

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

APPEAL NO. 672/ATMCD/2023
APPEAL NO. 673/ATMCD/2023

Shri Narender Kumar
S/o Shri Raghbir Singh
R/o RZ-188, Gali No. 11, Durga Park
Village Nasirpur
Delhi-110045

..... **Appellant**

Versus

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

..... **Respondent**

Date of Filing of Appeal : **12.10.2023**
Date of Judgment : **04.02.2026**

JUDGMENT

1. These are the two appeals challenging the demolition order dated 08.10.2020 and 15.12.2020 passed in respect of Property Plot No. 1, Khasra No. 188, Gali no. 11, Durga Park, Najafgarh, New Delhi. The brief facts necessary for disposal of these two appeals are that the property of the appellants was booked on 23.09.2020 for unauthorized construction in the shape of first and second floor and the demolition order for the first and second floor was passed on 08.10.2020. In continuation of this booking, the unauthorized construction of the third floor and raising of walls and columns on 4th floor were booked on 27.11.2020 and the demolition order of the third floor and construction on the fourth floor was passed on 15.12.2020.
2. The appellant has challenged these two orders primarily on the ground that neither the two show cause notices nor the two impugned orders were served upon the appellant and therefore, the matter should be remanded back and opportunity should be provided to the appellant to reply and present his case. It was argued that the opportunity provided by the respondent before passing

speaking order dated 18.10.2021 was limited only to the extent of grounds raised by one Sunil Sehrawat in Writ Petition No. 10334/2020 wherein the allegations of encroachment on public land were made. The response of the appellant was limited only to the averments made in that Writ and not to these show cause notices and therefore, there was no hearing for the subject-matter of these appeals.

3. Ld. counsel for the respondent on the other hand argued that the Hon'ble High Court vide order dated 14.12.2020 passed in Writ Petition No. 10334/2020 directed the respondent to give opportunity of hearing to the appellant herein and the petitioner namely Sunil Sehrawat of that Writ Petition. The opportunity accordingly was provided and speaking order dated 18.10.2021 was passed and therefore, the argument of the appellant that no opportunity was provided is baseless. Further, there are no merits in the appeal as the appellant continued with unauthorized construction despite first booking on 23.09.2020 and raised construction till walls and columns on the fourth floor without sanction building plan and the appeals should be dismissed.
4. I have perused the record. As per office record, the show cause notice dated 23.09.2020 and the demolition order dated 08.10.2020 were issued in the name of owner/builder and were sent by speed post to address 425, Durga Park, Najafgarh, Delhi-43. There is no track consignment report nor there is any noting as to why these were sent to 425, Durga Park when the property booked is Plot No. 1, Gali No. 11, Durga Park. Similarly, the second booking show cause notice dated 27.11.2020 and demolition order dated 15.12.2020 were sent by speed post to owner / builder at the address 498, Dabri, Delhi-110045. There is no track consignment report nor any noting as to why it was sent to property no. 498 and not to the address of subject-property. This clearly shows non-service of show cause notices and the demolition orders upon the appellant.
5. Coming to the directions passed by Hon'ble High Court on 14.12.2020 in Writ Petition No. 10334/2020 titled as Sunil Sehrawat Vs. MCD and Ors., the Hon'ble High Court vide this order remanded the matter back to the respondent with directions that the petitioner therein and the parties concerned (appellant herein) be heard and the decision after hearing, be

communicated to the parties. The allegations in that Writ were encroachment on the public street by raising construction of a room by the appellant herein. As per Mr. Sunil Sehrawat, the MCD did not take any action on his complaint dated 03.09.2020, 30.09.2020 and 08.10.2020 and therefore, he filed the Writ. A perusal of that Writ Petition along with documents show that the petitioner in that Writ claimed that the appellant herein has encroached on street no. 11 by raising construction of a room. In the prayer clause, it was prayed that construction at street bearing no. 11 should be demolished. The petitioner therein did not question the unauthorized construction raised in the subject-property and his grievance was only restricted to encroachment on street no. 11.

6. The respondent in pursuance to order dated 14.12.2020 conducted virtual hearing on 12.01.2021 when copy of the Writ Petition No. 10334/2020 was provided to the appellant through counsel and further hearing was conducted on 15.01.2021 and matter was closed. I find force in the contention of Ld. Counsel for the appellant that during those hearings on 12.01.2021 and 15.01.2021, the appellant made his submissions only in respect of contentions raised in the Writ Petition which were alleged encroachment on street no. 11. The issue of alleged unauthorized construction on the first, second, third and fourth floor within the subject-property was never an issue raised or involved in personal hearings given on 12.01.2021 and 15.01.2021.
7. It is also relevant to note that as on 14.12.2020 when the Hon'ble High Court remanded the matter back to the respondent in Writ Petition No. 10334/2020, the demolition order dated 15.12.2020 was not even in existence. The question of Hon'ble High Court directing personal hearing even in respect of the order dated 15.12.2020 does not arise on 14.12.2020. From the record, it is clear that the personal hearing provided on 12.01.2021 and further on 15.01.2021 were restricted only to the averments of encroachment on public land as raised in that Writ Petition. Even the order dated 18.01.2021 does not mention that copies of two show cause notices and two demolition orders have been supplied to appellant.
8. As per record, neither the show cause notices nor the demolition orders were served upon the appellant and therefore, the matters are to be remanded back. The same are remanded back with directions to the appellant to file his

reply with documents within 15 days from today to the show cause notices dated 23.09.2020 and 27.11.2020 and after providing opportunity of personal hearing, the respondent shall pass fresh speaking order within six weeks from the date of closing of personal hearing. The appellant shall appear before the Quasi Judicial Authority with his reply and documents on 19.02.2026 at 02.00 PM.

9. The appeals are allowed and the matters are remanded back.
10. 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 04.02.2026**

**(AMIT KUMAR)
Addl. District & Sessions Judge-cum-P.O.
Appellate Tribunal, Delhi**