

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

APPEAL NO. 804/ATMCD/2023

1. Smt. Rekha Gupta
W/o Shri Ashwani Gupta,
R/o A-16A, Raju Park,
Devli Road, Khanpur
Delhi-110062

.....Appellant

Vs

Commissioner,
Municipal Corporation of Delhi
O/o Law Officer, 17th floor,
Dr S.P.M. Civic Centre, Minto Road,
New Delhi-110002

..... Respondent

Date of Filing of Appeal : 14.12.2023
Date of Order : 03.11.2025

JUDGEMENT

1. This is an appeal challenging the demolition order dated 17.11.2023 passed after the earlier appeal No.402/19 was remanded back with directions to decide the matter afresh after giving opportunity of personal hearing to the appellant.
2. The appellant who is the owner of property No.A-16/A Raju Park, Khanpur, New Delhi was booked for unauthorized construction from basement to third floor and basement under gali. The Quasi Judicial Authority after giving personal hearing to the appellant found that the basement to the extent of construction reflected in the property tax documents and the ground floor is kept in abeyance keeping in view of National Capital

Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The Quasi Judicial Authority did not consider the house tax returns under self assessment as valid proof of existence of the construction. The electricity bills for the basement and the ground floor were considered and it was held that since the date of energisation of the electricity of basement and ground floor is 8th April 1999 the same is protected under the Act.

3. In the present appeal the appellant has challenged this order on ground that there is no reason with the respondent to not to consider the property tax documents and further why the electricity bills for the upper floors were not considered is not mentioned in this order. My attention has been drawn to the electricity bill filed with the appeal which shows that the electricity at the first and the second floor was energized on 03.01.2013 prior to the cutoff date of 01.06.2014. The impugned order is totally silent about these electricity bills in respect of first and second floor. It was argued that the impugned order is liable to be set aside for non - consideration of these documents in respect of the upper floors.
4. Ld. counsel for the respondent MCD on the other hand argued that the property tax self assessment documents of the appellant reflects fresh construction on all the floors except ground floor which prima-facie show that the property was re-constructed and therefore, the order under challenge has no infirmity. It was shown that for the year 2014-15, the covered area on the basement and ground floor is 83.64 sq.mtr. and for the first and second floor is 100 sq.mtr and for the third floor is 28 sq.mtr which for the next year i.e. 2015-16 changed to 100 sq.mtr for the third floor and thereafter for the year 2020-21 it changed to 125 sq.mtr for the basement and 100 sq.mtr for the third floor. It was argued that the self assessment clearly reflects fresh construction after 01.04.2016 and there is no merit in this appeal.

5. Admittedly, there is no finding of the Quasi Judicial Authority in respect of the electricity bills for the first and second floor showing date of energisation as 03.01.2013 which was much prior to 01.06.2014. Further the self assessment house tax documents were not even considered which are now being relied upon by the counsel for the respondent during arguments. There is no finding or discussion in the impugned order in respect of change in the covered area at the basement and third floor. The impugned order is completely silent on these aspects.
6. In these facts then appeal is allowed and matter is remanded back with directions to the Quasi Judicial Authority to give personal hearing to the appellant and to give findings in respect of the electricity bill for the second and third floor as well as the quantum of covered area claimed to be subsequently changed in the self assessment property tax documents from the year 2014-15 to 2020-21. The appellant shall appear before the Quasi Judicial Authority on 25.11.2025 at 2.00 p.m. and the thereafter be passed within six weeks of conclusion of the proceedings. In the meantime the demolition order 17.11.2023 is set aside.

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 03.11.2025**

**(AMIT KUMAR)
Addl. District & Sessions Judge
P.O.: Appellate Tribunal, MCD**