

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

APPEAL NO. 541/ATMCD/2022

**Mr. Shujauddin
S/o Late Raisuddin
R/o H.No. 1154, Gali Sayyed Wali
Kuncha Faulad Khan, Darya Ganj
New Delhi-110002**

.....Appellant

Versus

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

..... Respondent

**Date of Filing of Appeal : 02.09.2022
Date of Judgment : 06.04.2026**

JUDGMENT

1. This is an appeal against the Demolition order dated 05.05.2022 passed in respect of unauthorized construction carried out in the Property No. 2210, Chitli Qabar, Jama Masjid, Delhi – 110006 in the shape of deviation / excess coverage against Sanction Building Plan (SBP) No. 10069584 at Stilt, Ground Floor, First Floor, Second Floor & Third Floor and entire unauthorized construction of part Fourth Floor. The brief facts necessary for disposal of this appeal are that the appellant is the co-owner of this property along with his brothers and is authorized to file this appeal through Special Power of Attorney executed by his brothers in his favour. A sanction building plan dated 08.11.2019 was obtained for construction in the property under Saral Scheme and thereafter, the construction was raised. The respondent booked the unauthorized construction in the property vide show cause notice dated 25.04.2022 and since no reply was received, the impugned demolition order dated 05.05.2022 was passed.

2. The appellant has challenged this order on the ground that show cause notice was never served upon him and his brothers. Even the demolition order was not served. Further, the show cause notice and the demolition order are silent in respect of alleged deviations and excess coverage existing in the property as compared to sanction building plan. It was argued for the appellant that the demolition order must mention the deviations/excess coverage existing in the property. Neither there is any photograph nor proper rough sketch in the show cause notice detailing the alleged deviations/excess coverage and therefore the impugned order should be set-aside.
3. Ld. counsel for the respondent on the other hand argued that the show cause notice was duly served by pasting and the photographs of pasting are there in the office record. The demolition order was sent through speed post and was duly delivered to the addressee. The sanction building plan obtained under Saral Scheme was violated and construction was raised even at fourth floor which was never sanctioned. There also exist projections at municipal land on all the floors and therefore the appeal is without merits and should be dismissed.
4. I have perused the record. The show cause notice dated 25.04.2022 was issued in the name of appellant and his three brothers booking unauthorized construction in the form of excess coverage/deviations against sanction building plan at Stilt to Third floor and entire unauthorized construction of part Fourth Floor. This show cause notice initially was sent by speed post but it returned not served with the report 'not met despite several visits'. The same is deemed to be served as the appellant itself did not received the show cause notice.
5. The respondent also made efforts to serve the show cause notice by pasting as permitted under Section 444 of DMC Act and it was duly pasted at site on 28.04.2022. Pasting is permitted mode of service under DMC Act. The photographs of this pasting were also taken and are available in the office record. The argument for Ld. Counsel for the appellant that it was pasted at some other property bearing no. 2210, Chitli Qabar, Turkman Gate Delhi-110006 and not at subject-property which is 2210, Chitli Qabar, Jama Masjid, Delhi-110006 is meritless since this name plate

mentioning the address as of Chitli Qabar, Turkman Gate was affixed by the appellant and his brothers themselves. Why the appellants mentioned the address as Turkman Gate instead of Jama Masjid is for them to explain. Undisputedly, there is only one Chitli Qabar area/locality in Delhi-110006 and the respondent pasted the show cause notice at correct address and at subject property. As far as the demolition order is concerned, it was sent on 07.05.2022 through speed post and as per track consignment report was delivered to the addressee i.e. appellant/his brothers on 09.05.2022. Therefore, the show cause notice and the demolition order were properly served on the appellant.

6. Coming to the merits of the appeal, it was argued that the show cause notice and the demolition order did not mention about the excess coverage/deviations in the property and therefore are bad in law. A perusal of the demolition order show that the appellant was directed to demolish the excess coverage and deviations against the sanction building plan and entire unauthorized construction of part Fourth floor. Admittedly there was no sanction plan for any construction at fourth floor. The appellant obtained sanction for construction only up to third floor and even at third floor, there should be no dwelling unit. However, as on date as per the site plan filed by the appellant, there exist dwelling unit even at third floor. The appellant is aware that the entire construction existing at the fourth floor is unauthorized and there is excess coverage even at third and other floors. Once there exist a sanction building plan, the owner/occupier is supposed to know the deviations/excess coverage in the property which otherwise can be compared by owner/occupier from the sanction building plan obtained by him. In the present case, the entire construction of part fourth floor is unauthorized and well in the knowledge of the appellant. The argument that show cause notice does not mention about the same is meritless. These excess coverage and deviations are required to be removed. There is no infirmity in the demolition order.
7. In view of this discussion I do not find any merits in this appeal. The same is dismissed and the demolition order is upheld.

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

**Announced in the open Court
today i.e. on 06.04.2026**

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