

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

APPEAL No. 220/ATMCD/24

APPEAL No. 236/ATMCD/24

**Sh. Madan Lal Singla
S/o Sh. Mohan Lal Singla,
R/o Metro View Residency,
H.No. 57, Sector-11, Dwarka,
New Delhi-110075.**

..... Appellant

Vs

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

.....Respondent

Date of Filing of Appeal : 26.03.2024 & 02.04.2024
Date of Order : 25.08.2026

ORDER

1. These are two appeals challenging the demolition order dated 30.01.2018 in appeal No. 220/24 and sealing order dated 03.04.2023 in appeal No 236/24 passed in respect of unauthorized construction in the shape of ground floor and raising columns at first floor in respect of property adjacent to D-14, (Jain Tiles), Main Road, Rajapuri, New Delhi.
2. The appellant who is the owner of property No.D-21 and D-22, Main Road, Rajapuri, New Delhi has challenged these two orders primarily on the ground that these orders were not issued with the correct address of the property of the appellant nor the two show cause notices dated 17.01.2018 and dated 07.05.2018 were served upon the appellant and therefore the opportunity of reply and personal hearing was not provided.

3. Ld. counsel for the MCD on the other hand argued that the two show cause notices were duly served through post and further demolition action was taken in the property on 16.05.2018 and the property was sealed on 03.04.2023 and the appellant was also served with the copies of the show cause notices and the impugned orders in the civil suit filed by the appellant bearing CS No. 444/23 and in a suit filed by Apne Welfare Society against the appellant bearing CS No.40/21 and therefore, there are no merits in the submissions of the appellant that show cause notices were not served. The appellant was well aware about the demolition order at least since 16.05.2018 when partial demolition action was taken and the appeals are barred by limitation as well.
4. I have perused the records. As per the MCD record there is no proof of service of the show cause notice u/s 344/343 DMC Act dated 17.01.2018. The service of show cause notice is mandatory requirement for taking action against the property. The MCD record does not contain any mode of service of the show cause notice in pursuance to which the demolition order dated 30.01.2018 was passed. It is also relevant to note that the correct address of the subject property was not mentioned in the show cause notice and the property has been identified as adjoining to D-14, (Jain Tiles) whereas all the documents of the appellant show that the address of the subject property is D-21 and D-22.
5. Coming to the aspect of knowledge through demolition action on 16.05.2018, admittedly even the demolition order dated 30.01.2018 was not served upon the appellant and it cannot be presumed that the appellant will gain knowledge of the demolition order because of the demolition action.
6. Coming to the aspect of service of the show cause notices in the two civil suits referred above, the record of these two suits do not show that the copy of the show cause notices were ever supplied to the appellant in these two suits.
7. It is obligatory upon the respondent to serve the show cause notices and the respondent has failed to do so that show cause notice dated 17.01.2018 was served.
8. Coming to the sealing show cause notice dated 07.05.2018. As per MCD record this sealing notice was sent through post on 08.05.2018 in the name of

owner/builder with the address as property adjacent to D-14. There is no track consignment report in respect of service through post. The presumption of service under Section 27 of the General Clauses Act shall arise only when the same is issued in the name of correct person with proper address. In the present case the show cause notice was issued to the owner/builder with address as adjacent to D-14. The presumption of service cannot be in favour of the respondent.

9. Coming to the aspect of limitation, there is no material on record to show that the demolition order dated 30.01.2018 was served upon the appellant. Similarly, the sealing order was passed on 03.04.2023 after about five years from the date of show cause notice. The respondent has after issuing show cause notice on 07.05.2018 slept for five good years to take sealing action. The respondent has not explained about this five years delay in implementing the sealing order.
10. In these facts the delay is condoned in filing both the appeals.
11. In view of the above discussion the impugned the demolition order dated 30.01.2018 and sealing order dated 03.04.2023 are set aside with directions to the respondents to pass a speaking order after considering the reply and documents to be submitted by the appellant and after giving personal hearing to the appellant. The impugned orders shall be considered as show cause notices being passed in respect of property No. D-21 and D-21, Main Kala Road, Rajapuri, New Delhi. The appellant shall appear before the Quasi Judicial Authority on 14.09.2026 at 2.00 pm and the speaking order be passed within 6 weeks of conclusion of the hearing.
12. The records of the two civil suits be sent back to the Court concerned. The property be desealed within two weeks from today.
13. Record of the respondent/MCD, if any, be also returned along with copy of this order and appeal file be consigned to record room.

**Announced in the Open Court,
Today i.e. on 25.08.2026**

**(AMIT KUMAR)
District Judge-cum-P.O.
Appellate Tribunal : MCD Delhi**