

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

APPEAL NO. 488/ATMCD/2024

- 1) Sh. Sudesh Paul Vatsa (S.P. Vasta)**
S/o Phool Singh Vatsa
R/o WZ-443, Near Jain Mandir
Palam Village, New Delhi-110045

- 2) Sh. Nirdosh Kumar**
S/o Late Sh. Jai Bhagwan

- 3) Sh. Mohit**
S/o Late Sh. Mahinder Kumar
Both R/o:
WZ-443, Near Jain Mandir
Badiyal Mohalla
Village Palam, New Delhi-110045

..... Appellants

Versus

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

.....Respondent

Date of Filing of Appeal : 10.07.2024
Date of Judgment : 05.06.2026

APPEAL NO. 2/ATMCD/2025

- 1) Sh. Sudesh Paul Vatsa (S.P. Vasta)**
S/o Phool Singh Vatsa
R/o WZ-445-B, Badiyal Mohalla
Village Palam, New Delhi-110045

- 2) Sh. Nirdosh Kumar**
S/o Late Sh. Jai Bhagwan

3) **Sh. Mohit**
S/o Late Sh. Mahinder Kumar
Both R/o:
WZ-445-B, Badiyal Mohalla
Village Palam, New Delhi-110045

..... **Appellants**

Versus

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

.....**Respondent**

Date of Filing of Appeal : 03.01.2025
Date of Judgment : 05.06.2026

JUDGMENT

1. These are the two appeals challenging the rejection of regularization application order dated 12.06.2024 in appeal no. 488/24 rejecting the regularization application of Property situated at Plot No. WZ-445-B, Ground Floor, Badiyal Mohalla, Village, Palam, New Delhi and the demolition order dated 19.07.2024 in appeal no. 02/25 passed in respect of unauthorized construction carried out in Property at Khasra No. 376, behind Prakash Public School, Palam Village, Sector-7, New Delhi in the shape of three Party Halls at Ground Floor. (subject property).
2. The brief facts necessary for disposal of these appeals as per appellants are that they are the co-sharer and exclusive owner of land/plot bearing khasra no. 33//17/1 and 33//24/1 total measuring 3 bigha and 17 biswa situated in extended abadi of village Palam. It is claimed that appellants have divided this property in two equal parts in 1992 which is their ancestral property received from their forefathers. Sh. Phool singh, the late father of appellant no. 1 had raised some constructions over the aforesaid land in the year 1960s and renovations and alterations were carried out over time-to-time. This fact of construction is duly acknowledged and confirmed by Land Acquisition collector and DDA officials on 19.09.1986 when physical possession was not taken over being built-up property. The Lal Dora Certificate of the subject

land is also in the name of the appellants issued on 15.12.2015. The respondent however, initiated proceedings under section 344 & 343 of the DMC Act on a false complaint of one Mr. Yogesh Kumar and the show cause notice was found pasted on the main gate of the property on 12.04.2024, without proper address. It was duly replied by appellant no. 1 as was issued only in his name. The respondent thereafter tried to demolish the subject-property. The appellants applied for regularization of the existing construction on 12.04.2024 which was rejected on 12.06.2024. The respondent also passed the demolition order dated 19.07.2024.

3. These two orders have been challenged by the appellants on the ground that the show cause notice under section 344 (1) read with 343 DMC Act was issued only in the name of appellant no. 1 and no opportunity of reply and hearing was provided to appellants no. 2 & 3 and the order is liable to be set aside for this reason alone. Reliance in this regard was placed on the judgment of Hon'ble Delhi High Court passed in the case of Madhusudan Vs. Municipal Corporation 1971 RLR (note) 38. The correct address of the property was not mentioned on the show cause notice. The rejection order has been challenged on the ground that the existing construction is well within the permissible FAR. The colony known as Palam village Extension Area is provisionally regularized colony vide notification dated 24.03.2008. The existing structure form part of layout plan of unauthorized colony mentioned at Serial No. 1731 in the list of unauthorized colony notification dated 19.10.2019. Vide this notification issued under section 57 of the DDA act, all the existing structures were regularized on "as is where is basis".
4. It was argued for the appellants that no permission was required to raise dwelling house in village abadi. The construction was raised prior to 1994. Unauthorized colony cannot have all the documents as sought by the respondent in the invalid notice. The construction is old and in accordance with the building bye laws prevailing at that time. The appellants submitted all the title documents in the form of Lal Dora Certificate, Khatauni, affidavit of possessory title, which is a valid title document under section 22 of Delhi Land Reforms Act 1954 read with rule 5 of Delhi Land Rules 1954 and the regularization application was wrongly rejected and therefore, the two impugned orders should be set-aside.

