

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

APPEAL NO. 946/ATMCD/2024

**Sh. Sumit Bhasin,
S/o Shri Om Prakash Bhasin,
R/o H.No.168/1, Pocket A-3,
Sector-7, Rohini
New Delhi-110085**

..... Appellant

Vs

- 1. Delhi Development Authority,
Through its Chairman, INA,
New Delhi.**
- 2. Deputy Director (LM),
North Zone,
LSC, LU-Block, Pitampura,
Delhi.**
- 3. Executive Officer,
Development Area North Zone,
LSC, LU-Block, Pitampura,
Delhi**

..... Respondents

Date of Filing of Appeal	:	24.10.2024
Date of Order	:	18.03.2025

JUDGMENT

1. The present appeal has been filed by the appellant impugning the sealing-cum-demolition order dated 14.10.2024 passed under Section 30(1), 31(1) and 31-A of the Delhi Development Authority Act, 1957 in respect of property bearing No.10//1,2,9,10,12,13,17,18,104//18,22,23 and adjoining Khasras, Village Alipur, Delhi.
2. It is the case of the appellant that the show cause notice as well as demolition order was never served upon the appellant. He submits that DDA record shows that the notice/ order was issued to owner/builder and not in the name of any individual. He submits that the appellant came to know about the proceedings when they found the order affixed on the adjacent property. He submits that appellant did not get any opportunity of hearing from the DDA

He submits that appellant is not aware about Mr. Satinder Goel who appeared before the DDA and has no connection with him.

3. On the other hand, Ld. counsel for DDA submits that the area where the unauthorized construction is done is notified as development area under Section 12 of the DDA Act and no construction or development can be done in the said area without obtaining prior permission. He submits that the sale deed filed by the appellant on record shows that in August 2023 appellant had purchased agricultural land and there was no built up structure at the site. He submits that the impugned order was passed after following due process of law. He submits that Mr. Satinder Goel submitted a reply before the DDA which was duly considered before passing of the impugned order.
4. Arguments heard. Record perused. It is the case of the DDA that one Mr. Satinder Goel had appeared before them pursuant to the show cause notice and submitted a reply. Appellant has denied his relationship with Mr. Satinder Goel. The record of the DDA is silent as to how Mr. Satinder Goel is connected to the appellant. It is not the case of the DDA that Mr. Satinder Goel is power of attorney holder of the appellant. In view of the aforesaid it has remained unclear as to whether Mr. Satinder Goel was representative of the appellant or not.
5. First proviso of Section 30 of DDA Act 1957 mandates that no order for demolition shall be made unless owner/person concerned has been provided reasonable opportunity of hearing. In present case the DDA record clearly shows that appellant did not get any opportunity of hearing to present his case before the DDA. Accordingly, the requirement under Section 30 of the DDA Act was not satisfied. Similarly, in respect of sealing proceeding the Hon'ble High Court of Delhi in **Parveen Ahuja Vs MCD & Anr, W.P.(C) 2816/2011 vide judgment dated 05.07.2011** clarified that rules of natural justice needs to be followed in sealing proceedings also. The relevant extract of the judgment is as under:

“It cannot be denied that principles of natural justice have been violated in the present case, particularly when it is settled law that rules of natural justice must be read into Section 345-A of the DMC Act as observed in the case of Ahuja Property Developers (P) Ltd. vs MCD reported as

42(1990) DLT 474 (DB) and followed in the case of Shrimati Shamim Bano vs MCD reported as 2007 VIII AD (Delhi) 304.”

6. It is cardinal principal of natural justice that no one can be condemned without an opportunity of being heard. The Quasi Judicial Authority was bound to conduct its proceedings in accordance with the principal of natural justice. The justice should not only be done but the same should also appear to have been done. The Hon'ble High Court in **J.T. India Experts Vs UOI and Another 94 (2001) DLT 301 (FB)** has held as under: -

“5. The adherence to principle of natural justice as recognised by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties. These principles are well-settled. The first and foremost principle is what is commonly known as *audi alteram partem* rule. It says that none should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time, given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed against the person in absentia becomes wholly vitiated. Thus it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play.

Principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial quasi-judicial authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.”

7. The impugned order dated 14.10.2024 passed by the DDA is thus not sustainable in law, as same has been passed in violation of principal of natural justice.

8. In view of the above facts and circumstances, the appeal filed by appellant is allowed. The impugned order dated 14.10.2024 is set aside. The matter is remanded back to the Quasi-Judicial Authority for deciding the same afresh.
9. The appellant shall appear before the Quasi Judicial Authority on **01.04.2025 at 2.00 PM**. The DDA shall provide an opportunity of hearing to appellant to submit reply and also grant him personal hearing.
10. The DDA 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. The DDA is directed to decide the matter within a period of one month from 01.04.2025.
11. The appellant shall however not raise any unauthorized construction in the said property and shall not create any third party rights without necessary permission as prescribed by law.
12. The file 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 18.03.2025 (J)**

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