017 in respect of demolition action also record that the appellant made endeavor to inform MCD officers regarding identity of his property and once again he was unheard and demolition proceedings were carried out.
5. From the aforesaid it is clear that MCD officers callously went ahead with demolition order of the property without bothering to clarify identity of plot. There is clear violation of Section 343 of DMC Act, 1957 as no hearing was provided to the appellant. The show cause notice and demolition order are not served on

appellant and addressed to some other individual. The impugned order, passed by the Quasi Judicial Authority is thus not sustainable in law and impugned demolition order dated 03.04.2017 is set aside. The matter is remanded back to the Quasi-Judicial Authority for deciding the same afresh. Interim application is also disposed off in view of said observation.

6. Appellant shall appear before the Quasi Judicial Authority on **24.12.2024 at 03.00 PM**. The Quasi Judicial Authority shall provide an opportunity to appellant to submit additional reply, if any and also grant personal hearing.
7. The Quasi-Judicial Authority thereafter shall pass a speaking order after dealing with all the submissions, pleas and defenses raised by appellant and shall communicate the said order to appellants.
8. However, it is clarified that the observations made in this order shall not be construed as observation on merits of this case.
9. The record of the respondent be send back along with copy of this order. Appeal file be consigned to record room after due compliance.
10. A copy of this order given dasti as prayed for.

**Announced in the open Court
today i.e. on 12.12.2024 (R)**

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