5. Ld. counsels for the respondent on the other hand argued that appellant no. 1 was an attorney of the other two appellants and replied the show cause notice under section 344(1) read with 343 DMC Act on behalf of all the appellants and therefore, no prejudice was caused to appellant no. 2 & 3 by issuing the show cause notice only in the name of appellant no. 1. The appellants raised fresh construction in the property in the shape of three party halls at ground floor which was booked. The reply of the appellants was duly considered and since the three party halls were freshly constructed without any sanctioned building plan, the demolition order was passed.
6. In the rejection appeal, it was argued that the appellants failed to comply with the invalid notice dated 15.04.2024 and reminder dated 09.05.2024 and therefore, the regularization application was rightly rejected on 12.06.2024 and therefore, both the appeals should be dismissed.
7. I have perused the record. As far as the appeal no. 02/25 challenging the demolition order dated 19.07.2024 is concerned, the same is entitled to be allowed since the show cause notice was issued only in the name of appellant no. 1. Though it is correct that appellant no. 1 was an attorney of the other two appellants when the application for regularization was filed by the three appellants, but that attorney was only in respect of applying for regularization. The attorney specifically mentioned that the regularization of the construction has to be applied before MCD and therefore, the appellants 2 & 3 appoint appellant no. 1 as their Attorney. The show cause notice dated 1.04.2024 was issued in the name of appellant no. 1 only and does not mention that it has been issued to all the appellants. Appellant no. 1 was appointed as Attorney on 05.04.2024 for the purposes of regularization and had no concern with the show cause notice dated 1.04.2024 issued under section 344(1) read with 343 DMC Act. The Hon'ble High Court in the case of Madhusudan (supra), as relied upon by the appellants held as under:

“If a notice is given only to one owner, he may be careless and negligent in taking proper steps and hence notice to him alone is not sufficient compliance and the fact of their inter relation is immaterial for purposes of interpretation. The provision of giving notice to the occupier or lessee does not detract the importance of giving notice to all the owners”.

8. Since notice should have been issued to all the owners and was issued only to appellant no. 1, the appellants no. 2 & 3 neither had the opportunity to reply the show cause notice nor had the opportunity of personal hearing. Further correct address of the property was also not mentioned on the show cause notice.
9. In these facts, the appeal no. 02/25 is allowed and the demolition order dated 19.07.2025 is set-aside with directions to appellant no. 2 & 3 to file their reply and documents to the show cause notice dated 1.04.2024 within 15 days from today before the Quasi Judicial Authority, who shall consider their replies and documents and will provide personal hearing to them and shall pass fresh speaking order within six weeks of conclusion of the hearing proceedings. The appellants shall appear before the Quasi Judicial Authority for this purpose on 22.06.2026 at 02.00 PM with their replies and documents and shall not seek any adjournment for filing the replies and documents.
10. Coming to the other appeal challenging the rejection order dated 12.06.2024. The appellants were issued invalid notice dated 15.04.2024 seeking around 21 compliancies. This invalid notice was replied by the appellants on 30.04.2024 and thereafter, the respondent issued another invalid notice/reminder on 09.05.2024 seeking 09 compliancies. The first two compliancies were about complete ownership chain documents and the Lal Dora Certificate issued by concerned authority. The respondent also sought copy of the sale deed/conveyance deed and documents showing single entity of plot prior to cut of date of 16.02.1997.
11. This invalid notice was replied on 20.05.2024 and for the complete ownership chain documents, it was stated that the appellants have submitted the affidavit of possessory title and latest Fard. The appellants have claimed that the affidavit of possessory title is a valid title document under section 22 of Delhi Land Reforms Act read with rule 5 of Delhi Land Reforms Rule 1954.
12. Section 22 of this Act talks about the rights of Bhumidar or Asami to have exclusive possession of the land comprised in his respective holdings whereas rule 5 of these rules talks about private wells and buildings etc. None of these two say that an affidavit of possessory title is a valid title document. The appellants have failed to submit any valid title document in respect of the subject-property as well as the complete chain of documents.

The office record of the regularization file does not have any fard recording the appellants as the owner of the property. Khatauni filed by them is not a title document, as relied by the appellants.

13. The appellants were also required to deposit Lal Dora Certificate from the concerned authority. The Lal Dora Certificate submitted by the appellants was not issued by the Revenue Authority which is the competent authority to issue the same. The Lal Dora Certificate was issued by the then Member of Legislative Assembly Ms. Bhavna Gaur who was not a competent authority to issue Lal Dora Certificate. The appellants therefore failed to provide necessary documents sought by the respondent through invalid notice for regularization. Therefore, the regularization application was rightly rejected by the respondent and the appeal challenging the rejection order is meritless and is liable to be dismissed.
14. Both the appeals stand disposed of.
15. 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 05.06.2026**

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