

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

APPEAL NO.213/ATMCD/2023

Smt. Urmila,
W/o Sh. Ratan Lal,
R/o H.No.496/E/5D, Gali no.5,
Rama Block, Bhola Nath Nagar
Shahdara, Delhi-110032.

.....**Appellants**

Vs

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

..... **Respondent**

Date of Filing of Appeal : 18.04.2023
Date of Order : 12.03.2025

JUDGEMENT

1. The present appeal has been filed by appellant impugning the demolition order dated 27.03.2023 under Section 343 of DMC Act, 1957 in respect of property bearing no. 496-E/5/D, Gali no.5, Rama Blok, Bhola Nath Nagar, Shahdara, Delhi-110032.

2. It is the case of appellant that the show cause notice as well as demolition order was never supplied to her. When she came to know about the demolition proceedings, she submitted a letter dated 12.04.2023 to MCD to provide an opportunity of hearing. Thereafter, appellant has also sent a notice dated 11.04.2023 putting forth her version but the same was not appreciated by MCD. It is submitted that the impugned order has been passed without providing any opportunity of hearing and is violative of Section 343 of the DMC Act. It is submitted

that appellant was working as MCD employee and concerned Deputy Commissioner issued direction to pass demolition order to settle scores and vendetta against appellant.

3. On the other hand, Ld. Counsel for respondent / MCD submits that the allegations leveled against the concerned the Deputy Commissioner are baseless. He submits that the impugned demolition order had been passed after following due process of law. He submits that MCD has placed on record the service report of the process sent through the registered post. He submits that appellant has carried out unauthorized construction in the property which is liable to be demolished as per law.

4. Arguments heard and record perused. It is the case of MCD that the show cause notice as well as demolition order were sent through registered post. The appellant in her letter dated 12.04.2023 (placed at page 13/C of the MCD record) has refuted the receipt of show cause notice. The said fact also corroborated from the MCD record wherein page 11/C & 12/C records the date of acknowledgement as 12.04.2023 only. From the aforesaid, it is clear that appellant was served with show cause notice only on 12.04.2023 after passing of the demolition order and appellant was not provided any opportunity of hearing. The first proviso under Section 343 of the DMC Act, 1957 mandates an opportunity of hearing needs to be provided by MCD before passing the demolition order and impugned order does not satisfy the said criteria. Appellant has placed on record electricity bill emphasizing that the property is old structure and covered under the protection granted by National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The aforesaid document needs to be verified and appreciated by MCD on merits.

5. In view of the aforesaid, the impugned order dated 27.03.2023 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 **26.03.2025 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.

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.

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 12.03.2025 (R)**

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