

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

APPEAL NO. 607/ATMCD/2019

**Smt. Rama Sharma
W/o Shri Suresh Kumar Sharma
R/o 2/435, Subhash Nagar
New Delhi - 110027**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal	:	11.10.2019
Date of Judgment	:	18.08.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 12.12.2018 passed in respect of unauthorized construction carried out in the property no. 2/435, Subhash Nagar, New Delhi (hereinafter referred as subject property) in the shape of Ground Floor, First Floor and Second Floor.
2. The brief facts necessary for disposal of this appeal are that the father-in-law of the appellant late Sh. Ishwar Das Sharma was allotted this property measuring 103 sq. yards. An open land of around 217 sq. yards was adjacent to this property. The property measuring 103 sq. yards was later converted into freehold and the husband of the appellant being legal heir of his father Sh. Ishwar Das Sharma, executed sale deed in favour of the appellant of 103 sq. yards on 01.06.1999.
3. As per appeal, the two & half storey structure was constructed on the area of 103 sq. yards and additional construction was raised in the area adjacent

there to on land measuring around 148 sq. yards in 1988 and since then, this construction is existing. The respondent booked the unauthorized construction in pursuance to a court case vide show cause notice dated 30.11.2018. This show cause notice was duly replied by the appellant on 17.12.2018 but prior to that the respondent had already passed the impugned demolition order dated 12.12.2018.

4. The appellant has challenged this order on several grounds including that her reply to the show cause notice was not considered nor opportunity of being heard was provided.
5. The Id. Counsel for respondent has opposed this submission on the ground that the reply was given after the impugned demolition order was already passed and therefore could not have been considered and there are no merits in these submissions.
6. I have perused the record. The show cause notice dated 30.11.2018 is reported to be served through pasting on 03.12.2018 and was sent through speed post on 08.12.2018. Neither there is any proof of pasting in the shape of photographs nor there are any witnesses to this pasting. Further, there is no track consignment report in respect of service through speed post. 08.12.2018 was a Saturday and the speed post must have been delivered on 10.12.2018 as 9th December, 2018 was a Sunday. The demolition order was passed on 12.12.2018 i.e. within two days of service of the show cause notice which had asked the appellant to give reply within three days.
7. The period of three days shall start from the date of service of the show cause notice and not from the date mentioned on the notice. The appellant submitted detailed reply on 17.12.2018 which was in reasonable time after service of show cause notice on 10.12.2018 but the respondent in haste passed the demolition order without waiting for the reply for reasonable period. The date of service was presumed by the respondent to be the date of notice.
8. The respondent while passing the impugned order did not consider the reply of the appellant which was submitted within 7 days of the service of show cause notice nor personal hearing was provided to the appellant. Principles of Natural Justice were violated by the Quasi Judicial Authority and therefore, the impugned demolition order dated 12.12.2018 otherwise being a non-speaking order is liable to be set aside.

9. In these facts, the matter is remanded back with directions to the respondent to pass a speaking order after considering the reply already submitted by the appellant and after giving personal hearing to the appellant. The appellant shall be at liberty to submit documents if required. The appellant shall appear before the Quasi Judicial Authority on 07.09.2026 at 2.00 PM and the speaking order be passed within six weeks of conclusion of the hearing.
10. 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 18.08.2026**

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