

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

**APPEAL NO. 159/ATMCD/2020**

- 1. Sh. Inder Pal Wadhwa  
S/o Sh. Bhagwan Dass Wadhwa**
- 2. Sh. Amarjeet Singh Chitkara  
S/o Late Sh. Nihal Chand Chitkara**

**Both at House No. 85, Khasra No. 73,  
Yusuf Sarai, Gautam Nagar,  
New Delhi.**

**..... Appellants**

**Versus**

**South Municipal Corporation of Delhi  
Through its Commissioner  
South Zone, Green Park,  
New Delhi-110002.**

**..... Respondent**

**Date of Filing of Appeal : 04.08.2020**

**Date of Judgment : 04.08.2025**

**APPEAL NO. 184/ATMCD/2020**

- 1. Sh. Inder Pal Wadhwa  
S/o Sh. Bhagwan Dass Wadhwa**
- 2. Sh. Amarjeet Singh Chitkara  
S/o Late Sh. Nihal Chand Chitkara**

**Both at House No. 85, Khasra No. 73,  
Yusuf Sarai, Gautam Nagar,  
New Delhi.**

**..... Appellants**

**Versus**

**South Municipal Corporation of Delhi  
Through its Commissioner  
South Zone, Green Park,  
New Delhi-110002.**

**..... Respondent**

**Date of Filing of Appeal : 25.08.2020**

**Date of Judgment : 04.08.2025**

## **JUDGMENT**

1. This common order shall decide the appeal nos. 159/2020 and 184/2020. Both the appeals pertain to the same property and involve common question of law and facts and are accordingly decided by this judgment.
2. The appeal no. 159/2020 is filed by the appellants impugning the order for revocation of sanction plan bearing ID No. 10045287 vide order dated 17.06.2020 passed by the MCD.
3. The appeal no. 184/2020 is filed by the appellants against the demolition order dated 18.08.2020 passed under Section 343 of DMC Act, 1957 by which the structure was declared unauthorized subsequent to the revocation of the sanctioned building plan in respect of property bearing Plot No. 85, Khasra No. 73, Yusuf Sarai, Gautam Nagar, New Delhi.
4. It is submitted by Ld. Counsel for the appellants they are the registered owner of the property in question. He submits that initially the property was sold by one Mr. Dharam Singh to one Mr. Sundar Lal Gautam vide Gift Deed dated 09.12.2002 (at page 65 of the appeal). Thereafter he sold the property to Mr. Anand Kumar, Mr. Brijender Singh, Mr. Rajendra Pal Singh vide Sale Deed dated 18.11.2005 (at page 75 of the appeal). Thereafter, appellants purchased the property on 09.09.2010 by way of registered sale deed (at page 111 of the appeal). Ld. Counsel for the appellants submits that MCD has rejected the sanctioned plan on the ground of defect in the title. He submits that the Sub Registrar concerned in his reply dated 15.12.2018 (at page 215/C of the MCD record) has clarified about the registration of Gift Deed dated 09.12.2002. He submits that just because the Gift Deed was missing in the Sub-Registrar record, MCD cannot draw a conclusion that the documents are not genuine. He submits that copy of Sale Deed is also

duly verified by the Sub Registrar in the said letter. He submits that in the status report dated 27.10.2022 filed by the MCD, the opinion of the Chief Law Officer is recorded. He submits that Law Department has categorically clarified that non-availability of Gift Deed in the Sub Registrar Office does not make document ingenuine especially when the Sub Registrar has confirmed its registration in the record. He further submits that appellant has placed on record copy of property tax returns, mutation etc. (at page 59 to 64 of the appeal) which shows that the details of the registered owner have been duly mutated in the MCD record without any objection of the third party. He submits that on the one hand MCD did not make any objection while doing mutations, but has taken opposite stand in respect of the title while revoking the sanctioning building plan.

5. Ld. Counsel for the appellants submits that MCD in the first application revoked the sanctioned building plan vide order dated 03.02.2016 (at page 247/C of the MCD record). He submits that a bare perusal of the last order shows that MCD has discarded the Sale Deed dated 21.10.1964 merely on the basis of allegations in the complaint and without getting the said documents verified from the Office of Sub Registrar.
6. He submits that there are no deliberations in the said order by the MCD regarding the steps taken to verify the genuineness. He submits that MCD treated allegations as gospel truth and proceeded further without application of mind and revoked the plan.
7. He submits that apart from allegations made by the intervener in respect of the forged documents, there is no concrete documents on record to dent the title of the appellant especially under the circumstances when the chain of documents is duly registered and the property stands mutated in the MCD for more than two decades.

