

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

APPEAL NO.134/ATMCD/2025

Sh. Ashok Sahni,
S/o Late Sh. Sitaram Sahni,
R/o Jhuggi No.E-5/10,
Shahbad Daulatpur,
Shahbad Dairy, 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 : **06.03.2025**
Date of Order : **19.03.2025**

JUDGEMENT

1. The present appeal has been filed by appellant impugning the demolition order dated 11.02.2025 under Section 343 of DMC Act, 1957 in respect of property bearing no.E-5/10, Shahbad Dairy, Delhi-110042.
2. Ld. counsel for appellant submits that the impugned demolition order had been passed without providing any opportunity of hearing. He submits that current owner of property is Mr. Ashok Sahni but the notice was issued by MCD to Mr. Pankaj Sura. He further submits that appellant has placed on record the electricity bills showing energisation date of June, 2008 reflecting that the structure is old and covered under protection granted by National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

3. On the other hand, Ld. Counsel for respondent / MCD submits that the impugned order had been passed after following due process of law. The show cause notice and demolition were served by way of affixation. It is clarified that Mr. Pankaj Sura is son of the appellant. She submits that appellant failed to appear before MCD and submit any reply / documents in support of his case and demolition order was passed as per law. She also submits that in the electricity bills no floors numbers are mentioned.

4. Arguments heard and record perused. The appellant is claiming himself the owner of property. He has placed on record title documents. It is the case of appellant that he did not got any opportunity of personal hearing. MCD record also shows that notice was issued in the name of Mr. Pankaj Sura and not to the appellant. Section 343 of DMC Act, 1957 mandates that an opportunity of personal hearing needs to be provided before passing demolition order. Appellant is also relying upon the electricity bills which show energisation in June, 2008. The said electricity bills needs to be verified and appreciated by MCD on merits.

5. In view of the aforesaid, the impugned order dated 11.02.2025 is set aside. The matter is remanded back to MCD for deciding the same afresh. Interim application is also disposed off in view of said observation.

6. Appellant shall appear before MCD on **02.04.2025 at 12.00 PM**. MCD shall provide an opportunity to appellant to submit additional reply, if any and also grant them personal hearing.

7. 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 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. It is clarified that the observations made while passing of this order by this Court shall not tantamount to the expression on the merits of this case.

10. It is also directed that the appellant shall not carry out any further impermissible construction in the property in question without necessary approval as per Law and shall not create any third party rights.

11. 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 19.03.2025 (R)**

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