

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

APPEAL NO. 898/ATMCD/2016

Sh. Chakresh Kumar
S/o Late Sh. Kahaniya Lal,
Through its legal heirs
Smt. Bhavna Aggarwal, Sh. Divyam Aggarwal
& Mr. Subham Aggarwal
R/o 72, Gali No.2, Ram Nagar,
Presently at House No. 57,
Ram Nagar, Pahar Ganj,
New Delhi-110055

..... Appellant

Vs

North Delhi Municipal Corporation
Through its Commissioner
Civic Centre,
Minto Road, New Delhi-110002

..... Respondent

Date of Filing of Appeal	:	27.09.2016
Date of judgment	:	24.07.2025

JUDGMENT

1. The present appeal has been filed by the appellant impugning the refusal of sanctioned building plan vide order dated 21.09.2016 in respect of property bearing plot no. 72, Ram Nagar, Gali No. 2, Pahar Ganj, Delhi-110055.
2. Ld counsel for appellant submits that the said order is passed in non-compliance of Section 336 & 338 of the DMC Act. He submits that no opportunity of hearing was provided to the appellant. He submits that the chat with Architect through MCD portal cannot be considered as personal hearing. He submits that the order dated 21.09.2016 is bereft of any

reasoning as to why the documents submitted by the appellant were not found satisfactory. He submits that in RTI reply Archeological Survey of India in their letter dated 21.07.2017 has already clarified that the property in question falls beyond protected limits of Centrally Protected Monument. He submits that the status report dated 08.08.2017 filed by the MCD only intended to fill the lacuna. He submits that the reasons stated by the MCD in the said status report does not form part of the order dated 21.09.2016. He submits in order to serve the Principles of Natural Justice appellant should be given an opportunity to rebut to the objections which have been raised by the MCD in their status report.

3. Ld counsel for MCD submits that through the official portal the Architect / Agent of the appellant was informed about the deficiencies in documents, however he concedes that no hearing notice is there MCD record. He also admits that the reasons which are stated in the status report dated 08.08.2017 do not form part of refusal order dated 21.09.2016.
4. Ld counsel for intervener also submits that the title of the appellant is not clear and the civil suit is also pending in that regard. Ld counsel for appellant submits that intervener has no right make submissions in this appeal as their application was dismissed by this Tribunal on 29.03.2017. He submits that the Suit No 599038/16 Chandresh Kumar & Lakshmi Narayan Vs Bimla Devi does not pertain to the property in question and the appellant has a clear title in respect of the property in question.
5. Arguments heard. Record perused. It is well settle Rule of Principles of Natural Justice that no one shall be condemned without being heard. MCD record does not show any personal hearing which has been granted to the appellant in the matter. It is also patently clear from the record that the reasons which have been mentioned by the MCD in their status report dated 08.08.2017 are not stated in the refusal order dated 21.09.2016. It

is clear from the record that the appellant did not get sufficient opportunity to rebut to the objections raised by the MCD and bring clarity about the same. The appellant has already submitted the title documents before the MCD. Appellant had also informed that the Archeological Survey of India has clarified that the property in question falls beyond the protected limits of Centrally Protected Monuments. Appellant has also clarified that the pending civil litigation does not pertain to the property in question. MCD need to consider all these documents afresh after giving personal hearing to the appellant before reaching any logical conclusion for grant of sanctioned building plan in respect of the property in question.

6. In view of the above facts and circumstances, the appeal filed by appellant is allowed. The impugned refusal order dated 21.09.2016 is set aside. The matter is remanded back to the MCD for deciding the same afresh.
7. The legal heirs of appellant shall appear before the MCD on **06.08.2025 at 02.00 PM**. The MCD shall provide an opportunity to legal heirs of appellant to submit additional reply if any and also grant him personal hearing.
8. The MCD thereafter shall pass a speaking order after dealing with all the submissions, pleas and defenses raised by legal heirs of appellant and shall communicate the said order to legal heirs appellant. The MCD shall decide the matter within a period of two months from 06.08.2025. The legal heirs of appellant shall not raise any unauthorized construction in the said property.
9. It is clarified that the observation made while passing of this order by this Tribunal shall not tantamount to the expression on the merits of this case. MCD is at liberty to decide their case on their own merits.

10.The file of the respondent be returned 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 24.07.2025 (J)**

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