

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

APPEAL NO. 892/ATMCD/2024

**Smt. Shikha Rani Das
W/o Sh. Bipul Das
R/o A-293, Third Floor,
Vishwakarma Colony, Pul Pehladpur,
New Delhi-110044.**

..... Appellant

Versus

**1. Municipal Corporation of Delhi
(Through its Commissioner)
17th Floor, Civic Centre, Minto Road,
New Delhi-110002.**

**2. Sh. Jitender Kumar
S/o Sh. Khem Chand
R/o F-84, Jalam Mohalla,
Village Tughlakabad,
New Delhi -110019.**

..... Respondent

Date of Filing of Appeal: 07.10.2024

Date of Judgment : 07.05.2025

JUDGMENT

1. The present appeal has been filed by the appellant impugning the demolition order dated 31.05.2024, sealing order dated 24.07.2024 and demand notice dated 20.09.2024 in respect of property bearing no. A-293, Khasra No. 293/2/3, Pul Pehladpur, Vishwakarma Colony, New Delhi -110044. On 24.04.2025, the appellant gave a statement that they are pressing the present appeal only in respect of demolition order dated 31.05.2024.

2. It is the case of the appellant that they have purchased the property in question in the year 2016 and their title documents record that third floor was already built up at that time. It is submitted that notice of MCD also records that structure is old and occupied and the

action taken by the MCD is arbitrary. It is submitted that at the time of purchase the seller assured the appellant that the property has been constructed after obtaining necessary permission. It is stated that the notice of the proceedings was served upon Sh. Bipul Das and not in the name of the appellant who is the owner of the property in question and therefore, the proceedings are flawed.

3. Ld. Counsel for MCD submits that show cause notice as well as demolition order have been addressed and passed against Sh. Bipul Das as well as appellant Smt. Shikha Rani Das. He submits that the appellant submitted letter / reply dated 04.06.2024 and 10.06.2024 which are addressed jointly by Sh. Bipul Das and Smt. Shikha Rani Das and at this stage appellant cannot take any objection in that regard.
4. Ld. Counsel for the MCD further submits that the property in question is situated in an unauthorized colony and constructed without any sanctioned building plan. He submits that as per title documents filed by the appellant the property is shown as land in the sale deed dated February, 2015 (at page 41-51 of the appeal). He submits that though documents of the appellant are unregistered but they show that appellant had bought the property in question in the month of August, 2016 i.e. after the cut off date i.e. 01.06.2014. He submits that from the documents it is apparent that whatever the structure had been erected has come up after the cut off date.
5. Arguments heard and record perused. Perusal of the record shows that show cause notice as well as demolition order was served to Sh. Bipul Das as well as the appellant. Both of them have sent their reply / letter dated 04.06.2024 and 10.06.2024 to the MCD. Therefore, there is no ambiguity in service of notice upon the owners and they have been granted proper hearing. The plea of the appellant that she was not served is belied from the MCD record and rejected.

6. It is the case of the appellant that property in question is protected, but the documents filed by the appellant militates against her own case. The sale deed dated 15.03.2007 (at page 28 to 40 of the appeal) shows that at that juncture property was an agricultural land measuring 1754 sq. yards and thereafter a land measuring 390 sq. yards in the said property was sold to Sh. Dharmender Bansal and Sh. Jitender vide sale deed dated February, 2015. From the aforesaid title documents, it becomes clear that till February, 2015 there was no structure which existed and the property was only a plot of land. The appellant has purchased third floor of property from Sh. Jitender in the month of August, 2016. The title documents of August, 2016 does not help the case of the appellant because from the documents produced by the appellant herself it is amply clear that the structure has surfaced after the year 2015 and the same is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 as the cut off date for unauthorized colony is 01.06.2014.
7. In view of the aforesaid admitted position on record it is clear that the impugned demolition order had been passed by the MCD after following due process of law as the structure is unauthorized and constructed after the cut off date without any sanctioned building plan.
8. Accordingly, the appeal is dismissed and the demolition order is upheld.
9. 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 07.05.2025 (s)**

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