

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

**APPEAL NO. 573/ATMCD/2013**

**St. Peters Convent School  
An integrated School  
Managed by East Delhi Health  
And Education Society  
14, Community Center  
Preet Vihar, Delhi – 110092  
Through Subhash Chander Dhingra  
Authorized Signatory**

**..... Appellant**

**Versus**

- 1. Municipal Corporation of Delhi  
Through its Commissioner  
Civic Centre, Minto Road  
New Delhi**
- 2. Vice Chairman  
DDA, Vikas Sadan  
INA, New Delhi**

**..... Respondent**

**Date of Filing of Appeal : 12.08.2013  
Date of Judgment : 23.02.2026**

**JUDGMENT**

1. This is the appeal challenging the sealing done on dated 09.04.2007 in respect of unauthorized construction / encroachment in Property No. 14, Community Center, Preet Vihar, New Delhi in the shape of unauthorized construction and partly encroachment on DDA land and that the same was being misused for commercial activity.
2. The brief facts necessary for disposal of this appeal are that the subject-property was sealed on the directions of the Monitoring Committee appointed by the Hon'ble Supreme Court of India. The appellant thereafter challenged

this sealing action as per liberty granted by the Hon'ble Supreme Court in the case of "M.C. Mehta V/s. Union of India" vide its order dated 30.04.2017.

3. As per appellant, the subject-property is on private land situated in the Institutional Area and same is a part of Khasra No. 654/289, 655/289 and 656/289, Village Ghazipur, Delhi. The appellant at no point of time received any notice of this sealing which was done without providing opportunity of being heard. The impugned action of sealing was without any basis and without verifying the exact ownership of the land underneath and therefore, is liable to be set-aside.
4. Ld. counsel for respondent DDA, (who was impleaded later) on the other hand argued that the land of Khasra No. 654/289 (4 bigha – 13 biswa), Khasra No. 655/289 (3 bigha – 9 biswa) and of Khasra No. 256/289 (3 bigha – 6 biswa) total measuring 11 bigha – 8 biswa of Village Ghazipur was acquired vide Award No. 94/86-87 though physical possession of this land has not been handed over to the DDA by the Land & Building Department. This award was challenged by one Capt. Bhiku Ram before Hon'ble Delhi High Court in Writ Petition (Civil) No. 430/83 and the writ petition was disposed off on 01.08.2022 on the presumption that no award has been passed till the date of that order. The DDA was not a party in that writ and therefore filed Review Petition No. 182/04 against order dated 01.08.2002. During that review petition, the Hon'ble LG, Delhi ordered that land measuring 7 bigha – 12 biswa out of total 11 bigha – 8 biswa be left from land re-acquisition proceedings provided the petitioner in that writ petition forfeits its right for remaining 3 bigha – 16 biswa of land. The original writ petitioner before Hon'ble High Court also submitted that he would not stake any claim in remaining 3 bigha – 16 biswa land and in view of that the review petition was disposed off on 24.02.2012. It has been argued for the DDA that however de-notification of the acquired land of 7 bigha – 12 biswa was never done and compensation is still lying in the revenue deposit. It was argued for the DDA that since the award was never de-notified, the DDA is the owner of entire award land of 11 bigha – 8 biswa as per Award No. 94/86-87 and the appeal should be dismissed as appellant is encroacher on Govt. Land.
5. I have perused the record. Undisputedly, the property was sealing on the directions of the Monitoring Committee. Report was sought from the

Monitoring Committee in this appeal. Vide report no. 168 dated 16.04.2014, the Monitoring Committee reported that the premises of the appellant was sealed on 28.12.2006 after noticing that premises are partly on encroached DDA land and misuse for commercial activity. It was stated that this encroachment of DDA land by the school is in Khasra No. 290 and 291 measuring 5 bigha – 1 biswa which was acquired and possession taken over by the DDA on 18.04.1977.

