

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

APPEAL NO. 599/ATMCD/2013.

Narinder Arora (deseased)

Through Legal heirs

- 1. Mrs. Charita Arora (Wife)**
Through GPA holder
Nakshay Arora
- 2. Mr. Manav Arora (Son)**
Through GPA holder
Nakshay Arora
- 3. Ms. Mansi Arora (Daughter)**
Through GPA holder
Nakshay Arofa
- 4. Nakshay Arora (Son)**

..... Appellant

Vs

South Delhi Municipal Corporation

Through its Commissioner

City Civic Center, Minto Road,

Delhi

..... Respondent

Date of Filing of Appeal	:	14.08.2013
Date of Order	:	06.11.2025

ORDER

1. The appellant who is the owner of the basement of property no. E-15, Kailash Colony, New Delhi has challenged the sealing order of the basement sealed in pursuance to the directions of the Hon'ble Supreme Court of India given in the case of MC Mehta vs. Union of India dated 30.04.2013. The appellant has claimed that the respondent did not verify before sealing as to whether any activity is being carried in the basement and proceeded to seal in a mechanical manner. The sealing is in violation of principles of natural justice as no hearing was given to the

appellant nor any show cause notice was served and it has been prayed that the sealing order, if any, be declared as null and void.

2. None appeared today for the respondent for arguments.

3. I have gone through the record.

4. In the first status report filed by the respondent, it was stated that there is sanctioned building plan of the property with the basement having an area of 3447.80 square feet, which is permissible area as per MPD-2021 and the excess area is compoundable. It was stated that the appellant has to pay penalty equal to 10 times of annual conversion charges of the entire area being misused for violation of MPD-2021. In the subsequent report filed on 28.02.2017, it was stated that during inspection, no misuse was noticed in the premises when the property was temporary de-sealed by the respondent and was unlocked by the appellant. Subsequently, the appellant filed house-tax assessment order dated 04.05.2006 where it was stated that the basement is lying vacant since purchase by the appellant and ground floor has already been sold. The respondent was directed to verify this assessment order on 06.03.2025, but the respondent failed to verify the same. Ld. counsel for the appellant argued that the basement was never misused by the appellant and was sealed mechanically in view of the directions passed in the case of MC Mehta vs. Union of India.

5. Record shows that the respondent later submitted the misuser charges payable by the appellant to the extent of Rs. 4,19,020/-. There is no office record available with the respondent as the property was sealed in pursuance to the directions of Hon'ble Supreme Court of India. The respondent was required to prima facie show that the basement was misused in contravention of MPD-2021 and there is no material on record. The status report of the MCD dated 28.02.2017 mentions that during inspection no misuse was noticed. It also records subsequently, that during inspection, there was no electricity in the basement and the premises was full of dust and packed with broken furnitures, water-cooler, air-conditioners, computer table etc. The property was sealed when it was under the lock of the appellant and it appears that there was no misuse of the property, but was sealed mechanically on the presumption that it is being misused. There is no material on record to justify the sealing of the property nor any material was placed by the respondent during hearings since 2013 to show that property was misused. The status report filed by

the respondent also supports the submissions of the appellant that the basement was never used by the appellant as also mentioned in the assessment order dated 04.05.2006, which was passed much before the sealing of the property. In these facts, I find merits in this appeal. The same is allowed.

6. Let the property be de-sealed within 2 weeks from today. It is also clarified that the appellant is not liable to pay any misuser charges as claimed by the respondent.

7. Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

**Announced in the Open Court
Today i.e. on 06.10.2025**

**(AMIT KUMAR)
District Judge-cum-P.O.
Appellate Tribunal : MCD Delhi**