

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

**APPEAL NO. 125/ATMCD/2024**

**Sh. Anil Kumar Gupta,  
S/o Sh. Ved Prakash Gupta,  
R/o H.No.6/20, Third Floor,  
Roop Nagar, MalkaGanj,  
Delhi-110007**

..... Appellant

**Vs**

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

..... Respondent

**Date of Filing of Appeal : 03.03.2025**  
**Date of judgment : 12.03.2025**

**JUDGMENT**

1. The present appeal has been filed impugning the sealing order dated 02.01.2024 passed under Section 345-A of The Delhi Municipal Corporation Act, 1957 in respect of entire ground floor and first floor of property bearing No.17/01, Gali No.15, Near Electric Pole No.503-87/24, Sarup Nagar, Delhi.
2. In respect of application under Section 5 of the Limitation Act, it is submitted by Ld. Counsel for the appellant that the impugned sealing order was never served upon them and only after the sealing action was executed in the property they came to know about the sealing proceedings

and filed the present appeal. On the other hand, Ld. Counsel for MCD opposes the application.

3. The aspect regarding service of the sealing order goes to the root of the matter from the point of view of limitation. MCD stated to have executed the service by way of affixation but the same is not witnessed by any person and the service is not free from doubts. In view of the aforesaid facts and circumstances, the application seeking condonation of delay is allowed. Delay is condoned.
4. It is the case of the appellant that neither the show cause notice nor the sealing order was ever served upon him. It is argued that no personal hearing was granted to the appellant to present his case as well as to file documents before the MCD. It is submitted that appellant has placed on record title documents of the property which shows that the structure is old. It is submitted that the impugned sealing order is passed in respect of property at Khasra No.17/1 but the property of the appellant as per title documents is at Khasra No.17/10 and there is dispute regarding the identification of the property also.
5. On the other hand, Ld. Counsel for MCD has argued that the appellant has carried out unauthorized construction in the property and separate demolition order has been already passed. He submits that sealing order has been passed because the appellant had carried out the unauthorized construction. He submitted that order was passed after due process of law and the service was effected by way of affixation.
6. I have heard the arguments and perused the record. The appellant has disputed the service of show cause notice as well as sealing order in the present case. Perusal of MCD record shows that the same is stated to be served by way of affixation. The file notings are silent as to what efforts were made by the MCD to affect personal service on the appellant as per

Section 444 of the DMC Act. The affixation is not witnessed by any public person and is not free from doubt.

7. From the materials placed on record, it is clear that the appellant was not granted any opportunity of hearing by the MCD while passing the sealing order. The Hon'ble High Court of Delhi in **W.P.(C) 2816/2011 titled Parveen Ahuja Vs MCD and Ors** has directed that natural justice must be read into Section 345-A of the DMC Act and it is clear that in the absence of any personal hearing rules of Natural Justice have not been complied with.
8. In addition to aforesaid, appellant has placed on record the copy of the title documents which records the structure which existed in the property in the year 2011-12 i.e. prior to the cut of date. The aforesaid documents also needs to be verified and appreciated by the MCD on merits. The dispute as to property number also goes to the root of the matter and proper identification of property needs to be done by MCD.
9. In view of the above observations, the impugned sealing order dated 02.01.2024 is set aside. The matter is remanded back to the MCD for deciding the same afresh. MCD is directed to desal the property in question.
10. Appellant shall appear before the MCD on **26.03.2025 at 02.00 PM**. The MCD shall provide an opportunity to appellant to submit reply, if any and also grant them personal hearing.
11. The MCD 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 appellant.
12. Appellant shall however not raise any unauthorized construction in the property in question without obtaining necessary approval as per law.

13.It is clarified that the observations made in this order are limited to the aspect of sealing of the premises and nothing shall tantamount on the expressions on the merits in respect of the demolition order.

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

**Announced in the open Court  
today i.e. on 12.03.2025 (J)**

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