8. He submits that in the case titled as **Ashoka Metal Décor Pvt. Ltd. Vs. Delhi Development Authority** in W. P. (C) 1271 of 1990 a similar question had arisen before the Hon'ble High Court of Delhi wherein it was directed that the sanctioning authority needs to consider the sanction plan on the basis of registered documents subject to outcome of the litigation (if any). He submits that no adverse findings have been given in any Court in respect of the title documents of the appellant. He submits that appellant is willing to get the building plan sanctioned in respect of sanctioned building plan subject to decision, if any, passed by the Competent Court of Law.
9. In respect of the disparity in the area in the Sale Deed, Ld. counsel for the appellants admits that in the Gift Deed dated 09.12.2022, Sale Deed dated 18.08.2005, the area of the property is mentioned as 194.44 sq. yards. He submits that while purchasing the property the appellants had done due diligence in respect of correct area. He submits that this fact is clarified by the erstwhile owner Mr. Anand Kumar in his affidavit dated 07.05.2025 wherein he has stated that the actual area of the property is 180 sq. yards only and the same is mentioned in the Sale Deed and no portion of the property has been retained by him. He submits that in view of the affidavit of Mr. Anand Kumar, it is become patently clear that there is no Sub Division of plot and actual plot is 180 sq. meters. He submits that MCD order does not specify anything about the vacant plot adjacent to the property in question and the question of sub division is baseless and without any merits.
10. Ld. counsel for the MCD submits that though through letter dated 15.12.2018 (at page 215/C), the concerned Sub Registrar though has confirmed about the registered Gift Deed dated 09.12.2002 but the same was not found in the record and it creates doubt about the genuineness of the document. He submits that in the absence of the

original Gift Deed the title of the appellants was not free from doubts. He concedes that in the first revocation order dated 03.02.2016, no findings have been given (at page 247/C) regarding verification of the Sale Deed dated 21.10.1964 and the MCD has passed the order on the basis of allegations made in the complaint only. In respect of the variations in the area of the plot, he submits that the affidavit submitted by Mr. Anand Kumar dated 07.05.2025 is an effort to plug in the loopholes because the registered documents i.e. Gift Deed dated 09.12.2002 and Sale Deed dated 18.08.2005 clearly mentions the area of the plot as 194.44 sq. yards. However, he admits that in MCD record, the impugned order does not mention about any inspection wherein the remaining vacant subdivided plot 14.44 sq. yards was found at the spot.

11. Ld. Counsel for the Intervener submits that though his application under Order I Rule 10 CPC was dismissed by this Tribunal but opportunity to address arguments was granted. He submits that appellants have relied upon forged documents to seek the sanctioned building plan. He submits that the Sale Deed dated 21.10.1964 is a forged document and they have already filed a criminal case against the appellants in which the Court has summoned them for the offence of forgery. However, he admits that they have not placed on record any document to prove that the said Sale Deed is a forged document. He also concedes that the proceedings before the Criminal Court was also not placed before the MCD at the time of the adjudication by the Quasi Judicial Authority. He submits that the gift deed before the Sub- Registrar is not traceable and it creates doubts about the authenticity of the title documents.
12. Ld. counsel for the appellants rebuts the submission and submits that there is presumption of innocence under law and summoning in a

criminal complaint case cannot create doubts over the authenticity of the documents especially when no concrete evidence has been produced.

13. I have heard the arguments and perused the record. A perusal of the impugned order dated 17.06.2020 shows that MCD has revoked the sanctioned building plan dated 23.01.2018 primarily on two grounds i.e. defect in the title and the deviations in the area of the plot.

14. So far as the question regarding the title of the property is concerned, the appellants are relying upon three registered documents i.e. Gift Deed dated 09.12.2002, Sale Deed dated 18.08.2005 and Sale Deed dated 09.09.2010. The MCD got said documents verified in the Sub Registrar Office. The Sub-Registrar in its letter dated 15.12.2018 (at page 215/C of the appeal) confirmed the factum of registration in respect of the Gift Deed dated 09.12.2002. The Sub-Registrar informed that the documents is not traceable in their record but confirmed that as per Peshi Register of his office, the Gift Deed was registered. From the said report it become amply clear that the registration of the Gift Deed was never in dispute. This matter was also examined by the Law Department, MCD and their opinion is reproduced in the status report dated 27.10.2022 filed by the MCD. The relevant extract is reproduced below:-

1. There is nothing on record to suggest that the said gift deed was under challenge in any court of law, therefore, the Department should consider it as genuine document and write a letter to the Sub-Registrar's Office that the MCD is taking the Gift-deed as genuine document being registered with Sub- Registrar's Office.

