

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

APPEAL NO.92/ATMCD/2025

Smt. Jasbir Kaur,
W/o Sh. Sukhbir Singh,
R/o H.No.A-181/3, Second Floor,
Fateh Nagar, Jail Road,
Tilak Nagar, New Delhi-110018.

.....Appellants

Vs

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

..... Respondent

Date of Filing of Appeal	:	18.02.2025
Date of Order	:	11.03.2025

JUDGEMENT

1. The present appeal is filed impugning the demolition order dated 23.02.2016 wherein unauthorized construction at third floor of the property bearing no. A-181/3, Fateh Nagar, New Delhi is ordered to be demolished.

2. It is submitted by Ld. counsel for appellant that show cause notice as well as demolition order was never served upon them and they came to know about the demolition order during the course of hearing before the Hon'ble High Court of Delhi in WP(C) 1601/2025. She submits that appellant has placed on record the copy of property tax return of the year 2011-12 which records that structure in question was existing much prior issue of demolition order. She submits that appellant was not given any opportunity of personal hearing and to place relevant documents before the MCD to put forth her version.

3. On the other hand, Ld. Counsel for respondent / MCD submits that the impugned demolition order was passed after following due process of law. She submits that appellant failed to appear before the quasi-judicial authority despite service of demolition order and impugned order was passed against the structure on third floor which is unauthorized construction without any sanction.

4. Arguments heard and record perused. The first proviso to Section 343 of DMC Act mandates that personal hearing needs to be granted to the owner / occupier of property before passing any demolition order under Section 343 of DMC Act, 1957. The aforesaid mandate is indispensable. MCD record shows that there is no service report of show cause notice. No file noting had been made as to how the show cause notice was served upon the property owner / occupier. The show cause notice does not mention the name of person or individual to whom it is addressed. The demolition order is stated to be served by way of affixation, but photographs are not placed on record despite opportunity granted to file them. Under these circumstances, the service of show cause notice as well as demolition order is not free from doubt and is eclipsed. The mandate of 343 of DMC Act, 1957 for providing opportunity of personal hearing is not complied by the MCD in the present case.

5. Apart from above, appellant has placed on record the title documents as well as property tax return to substantiate her claim that structure at third floor is old and falls within the ambit of protection. The aforesaid document needs to be verified and appreciated by MCD before taking any decision in the matter.

6. In view of the aforesaid, the impugned order dated 23.02.2016 is set aside. The matter is remanded back to the MCD for deciding the

same afresh. Interim application is also disposed off in view of said observation.

7. Appellant shall appear before the Quasi Judicial Authority on **25.03.2025 at 02.00 PM**. The Quasi Judicial Authority shall provide an opportunity to appellant to submit additional reply, if any and also grant them personal hearing.

8. 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.

9. However, it is clarified that the observations made in this order shall not be construed as observation on merits of this case.

10. The record of the respondent be send back along with copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court
today i.e. on 11.03.2025 (R)**

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