

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

APPEAL NO. 241/ATMCD/24
APPEAL NO. 242/ATMCD/24

1. Mohd. Arif
S/o Akhtar Ali,
R/o F-14, Thokar No. 4,
Abul Fazal Enclave Part-1,
Jamia Nagar, Okhla, South Delhi,
Delhi-110025.

2. Mohd. Asif
S/o Mohd Nasir,
R/o H.No. C-48, Abul Fazal Enclave Part-1,
Jamia Nagar, Okhla, South Delhi,
Delhi-110025.

.....Appellants

Vs

Municipal Corporation of Delhi
Through its Commissioner
SPM Civic Centre Near Minto Road
New Delhi

.....Respondent

Date of Filing of Appeal : 02.04.2024
Date of Order : 30.01.2026

JUDGEMENT

1. These are two appeals challenging the demolition order dated 08.02.2024 and the sealing order dated 01.03.2024 passed in respect of property No.17-A (Hazi compound), Abul Fazal Enclave-I, Jamia Nagar, New Delhi mentioned as Fourth property from main road, near BSES Electrical Pole.

2. The appellants have challenged these orders basically on the ground of non-service of show cause notice and the two orders and on the ground that the

construction is prior to 01.06.2014 and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

3. On behalf of the respondent it was argued that there is no dispute to the identification of the property. The notice was served by way of pasting. The appellants did not reply nor there is any material to show that the construction was raised prior to 01.06.14 and therefore, the appeals should be dismissed.

4. I have perused the office record. The show cause notice dated 01.02.2014 and the demolition order dated 08.02.2024 were issued in the name of Mohd. Arif Malik and the particulars of the property were fourth property from the main road. The demolition order dated 08.02.2024 was also sent by post to Mohd. Arif Malik at New Friends Colony address but the same return undelivered with the report 'insufficient address'.

5. Coming to the sealing file, the show cause notice dated 12.02.24 was sent to Mohd. Arif Malik at New Friends Colony address and the same returned unserved and thereafter was never pasted. The sealing order dated 01.03.24 was neither sent nor served by any means as provided under Section 444 of the DMC Act. There is no sufficient proof of service of sealing order and the show cause notice.

6. In these facts, the impugned orders are set aside and the matters are remanded back to the Quasi Judicial Authority with directions to the respondents to pass a speaking order after considering the reply to the submitted by the appellants within two weeks from today and after giving personal hearing to the appellants. The appellants shall appear before the Quasi Judicial Authority on 17.02.206 at 2.00 pm and the speaking order be passed within 4 weeks of conclusion of the hearing.

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 30.01.2026**

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