2. The suspicion has been raised by the Department about the Gift Deed dated 09.12.2002 and the said suspicion stands allayed in views of the letter of Sub-Registrar (Kalkaji) clearly recording that as per Peshi Register, a Gift Deed vide Registration No.13137 dated 09.12.2002 stands registered in the office but the same is not found till date despite best efforts, and that a copy of the Peshi Register has also been sent to the Department.

3. The presumption of genuineness is in favour of the applicant keeping in view the different letters of the Sub-Registrar (Kalkaji) Office clearly recording that the gift dated 09.12.2002 has been registered;

4. Non-availability of the gift-deed with the Sub-Registrar's Office does not make the gift-deed ingenuine.

15. In the opinion, Law Department categorically stated that non-availability of the Gift Deed with the Sub-Registrar Office does not make the gift deed ingenuine. The MCD officers did not pay any heed to the said legal opinion. No effort was made by the MCD to cross check the authenticity of the documents by summoning the then owners / executors as witness before them. In these circumstances, it is patently clear that when the registration of the document has been confirmed by the Sub-Registrar Office, merely because a registered document has been misplaced, any conclusion regarding ingenuousness of the document cannot be reached and the doubts expressed by the MCD in the impugned order are far fetched and without any basis and are actually against the opinion given by their own Law Department.
16. So far as the question regarding the Sale Deed dated 21.10.1964 is concerned, the impugned order dated 03.02.2016 does not mention anything about the efforts made by the MCD to verify the allegations received in the complaint. It only records that the allegations in the complaint, which were treated as gospel and MCD proceeded ahead to revoke the sanctioned plan. Ld. Counsel for MCD as well as AE Mr. Dhirender Kumar who has appeared in the Tribunal and confirmed that no verification in respect of the said documents was made from the Sub-Registrar Office at that juncture.
17. In view of the aforesaid, it is clear that the conclusion reached by the MCD in respect of the document dated 21.10.1964 are also on the basis of half hearted efforts wherein the allegations of the complainant were treated as gospel and no efforts to inquire and test the authenticity of the documents were made by the MCD.

18. In addition to aforesaid, the appellants have also placed on record the property tax mutation in respect of respective owners (at page 59 to 63 of the appeal). The said mutations were made at relevant junctures in the MCD record. The tax receipts in the name of Mr. Dharm Singh (at page 59 of the appeal) is of the year 1977. The tax returns of the year 2003 (at page 62 of the appeal) is also in the name of Mr. Dharm Singh. Thereafter the mutation in favour of the subsequent purchaser of the year 2004 is available at page 63 of the appeal. All these mutations are more than two decades old. No deliberations have been made by the MCD in respect of these mutations in their order. MCD did not make any effort to verify about the details of the owners who have paid the house tax at that relevant juncture. It is apparent that MCD had reached a conclusion without examining these documents and without making any discreet inquiry. The aforesaid documents goes to the root of the matter and corroborates the registered documents which have been relied upon by the appellants in support of his title.
19. So far as the issue of discrepancy in the area is concerned, it is admitted position on record that the Gift Deed dated 09.12.2002 and the Sale Deed dated 18.08.2005 mentions the area of the property as 194.44 sq. yards. The area in the Sale Deed dated 09.09.2010 in favour of the appellants is 180 sq. meters. The erstwhile owner Mr. Anand Kumar clarified the position in his affidavit wherein he stated that actual area of the property is 180 sq. yards only.
20. From the affidavit it is clear that there is no sub-division of the plot. Moreover, it is not the case of the MCD that any vacant plot of 14.44 was found adjacent to the property. No inspection or observations have been made by the MCD in this regard in the impugned order.



21. In these circumstances, the clarifications given by the erstwhile owner Mr. Anand Kumar in his affidavit seems plausible and the area for the purpose of sanctioned is to be considered as 180 sq. yards.
22. From the material on record it is clear that no concrete evidence was available before the MCD to doubt the authenticity of the registered documents especially when the registration is confirmed by the Sub-Registrar office.
23. In view of the aforesaid, the impugned order dated 17.06.2020 and 18.08.2020 are set aside. The matter is remanded back to the Quasi Judicial Authority for deciding the same afresh.
24. The appellants shall appear before the Quasi Judicial Authority on **18.08.2025 at 2.30 PM**. The Quasi Judicial Authority shall provide an opportunity to appellants to submit reply and also grant them personal hearing.
25. 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.
26. 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 04.08.2025 (s)**

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