

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

**APPEAL NO. 280/24/ATMCD/2024**

**APPEAL NO. 281/24/ATMCD/2024**

**Smt. Shakuntala Devi,  
W/o Late Vijay Pal,  
R/o 79-B, Gali No.3,  
Kundan Nagar  
Delhi-110092**

**..... Appellant**

**Vs**

**Municipal Corporation of Delhi  
Through It's Commissioner,  
17<sup>th</sup> Floor, S. P. Mukharjee Civic Centre,  
Jawahar Lal Nehru Marg,  
New Delhi-110002.**

**.....Respondent**

**Date of Filing of Appeal                   :       22.04.2024**  
**Date of Judgment                            :       28.03.2025**

**JUDGMENT**

1. This common judgment will decide the appeal No. 281/24 impugning the sealing order dated 10.10.2023 and appeal No.280/24 impugning the demolition order dated 30.01.2023. As issues involved in both the appeals are common and pertains to the unauthorized construction in the property bearing No. 79-B, Gali No.3, Kundan Nagar, Laxmi Nagar, Delhi, the appeals are decided by this common judgment.
2. It is argued by the Ld. counsel for appellant that the delay in filing of the appeal has occurred as the notice was never addressed to the appellant by the MCD. When appellant came to know about the proceedings, they have submitted reply before the MCD which was not considered and despite submission of the reply the orders were not passed against the appellant. She submits that there was a civil suit which also pending between the occupants of the property. The appellants were under the impression that

civil court has to adjudicate the matter. Ld. counsel for MCD opposes the request.

3. Arguments heard. Record perused. It is clear from the perusal of the demolition as well as sealing proceedings that they were initiated against Mr. Kailash not against appellants. MCD in their status report dated 19.09.2024 stated that Mr. Kailash was builder/contractor and not the owner. In these circumstances, the appellants have been able to tender sufficient cause for condonation of delay. Accordingly, the application seeking condonation of delay is allowed. Delay is condoned.
4. In respect of the appeals, it is argued by Ms. Parul Agarwal, Ld. counsel for appellant that the property in question was initially owned by Mr. Dhani Ram. The plot area of the property was 200 sq.yds out of which 100 sq.yds was sold by Mr. Dhani Ram during his life time and the remaining 100 sq.yds remained with their family members. She submits that after the death of Mr. Dhani Ram a partition suit was filed by some of the family members which was decided vide judgment dated 10.01.2018 passed by the Court of Sh.Harish Kumar, Ld. Addl. District Judge-13, Central District, Tis Hazari Court, Delhi. She submits that by issue No.6 of the said judgment, Ld. Civil Court concluded that the half of the portion of the property belongs to defendant No. 1 and 2 i.e. Mr. Vijay Pal and Mr.Jai Singh. She submits that Mr. Jai Singh has relinquished his share in favour of Mr. Vijay Pal and Mr. Vijay Pal became the owner of 50% share in the suit property. She submits that Mr. Vijay pal died and thereafter his legal heirs have executed a relinquishment deed dated 20.01.2023 in favour of Smt. Shakuntala who is the owner of 50% share of the property.
5. Ld. counsel for appellant submits that demolition order passed by the MCD shows that they have booked part portion of property No.79B which belongs to the appellant but no notice was issued to the appellant during the course of proceedings. She submits that the sons of the appellants submitted a letter dated 02.02.2023 to the MCD informing about their possession and ownership to the MCD but despite that MCD did not bother to give them any hearing or make them party in the proceedings. She submits that the demolition order and sealing order have been passed in violation of principles of natural justice without hearing the appellants.

6. Ld. counsel for MCD submits that property was constructed at the instance of builder / contractor Mr. Kailash and the proceedings were initiated against him after following due process of law. He submits that the owners have not obtained any sanctioned building plan and the structure is unauthorized and liable to be demolished.
7. Arguments heard. Record perused. Perusal of sealing order as well as demolition order shows that the proceedings were initiated against Mr. Kailash. MCD in their status report dated 19.09.2024 confirms that Mr. Kailash was builder/contractor, however, appellants have disputed any kind of relationship with Mr. Kailash. Perusal of MCD record shows that on 02.02.2023 sons of the appellants have submitted a letter to the MCD informing about their stakes in property but despite that MCD did not bother to provide them any hearing and proceeded to continue with the proceedings against Mr.Kailash. In case any hearing would have been granted to the appellants or her sons at that juncture the issue of title of the property especially in view of the judgment passed by the Civil Court in partition suit could have been brought on the MCD record to discern the clear picture about the ownership and the possession of the property in question. Unfortunately, that did not happen and MCD remained taciturn to the letter dated 02.02.2023 filed by the sons of the appellants. In these circumstances, it is clear that the appellants were neither served, nor made party and nor provided any hearing by the MCD in the demolition as well as sealing proceedings which is in violation of principles of natural justice.
8. Accordingly the demolition order dated 30.01.2023 and sealing order dated 10.10.2023 are set aside with the directions to the MCD to decide the same within six months. The matter is remanded back to the Quasi-Judicial Authority for deciding the same afresh.
9. The appellant shall appear before the MCD on **15.04.2025 at 02.00 PM**. The MCD shall provide an opportunity to appellant to submit reply and also grant him personal hearing.
10. The Quasi-Judicial Authority thereafter shall pass a speaking order after dealing with all the submissions, pleas and defenses raised by appellants and shall communicate the said order to appellants. The appellant shall not raise any unauthorized construction in the said property.

11. It is clarified that the observation made while passing of this order by this court shall not tantamount to the expression on the merits of this case.
12. It is also clarified that the observations made in this judgment with respect to the title of the property have been made on the basis of the pleadings as well as documents placed before this Tribunal. However, MCD is at liberty to independently examine the same and is not bound with the observation made in this judgment.
13. 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 28.03.2025 (J)**

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