

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

APPEAL NO. 713/ATMCD/2022

**Rekha Barman
W/o Sh. Pratap Singh
R/o H.No. D-494, D Block
West Vinod Nagar
Delhi-110092**

.....Appellant

Versus

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

..... Respondent

**Date of Filing of Appeals : 22.11.2022
Date of Judgment : 08.04.2026**

JUDGMENT

1. This is the appeal against the sealing order dated 11.12.2020 passed in respect of unauthorized construction carried out in the Property No. A-36, Gali No. 2, Madhu Vihar, Delhi in the shape of Fourth Floor (Ground Floor, First Floor, Second Floor & Third Floor old & occupied). The brief facts necessary for disposal of this appeal are that the appellant is the owner of two flats on the fourth floor of property no. A-36 having purchased the same from one Mr. Mohd. Iqbal on 28.09.2014.
2. As per appellant she never received any show cause notice nor the sealing order and the property has been sealed in connivance with one Vasant Patel residing on the third floor of this property. The sealing order has been challenged on several grounds including non-service of show cause notice.
3. Ld. counsel for the respondent on the other hand argued that the show cause notice was duly served and the property was sealed on 20.01.2021. The seal was tampered and thereafter, it was again resealed. It was argued that there is no sanction building plan and the appellant has not filed any document to

show that the construction was raised prior to the cut-off date of 01.06.2014 and therefore, the appeal is devoid of merits.

4. I have perused the record. The show cause notice dated 05.11.2020 was sent in the name of owner / builder / occupier through speed post. There is no track consignment report. Further, admittedly there are ground to fourth floor in the property having two flats each on all the floors i.e. a left side flat and a right side flat. In the absence of any particulars mentioned in the show cause notice that it has been sent to the owner of fourth floor of property no. A-36, it cannot be presumed that the postal authority delivered the same to the appellant. This cannot be ignored that the property was booked on the complaint of intervener Vasant Patel who is a resident of third floor. There are ten flats in the building and in the absence of the name of the appellant and the particular floor being mentioned on the show cause notice, it cannot be said that it was delivered to the appellant herself.
5. Service of show cause notice is essential for following the Principle of Natural Justice for which reliance can be placed on the judgment of our own Hon'ble High Court passed in Mahinder Singh & Ors. Vs. MCD 34 (1988) DLT 118 and Ahuja Property Developers (P) Ltd. Vs. MCD 42 (1990) DLT 474.
6. Since show cause notice was never served upon the appellant, the impugned sealing order dated 11.12.2020 is set-aside. The property is liable to be de-sealed and the same be done within two weeks from today. The respondent shall provide opportunity of submitting reply and personal hearing to the appellant before passing any order. The appellant shall appear with the reply and documents before the Quasi Judicial Authority on 27.04.2026 at 02.00 PM and the speaking order be passed within six weeks after conclusion of personal hearing. The appellant in the meantime shall not create any third party interest in the property.
7. The appeal stand disposed of.
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 08.04.2026**

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