6. This sealing action as such is altogether on different presumption of facts. The Monitoring Committee believed that the encroachment by the school is in Khasra No. 290 & 291 on land measuring 5 bigha – 1 biswa. Contrary to it, what revealed during this appeal is that the alleged encroachment as per the DDA is in Khasra No. 654/289, 655/289 and 656/289 of an area of 11 bigha – 8 biswa and importantly, physical possession of which was never handed over to the DDA by the Land and Building Department. Therefore, the direction of sealing by the Monitoring Committee was on wrong facts and had no basis as there was never any encroachment by the appellant in Khasra No. 290 & 291 nor possession was ever handed over to DDA.
7. Be that as it may, undisputedly this land was acquired by the DDA vide Award No. 96/86-87. This award was challenged by the predecessor of the appellant before the Hon'ble High Court in Writ Petition No. 430/1983. The Hon'ble High Court vide order dated 01.08.2002 recorded that by operation of time limit as prescribed in sub-section (3) of Section 11A of the Act, all the proceedings for acquisitions of the petitioner's land have elapsed and by declaring so, the petition stand allowed. The Hon'ble High Court held that the acquisition has lapsed.
8. This order was challenged by the DDA through Review Petition No. 182 of 2004 and in that review petition, it was stated that the Hon'ble LG has directed that the land of 7 bigha – 12 biswa be left out from re-acquisition proceedings if the petitioner forfeits its right to 3 bigha – 16 biswa of land. The Chief Secretary of Delhi had also made a noting in that office file that the order of Hon'ble LG is absolutely clear. A land measuring 3 bigha – 16 biswa is to be acquired and remaining land of 7 bigha – 12 biswa to remain in possession of original owner. This submission was accepted by Hon'ble High Court as well

as the petitioner therein. The review petition was disposed off in view of the aforesaid notings.

9. The stand of the DDA that the award land was never de-notified and therefore, the award stand and that the DDA is the owner of entire 11 bigha – 8 biswa is meritless as the DDA cannot be permitted to take benefit of its own wrong. That Review Petition was disposed of only on the basis of order of the Hon'ble LG and notings of the Chief Secretary that only 3 bigha – 16 biswa of land is to be utilized by the DDA. Now the DDA cannot be permitted to claim the remaining 7 bigha – 12 biswa, possession of which was to remain with the original owners.
10. The original owners thereafter transferred the land to the appellants who were running a school on the land till it was sealed on the directions of Monitoring Committee. Several status reports were filed in this case which makes it ample clear that the subject-property is in Khasra No. 654/289, 655/289 and 656/289. During the pendency of this appeal, DDA was directed to demarcate the 3 bigha – 16 biswa of land which was to be utilized by DDA, but instead of doing that, the DDA put this burden on the appellant claiming that it is for the appellant to identify this land and surrender it to the DDA. How can the appellant, who is not a govt. body can identify the land of 3 bigha – 16 biswa which was to be utilized by the DDA. The burden is on the DDA to identify that portion of land. The appellant has already offered that the portion of 3 bigha – 16 biswa may be taken over by the DDA and they may be permitted to run their school on the remaining 7 bigha – 12 biswa. Otherwise also, possession of land was never taken over by L&B Department nor handed over to DDA till date.
11. Admittedly, the sealing was done on some other facts and the appellant did not get any opportunity of being heard. The property is situated in the Institutional Area where running of school is permitted. As per status report dated 01.05.2017, the construction has been carried out after obtaining sanction building plan. As per status report dated 30.05.2016, there are 10 rooms with tin shed roof and six rooms with sand stone roof, in all 16 rooms at the ground floor only. The sealing action was taken without any basis. The encroachment, if any is on only 3 bigha – 16 biswa of land, possession of which was never handed over to DDA by Land and Building Department. It is

for the govt. agencies to identify 3 bigha – 16 biswa of land and take possession thereof. The entire property cannot be kept sealed on the presumption of incorrect facts. The appeal therefore is allowed. Let the property be de-sealed within two weeks. The appellant shall not create any hindrance in repossession of land of 3 bigha – 16 biswa as and when identified by Land and Building Department and DDA.

12. The appeal is allowed and stands disposed off.

13. 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 23.02.2026**

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