

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

**APPEAL NO. 826/ATMCD/2024**

- 1. Smt. Shalini Arora**  
**W/o Sh. Chandan Arora**  
**Available at : 1/777, Nicholson Road,**  
**Kashmere Gate, Delhi -110006**
  - 2. Smt. Suman Arora**  
**W/o Sh. Rajesh Arora**  
**Available at : 1/777, Nicholson Road,**  
**Kashmere Gate, Delhi -110006**
- ..... Appellants**

**Versus**

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

**..... Respondent**

**Date of Filing of Appeal:      23.09.2024**  
**Date of Judgment                      :      27.05.2025**

**JUDGMENT**

1.            The present appeal has been filed by the appellants impugning the order dated 11.06.2024 passed under Section 338 of The Delhi Municipal Corporation Act, 1957 (hereinafter referred as DMC Act, 1957) for revoking the sanctioned building plan in respect of property bearing no. 1/777, Nicholson Road,    Kashmere Gate, Delhi -110006.
2.            It is submitted by Ld. Counsel for the appellants that a show cause notice dated 22.11.2023 was issued by MCD under Section 338 of DMC Act, 1957. Appellants submitted their reply dated 01.12.2023 with MCD seeking sometime to file a detailed reply. It is stated that thereafter

no hearing was provided by the MCD and the impugned order was passed.

3. It is argued by Ld. Counsel for the appellants that upon inspection of the MCD record it has surfaced that after issuance of show cause notice dated 22.11.2023, MCD issued another show cause notice dated 08.04.2024. He submits that the impugned order is passed on the basis of show cause notice dated 08.04.2024. He submits that show cause notice dated 08.04.2024 was not served upon the appellants and no service report regarding the same is available on record. He submits that as the said show cause notice was never served upon the appellants therefore the impugned order cannot stand in the eyes of law.

4. Ld. Counsel for the MCD submits that the impugned order was passed after following due process of law. However, he conceded that initially a show cause notice dated 22.11.2023 was issued and later on another show cause notice dated 08.04.2024 was also issued and on the basis of the same the impugned order was passed.

5. I have heard the arguments and perused the record. Perusal of the record shows that the impugned order revoking the sanctioned building plan is based on the show cause notice dated 08.04.2024. The relevant portion of the impugned order is reproduced below:-

And whereas, a Show Cause notice under Section 338 of the DMC Act, 1957 was issued to the Architect (Engineer) as well as the Applicants vide No. Addl. Commr.(Engg.)/B(HQ)/2024/72 dated 08.04.2024 to show cause as to why the sanction accorded be not revoked and the Engineer may not be debarred for the above-mentioned reasons, but no response as on date.

6. The aforesaid proceedings shows that no reply to show cause notice was received by the MCD and MCD proceeded to pass the impugned order. A perusal of the MCD record shows that no service report whatsoever is available in respect of the show cause notice dated 08.4.2024. Office noting at page 12/N talks about the issuance of show

cause notice dated 08.04.2024 but does not mention anything about its service report. It is clear from the MCD record that no service report in respect of show cause notice dated 08.04.2024 is available on the file. Service of the show cause notice was a pre-requisite before passing of the order under Section 338 of the DMC Act, 1957. No hearing notice is also available on the MCD record. It is clear that the impugned order is passed without service of show cause notice dated 08.04.2024 and without providing any hearing. The mandate of first proviso of Section 338 of the DMC Act, 1957 is not complied with by the MCD.

7. In view of the above facts and circumstances, the impugned order dated 11.06.2024 is set aside. The matter is remanded back to the Quasi Judicial Authority of MCD for deciding the same afresh.
8. The appellants shall appear before the Quasi Judicial Authority of MCD on **10.06.2025 at 12.30 PM**. The Quasi Judicial Authority shall provide an opportunity to appellants to submit reply and also grant them personal hearing.
9. The Quasi-Judicial Authority 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. The appellants 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.

**Announced in the open Court  
today i.e. on 27.05.2025 (s)**

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