

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

**APPEAL NO. 137/ATMCD/2023**

**Smt. Krishna Devi**

**W/o Sh. Kamal Rana**

**R/o Flat No. 62A, Platinum Enclave,  
Sector -18, Rohini, New Delhi -110085.**

**..... Appellant**

**Versus**

**Municipal Corporation of Delhi**

**(Through its Commissioner)**

**D. S. P. M. Civic Centre, Minto Road,  
New Delhi-110002.**

**..... Respondent**

**Date of Filing of Appeal: 15.03.2023**

**Date of Judgment : 10.06.2025**

**JUDGMENT**

1. The present appeal has been filed by the appellant impugning the demolition order dated 22.02.2023 passed by the MCD under Section 343 of The Delhi Municipal Corporation Act, 1957 (hereinafter referred as DMC Act, 1957) in respect of property bearing Flat No. 62-A, Platinum Enclave, Sector -18, Rohini, New Delhi -110085.
2. The Hon'ble High Court of Delhi vide order dated 16.04.2025 in W. P. (C) 3476 of 2025 have passed the following directions:

“.....4. Considering the fact that an appeal has already been filed by the respondent No.3, which is pending before the ATMCD, i.e. appeal bearing No. 137/23, titled as "Krishna Devi Versus MCD", which is stated to be listed tomorrow, i.e. 17<sup>th</sup> April, 2025, this Court is of the view that no further orders are required to be passed in the present matter at this stage.

5. The ATMCD is expected to expedite hearing in the matter and pass an order expeditiously, preferably within a period of six months, from today.

6. Accordingly, the present writ petition, along with the pending application, stands disposed of. "

3. It is submitted by Ld. Counsel for the appellant that the structure is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. He submits that in reply to the show cause notice, appellant has submitted a reply dated 07.12.2022 with the MCD wherein he has categorically taken a stand that the structure is old and protected. He submits that the stand taken by the appellant was not appreciated by the MCD and the statements of the neighbors are also ignored.
4. Ld. Counsel for the appellant further submits that the impugned order alleges the deviations / unauthorized construction against the standard building plan of DDA. He submits that the said standard building plan is not available on MCD record. He submits that the measurements of deviations are also not specified in the impugned order. It is argued that in the absence of standard building plan, it is not clear that how MCD has reached a logical conclusion that the structure in question is unauthorized.
5. On the other hand, Ld. Counsel for MCD submits that the impugned order was passed after following due process of law. He submits that appellant failed to tender any sufficient documentary evidence to substantiate the fact of construction prior to 2004. However, he concedes that the standard building plan of DDA is not there on the MCD record.
6. Arguments heard and record perused. Perusal of the impugned order shows that the MCD has booked the unauthorized construction in the shape of deviations against the standard building plan. The said standard building plan is not available on MCD record. It is not clarified in the impugned order that what is the area which is sanctioned as per standard building plan and what is the area which exist at the spot. I find

merits in the submissions made by Ld. Counsel for the appellant that in the absence of standard building plan, it is not understood how a logical conclusion regarding measurements of deviations is arrived by the MCD.

7. In addition to the aforesaid, the impugned order also does not refer to the property tax record. The covered area which may have been declared by the appellant in the said record prior to cut off date and the covered area which exist at the spot is not deliberated. The impugned order is also silent regarding the measurements of the deviations. It is clear that the impugned order is passed by the MCD in ignorance of the directions issued by the Hon'ble High Court of Delhi in the case of **Masonic Club Vs. MCD &Anr**, (2001) 91 DLT 149 which are as under :

“Aggrieved by the order of sealing, this petition has been filed by the petitioner. It has been contended that no show cause was given to the petitioner before sealing the property. It has also been contended that no notice was served upon the petitioner after 15.9.2000 when according to the record of the respondent, which has been perused by me, the alleged unauthorised construction was booked. The method and manner in which the original notice dated 25.10.2000 is prepared by the respondent, create doubt about the genuineness of the same. Even the same has not been properly served on the petitioner. In any event of the matter, I have perused the notice in question. No specific mention has been made in the notice as to which portion of the property in question is unauthorised, as to what is the approximate or alleged date of construction, the area of unauthorised construction. Notice dated 21.9.2000 is no notice in the eye of law. As the premises of the petitioner is sealed without giving any opportunity to the petitioner, I direct Mr. Rajesh Mishra, Zonal Engineer (Building) and Mr. S.M.R. Zaidi, Junior Engineer (Building), Who are present in Court, to de-seal the property of the petitioner forthwith. However, respondents will be at liberty to give notice of any unauthorised construction in the premises in question to the petitioner in accordance with law.”

8. In view of the above facts and circumstances, the impugned order dated 22.02.2023 is set aside. The matter is remanded back to the Quasi Judicial Authority for deciding the same afresh.
9. The appellant shall appear before the Quasi Judicial Authority of MCD on **07.07.2025 at 2.30 PM**. The Quasi Judicial Authority of MCD

shall provide an opportunity to appellant to submit reply and also grant her 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 10.06.2025 (s)**

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