

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

APPEAL NO. 944/ATMCD/2016

**Mrs. Usha Dhuria
W/o Late Shri K. L. Dhuria
R/o E-191, Greater Kailash Part – I
New Delhi - 48**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal	:	13.10.2016
Date of Judgment	:	02.07.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 12.09.2016 passed in respect of unauthorized construction carried out in the Property No. 1-18, First Floor, Old Double Storied, Lajpat Nagar-IV, New Delhi in the shape of unauthorized construction in front and rear portion by way of encroaching public land/common land/Govt. Land.
2. The brief facts necessary for disposal of this appeal are that the appellant is the owner of this property by virtue of Agreement to Sell executed in her favour by her daughter Mrs. Sonia Mehta. The appellant has challenged the demolition order on several grounds including that the show cause notice was not issued in her name nor an opportunity of personal hearing was granted.
3. Ld. counsel for respondent on the other hand has argued that this court does not have jurisdiction to entertain this appeal in view of order dated 09.01.2020 passed by Hon'ble High Court in WP (C) No. 3653/2013 titled as Ritu Dhuria Vs. Govt. of NCT & Others. It was further argued that show cause notice was

issued in the name of Ms. Ritu Dhuria who is the daughter of the appellant and same was also replied by Ms. Ritu Dhuria and several letters for personal hearing were issued to her but she did not appear before the Quasi Judicial Authority and therefore, there are no merits in the argument that notice was not issued in the name of the appellant or no personal hearing was provided.

4. I have perused the record. The Hon'ble High Court vide order dated 06.10.2016 passed in WP (C) No. 3653/2013 gave the liberty to the appellant to approach this Tribunal as per law. In view of this specific order, there is no merit in the argument of the Id. Counsel for the respondent that this court does not have jurisdiction to entertain this appeal.
5. Coming to the objection raised by the appellant that notice was not issued in her name nor an opportunity was provided to her. Section 343/344 of the DMC Act provides that the show cause notice should be issued in the name of the owner or the person at whose instance the alleged unauthorized construction has been raised. Admittedly in the present case, the show cause notice was not issued in the name of the appellant as it was issued in the name of her daughter and further, was never served upon the appellant nor the opportunity of personal hearing was provided to the appellant. The show cause notice issued in the name of the daughter of the appellant and the letters of personal hearing issued in the name of the daughter of the appellant are of no use as MCD is under obligation to serve the owner or the person at whose instance the alleged unauthorized construction has been raised. Reliance in this regard can be placed on the judgments of Hon'ble Delhi High Court passed in the case of **Mahender Singh & Others Vs. MCD 34 (1998) DLT 118 and Manmohan Singh Vs. MCD 1997 (43) DRJ 172.**
6. In these facts, the impugned demolition order is set aside and matter is remanded back with directions to the appellant to file her reply and documents before the Quasi Judicial Authority on 20.07.2026 at 03.00PM and the respondent is directed to consider the reply and documents of the appellant and after providing personal hearing to her, pass fresh speaking order within six weeks from the date of conclusion of the personal hearing.
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 02.07.2026**

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