

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

APPEAL NO. 147/ATMCD/2025

**Sh. Narender Kumar
S/o Late Sh. Jodha Ram
R/o Gali No. 24, Jagatpur Extension,
Delhi -110084.**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal: 12.03.2025

Date of Judgment : 09.05.2025

JUDGMENT

1. The present appeal has been filed by the appellant impugning the demolition order dated 05.08.2024 passed in respect of the property bearing Khasra No. 101/2, Gali No. 12/8, Wazirabad, Delhi -110084 by the MCD under Section 343 of The Delhi Municipal Corporation Act, 1957 (hereinafter referred as DMC Act, 1957) in respect of the unauthorized construction in the shape of entire ground floor, first floor, second floor, third floor and fourth floor.
2. It is the case of the appellant that the property in question is old and protected under the National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It is submitted that appellant has placed on record copy of title documents i.e. GPA, Will, Agreement to Sell etc. which are dated 10.12.2012 showing that the structure comprising of ground floor to fourth floor existed in the property prior to cut off date. It is submitted that appellant has also placed on record

Challan dated 15.03.2012 of the MCD which pertains to fourth floor of the property in question. It is submitted that MCD had discarded the documentary evidence without assigning any reason and the impugned order is arbitrary and non-speaking in nature.

3. On the other hand, Ld. Counsel for the MCD submits that the impugned order had been passed after following due process of law. He submits that appellant does not have any sanctioned building plan of the property in question. The electricity bills provided by the appellant shows energization date of 2017 which is after cut off date. It is argued that title documents relied upon by the appellant are unregistered and are not trustworthy. It is submitted that the title documents mentioned the property area as 100 sq. yards whereas the property at the spot measures less than that and this fact also create doubts about the authenticity of the title documents.
4. I have heard the arguments and perused the record. The impugned demolition order is passed on 05.08.2024. As per the impugned order, the construction is stated to have been raised in the year 2017. MCD by way of impugned order had booked the entire building comprising of ground to fourth floor.
5. At the outset, this Tribunal expresses its displeasure regarding the manner in which the MCD is monitoring such properties. No steps were taken by the MCD to stop the alleged unauthorized construction when it was started. No stage-wise booking was done and it is only after a lapse of seven years the MCD officers in the Zone woke up from their slumbers and saw a structure erected till fourth floor and booked the same. From the aforesaid, it is clear that there is inefficiency while monitoring of unauthorized construction by the MCD officers in their respective Zones. In case urgent action was taken by the MCD against the unauthorized construction, the issue could have been nipped in the bud,

but unfortunately it is not the scenario in the present case. In the present case, the MCD waited for the whole structure to be erected up to fourth storey than took action after a period of seven years against the property in question. The Worthy Commissioner, MCD needs to look into these loopholes and devise methodology / policy to ensure active monitoring in the Zones so that no unauthorized construction can be nipped in the bud.

6. Reverting back to the instant case, the appellant had placed on record GPA which shows that the structure from ground floor to fourth floor was in existence in the year 2012. No verification was made by the MCD to cross check the authenticity of the said title documents. The Seller, Notary or any other witness were not examined. No efforts were made to obtain any invoice of the construction bills from the appellant. The appellant has placed on record copy of the MCD Challan dated 15.03.2012 which pertains to 4th floor of the property in question. No deliberation had been made in respect of the said Challan and also its authenticity is not verified. The documentary evidence filed on record by the appellant needs to be verified as well as appreciated by the MCD on merits before reaching any logical conclusions.
7. In view of the above facts and circumstances, the impugned order dated 05.08.2024 is set aside. The matter is remanded back to the Quasi Judicial Authority for deciding the same afresh.
8. The appellant shall appear before the Quasi Judicial Authority on **23.05.2025 at 2.30 PM**. The Quasi Judicial Authority shall provide an opportunity to appellant to submit reply and also grant him personal hearing.
9. 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 appellant. The

appellant shall however not raise any unauthorized construction in the said property.

10. The file of the respondent be send back along with copy of this order. Appeal file be consigned to record room after due compliance.
11. Copy of this judgment be sent to the Worthy Commissioner, MCD as well as the Deputy Commissioner concerned for information and necessary compliance.

**Announced in the open Court
today i.e. on 09.05.2025 (s)**

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