

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

APPEAL NO. 747/ATMCD/2024

**1. Sh. Vinod Ahuja,
S/o Sh. PritamLal Ahuja,
R/o RZ-C-16m Upper Ground Floor,
Gali No.4, Syndicate Enclave,
Raghu Nagar, Palam Village,
New Delhi-110045**

**2. Sh. Pramod Kumar
S/o Late Sh. Suraj Prakash,
R/o RZ-H-12/A, Upper Ground Floor,
Pankha Road, Raghu Nagar,
Dabri, Delhi-110045**

**3. Sh. Satprakash,
S/o Sh. BalKishan,
R/o House No.37, Dhanwapur,
Gurgaon, Haryana-122001.**

..... Appellants

Vs

**Municipal Corporation of Delhi
(Through its Commissioner)
SPM Civic Centre,
Near Minto Road, New Delhi.**

.....Respondent

Date of Filing of Appeal	:	09.09.2024
Date of Judgment	:	22.05.2025

JUDGMENT

1. The present appeal is filed by the appellant impugning the demolition orders dated 09.11.2023 and 08.01.2024 passed in respect of property in front of H.No.E-32, Raghu Nagar, Syndicate Enclave, Dabri, Delhi.

2. The demolition order dated 09.11.2023 was passed in respect of unauthorized construction at ground floor, first floor and second floor booked vide filed No.485/B/UC/NGZ/2023. The demolition order dated 08.01.2024 was passed in continuation of previous demolition order in respect of unauthorized construction at third floor and fourth floor booked vide file No.485/B/UC/NGZ/2024.
3. Ld. Counsel for the appellants submits that both the aforesaid demolition orders were never supplied to them. He submits that appellants are the owners of the property in question and have filed their title documents on record. He submits that both the demolition orders show that they are addressed to Owner/Builder and name of any individual is not mentioned as addressee. He submits that the demolition orders mention the particulars of the address as “in from of H.No.E-32, Raghu Nagar, Syndicate Enclave, Dabri”. He submits that the exact property number is also not mentioned in the demolition order which goes to the root of the matter as the identity of the property in question is not clear. He further submits that the MCD record shows that postal articles was unserved and affixation proceedings were not witnessed by any public person. He submits that appellant has documentary evidence to show that the property falls under the bracket of NCT of Delhi Laws (Special Provisions) Second Act, 2011. He submits that as no opportunity was granted to the appellants therefore they were not able to put forth their case before the MCD.
4. Ld. Counsel for MCD submits that the structure is unauthorized and without any sanctioned building plan. He submits that the orders were passed after following due process of law. He submits that the demolition orders were served by way of affixation and appellants failed to appear before the MCD therefore appeal is liable to be dismissed.

5. Arguments heard. Record perused. First proviso of Section 343 of the DMC Act mandates that a personal hearing needs to be provided before passing a demolition order against the property. The show cause notice as well as demolition orders show that they are addressed to Owner/Builder and name of any individual is not mentioned. Proper address of the property is also not written. Writing the address “in front of H.No.E-32 Raghu Nagar, Syndicate Enclave Dabri” creates an ambiguity regarding the identity of the property. Ascertaining the identity and address of the property is a crucial aspect as the appellants are relying upon property documents to claim protection and without knowing the exact property number, which has been booked the document cannot be appreciated. Affixation proceedings are not witnessed by any public person. The original photograph of affixation is not filed on record. The postal tracking report shows that the postal article received back unserved. In these circumstances, it is clear that service of both the demolition order is not free from doubt. There is a ambiguity regarding the identity of the property and due to this ambiguity the affixation proceedings also got eclipsed. It is clear from the MCD record that no hearing was granted to the owners/appellants before passing of the demolition orders and mandate given first proviso of Section 343 of the DMC Act is not satisfied.
6. In addition to aforesaid, appellants are relying upon the documentary evidence i.e. title documents, electricity bill etc. to substantiate their claim that the structure is old and protected. The aforesaid documents needs to be verified and appreciated by the MCD before reaching any conclusion.
7. In view of the above observations, the impugned orders dated 09.11.2023 and 08.01.2024 are set aside. The matter is remanded back to the MCD for deciding the same afresh.

8. Appellants shall appear before the MCD on **05.06.2025 at 02.00 PM**.
The MCD shall provide an opportunity of hearing to appellants to submit reply, if any and also grant them personal hearing.
9. The MCD 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. All the proceedings shall be completed by the MCD within six month from 05.06.2025.
10. Appellants shall however not raise any unauthorized construction in the property in question without obtaining necessary approval as per law.
11. The record of the respondent be send back alongwith copy of this order.
Appeal file be consigned to record room after due compliance.

Announced in the open Court

today i.e. on 22.05.2025 (J)

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