

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

**APPEAL NO. 433/ATMCD/2022**

Capital Maintenance Corporation  
Ground Floor Cabin, New Delhi House  
27-Barakhamba Road,  
New Delhi-110001

.....Appellant

**Vs**

New Delhi Municipal Council  
Through its Chairman,  
NDMC Building, Palika Kendra,  
Parliament Street  
New Delhi-110001

..... Respondent

<b>Date of Filing of Appeal</b>	<b>:</b>	<b>22.07.2023</b>
<b>Date of Order</b>	<b>:</b>	<b>17.07.2025</b>

**JUDGEMENT**

1. The present appeal is filed against the order dated 15.07.2022 passed under Section 247 of New Delhi Municipal Council Act, 1994 in respect of property New Delhi House, 27-Barakhamba Road, New Delhi-110001 for the unauthorized construction in the shape of constructed room m.a. 1.35m x 1.80m x 2.15m (height) in the side setback and washroom / bathing area m. a. 1.50m x 2.30m x 2.10m (height) in the rear setback at ground floor of New Delhi House, 27 Barakhamba Road, New Delhi, unauthorizedly without prior approval of NDMC.
2. It is submitted by the counsel of the appellant that washroom / bathing area alleged in the rear setback is already removed. He submits that the room / cabins constructed in the side setback was erected for the security guard.

It is submitted that during the Covid-19 pandemic directions were received from Delhi Disaster Management Authority to check the temperature of all the individual visitors entering in the said commercial complex and small guard cabin was erected to keep sanitizers, digital thermometers, visitors' registers etc.

3. It is submitted that as per Clause 7.17.2 of UBBL, 2016 the watch and ward cabins are permitted in the commercial properties and exempted from the calculation of FAR and ground coverage. It is argued that cabin is within the permissible size limits and order passed by the NDMC needs to be set aside in that regard.
4. Ld counsel for the NDMC submits that appellant in their own pleadings has admitted that structure of the cabin was temporarily built and required to be removed. It is submitted that despite admission in this regard the appellant failed to remove the said structure. He submits that the building is multi-story and the safety measures including free access of fire tender is essential. He submits that Clause 2.0.1(xv) provides mechanism for porta cabin subject to free Fire tender Management. He submits that in this case no fire NOC is taken by the appellant and cabin is authorized.
5. I have heard the arguments and perused the record. It is admitted position in the pleadings that a cabin / room was erected by the appellant in the side setback during the Covid-19 pandemic. Appellant has also admitted that the said structure was temporary and required to be removed when the directions of the DDMA were lifted. Clause 7.17.2 (e) UBBL, 2016 provide that the watch and ward porta cabin is not including in covered area for FAR calculations. The said Clause mandates that such watch and ward cabin needs to be at entry and exit only. There is no provision to create such cabin in side setback. Further Clause 2.0.1 (d)(xv) mandates that the porta cabin within the plot line shall be subject to free fire tender movement. In present case, guard cabin is in side setback was erected temporarily and no fire NOC obtained. The building is multi-storied and it cannot be denied that in case of any emergency

such cabin / room in the side setback may hamper the free movement of fire tender.

6. In view of the aforesaid discussions, it is clear that cabin / room inside setback is unauthorized structure and is liable to be demolished. The appeal is dismissed and the impugned order dated 15.07.2022 is upheld. The record of the respondent be sent back alongwith copy of this order.
7. Record of the respondent, if any, returned along with copy of this order and appeal, file be consigned to record room.

**Announced in the open Court  
today i.e. on 17.07.2025 (V)**

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