

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

APPEAL NO. 1050/ATMCD/2024

**Sh. Sumender Singh,
S/o Late Dayal Singh,
R/o H.No.232, Village Jaitpur,
Badarpur, New Delhi-110037**

..... Appellant

Vs

**Municipal Corporation of Delhi
(Through its Commissioner)
Civic Centre, Jawahari Lal Nehru Marg,
Minto Road, New Delhi-110002**

..... Respondent

Date of Filing of Appeal	:	02.12.2024
Date of judgment	:	15.05.2025

JUDGMENT

1. The present appeal has been filed by the appellant impugning the demolition order dated 20.11.2024 passed in respect of unauthorized construction in the shape of hall/room at the ground floor of property bearing house No.232, Jaitpur Village, Delhi.
2. Ld. counsel for the appellant submits that neither the show cause notice nor the demolition order was supplied to the appellant. He submits that no hearing was provided to the appellant by the MCD. He submits that MCD record shows that the show cause notice as well as demolition order is passed against one Mr. Sukhvinder Singh and not against the owner of the property. He submits that Mr. Sukhvinder Singh has no connection with the property. He submits that the property was owned by father of the appellant Mr. Dayal Singh and after his death the property has

devolved upon the legal heirs Mr. Raja Singh, Mr. Mangat Singh and the appellant. He submits that the impugned order is passed without providing any hearing and violates the mandate given under section 343 of DMC Act. Ld. counsel for the appellant further highlights that they have written a letter dated 20.11.2024 to MCD requesting them to supply copy of demolition as well as sealing order which clearly shows that no participation was granted to them during the proceedings before the MCD.

3. Ld. counsel for the MCD submits that the impugned order had been passed after following due process of law. He submits that name of the owner Mr. Sukhvinder Singh was ascertained after making inquiry from the neighbors, however, he concedes that there is no file noting on record to substantiate the fact that Mr. Sukhvinder Singh is the owner of the property in question. He further submits that the show cause notice as well as demolition order was served by way of affixation and the photographs are already on record. He submits that the structure is unauthorized and constructed without any sanctioned building plan and liable to be demolished.
4. Arguments heard. Record perused. MCD record shows that the show cause notice as well as demolition order were initially attempted to be served through registered post but the tracking report available on page 7/C and 2/C of the MCD record shows that the postal article was unserved. Thereafter MCD had affixed the show cause notice as well as demolition order on the property. No public person is involved in affixation proceedings. Moreover, the mentioning of name of Mr. Sukhvinder Singh as addressee on the show cause notice as well as demolition order has also eclipsed affixation proceedings, as despite affixation the aforesaid notices there exist ambiguity in respect of the

person to whom they are addressed. From the aforesaid it is clear that the affixation proceedings are not free from doubt.

5. The contention made by the appellant that no hearing was granted by the MCD is also substantiated from the fact that appellant wrote a letter dated 20.11.2024 to the MCD requesting to them to supply the copy of the show cause notice as well as demolition and sealing order. MCD record does not contain any hearing notices which have been issued to the property owner/occupier after issuance of show cause notice. From the MCD record it is apparent and clear that no notices / demolition order have been addressed to owner / Sukhvinder in the property and there is no clarity in the MCD record. The service report is clouded and MCD passed the impugned order without providing any opportunity of hearing.
6. In addition to aforesaid, the appellant has placed on record electricity bill of ground floor of property in question, which shows the energization date as 06.09.2008. The appellant placed on record the copy of the revenue record of the year 1994 which also records built up structure in the property. It is the case of the appellant that the structure is pre-existing and entitled for protection. The aforesaid documents need to be verified by the MCD and appreciated on merits before reaching any logical conclusion.
7. In view of the above facts and circumstances, the appeal filed by appellant is allowed. The impugned demolition order dated 20.11.2024 is set aside. The matter is remanded back to the MCD for deciding the same afresh. MCD is directed to decide the matter afresh within a period of two months from 20.05.2025.
8. The appellant shall appear before the MCD on **20.05.2025 at 02.00 PM**. The MCD shall provide an opportunity to appellant to submit reply and also grant him personal hearing.

9. 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 appellant. The appellant shall not raise any unauthorized construction in the said property.
10. 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.
11. 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 15.05.2025 (J)**

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