

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

APPEAL NO. 588/ATMCD/2023

Sh. Sushil Kumar Chauhan
S/o Late Sh. Raghubir Singh
R/o 62-63, Khirki Village,
New Delhi.

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal: 12.09.2023

Date of Judgment : 19.05.2025

JUDGMENT

1. The present appeal has been filed by the appellant impugning the demolition order dated 10.08.2023 passed 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 basement, ground floor, first floor, second floor and third floor in respect of property bearing no. B-106, Panchsheel Vihar, New Delhi.
2. In respect of the limitation period, Ld. Counsel for the appellant submits that the demolition order was not personally served upon the appellant and the appellant came to know about the same only when they found it affixed on the property on 30.08.2023 and thereafter filed this appeal. It is argued that in case the opportunity of hearing on merits is not granted, the appellant will suffer irreparable loss. Ld. Counsel for the MCD opposes the application.

3. The appellant has raised the grounds in the appeal which are required to be considered on merits. MCD record also does not contain any service report in respect of the demolition order and in these circumstances the service of demolition order is not free from doubt and the delay is condoned.
4. It is submitted by Ld. Counsel for the appellant that they sought time from the MCD to submit certain documents which they were trying to gather during the proceedings. It is submitted that no sufficient time was granted by the MCD and the demolition order has been passed. It is submitted that the appellant has placed on record the electricity bills, lease agreement and tax form (ST-II) etc. He submits that all the said documentary evidence shows that the structure in question existed prior to the cut off date. He submits that in case documentary evidence is not appreciated the appellant will suffer irreparable loss.
5. On the other hand, Ld. Counsel for the MCD submits that the impugned order was passed after following due process of law. He submits that appellant was given sufficient opportunity to file these documents on record. He submits that the appellant is relying upon the additional documents in this appeal which cannot be considered at this stage. He submits that the structure is unauthorized and liable to be demolished.
6. I have heard the arguments and perused the record. It is admitted position on record that appellant is relying upon certain additional documents which were not placed before the MCD. In proceedings before MCD, the appellant has placed electricity bills and MCD came to the conclusion that the said electricity bills are not sufficient to disclose the extent of construction.
7. In addition to electricity bills, the appellant has filed lease agreement, tax record and other documents in appeal proceedings to show

that the structure is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The aforesaid additional documents filed by the appellant goes to the root of the matter as their verification as well as appreciation is important before reaching any logical conclusion. It will be prudent to give an opportunity to the MCD to verify and appreciate these documents.

8. Accordingly, in view of the aforesaid observations, the impugned order dated 10.08.2023 is set aside. The matter is remanded back to the Quasi Judicial Authority of MCD for deciding the same afresh within a period of six months from the date of first appearance before the MCD.
9. The appellant shall appear before the Quasi Judicial Authority on **02.06.2025 at 2.30 PM**. The Quasi Judicial Authority 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 appellant and shall communicate the said order to appellant. The appellant shall however not raise any unauthorized construction in the said property.
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 19.05.2025 (s)**

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