

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

APPEAL NO. 151/ATMCD/2023

**Shri Rajesh Kumar Balara
S/o Late Sh. Maha Singh
R/o 129, Badwali Chaupal
Sultanpur Dabas
Delhi - 110039**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal	:	20.03.2023
Date of Judgment	:	09.09.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 02.02.2022 passed in respect of unauthorized construction carried out in the Property No. A-1/168, Village Neb Sarai, New Delhi (hereinafter referred as subject property) in the shape of Ground Floor, First Floor, Second Floor and Third Floor.
2. The brief facts necessary for disposal of this appeal are that the appellant is the owner in possession of the subject property by virtue of GPA executed in his favour by his father late Sh. Maha Singh, who was the co-owner of larger portion land measuring 10 bigha 4 biswa in village Neb Sarai. The respondent vide show cause notice dated 24.01.2022 booked the above mentioned unauthorized construction on STF complaint. A show cause notice was served through pasting as the available person refused to accept the show

cause notice. Since no reply was received, the respondent passed the impugned order which was also served through pasting.

3. The appellant has challenged this order primarily on two grounds. The first being non-service of show cause notice and the other being that the property is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being constructed prior to 01.06.2014.
4. It was argued for the appellant that the show cause notice was never served and the photographs of pasting does not show that the same was pasted at the property of the appellant as it shows only a wall without identifying the property. It was further argued that the construction was raised by the late father of the appellant during his lifetime prior to 01.06.2014 and the same is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
5. Ld. counsels for the MCD and the intervener on the other hand argued that pasting is approved mode of service under section 444 of DMC Act and further the so called title documents of the appellant show that his father appointed the appellant as his attorney in respect of a land measuring 260 sq. yards which is dated 13.10.2015 and is sufficient to hold that the appellant thereafter raised construction on this land which is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
6. I have perused the record. Admittedly the appellant at that time was not residing in the subject property and was residing at Sultanpur Dabas, Delhi. The show cause notice was not received by his tenant and was served through pasting, photographs of which are available in the office record. Service through pasting is proper mode of service as per section 444 of the DMC Act and as per the following judgments of Hon'ble Delhi High Court :

- 1) Paramjeet Kaur V/s MCD 1994 (56) DLT 720.
- 2) Narender Prasad Dube V/s. Union of India 1999 (81) DLT 378.
- 3) Hari Dutt Vashistha V/s. MCD 1978 (2) ILR (Delhi) 28.
- 4) Usha Devi Sharma V/s. MCD 2020 (271) DLT 76.

7. In these facts the appellant cannot claim that show cause notice was not served.
8. Coming to the merits of the appeal. The appellant has not filed even a single document like property tax return, electricity bill, water bill etc. to show that the property was in existence since prior to 01.06.2014. If the tenants of the appellant were residing in this property since prior to 01.06.2014, there must be any electricity connection. Further, no rent agreement in this regard has been filed by the appellant of any portion of the property to show that there were tenants in the property.
9. Coming to the title documents of the appellant dated 13.10.2015. The father of the appellant appointed the appellant as his attorney in respect of land out of khasra no. 168 measuring 260 sq. yards, Village Neb Sarai, Delhi. This document clearly show that as on 13.10.2015, the property was only a piece of land without any structure. The argument of the appellant that his father raised construction during his lifetime and prior to 01.06.2014 is factually incorrect and not proved by the appellant.
10. Even if the show cause notice and the demolition order records that the construction is old and residentially occupied, the same does not mean that it is prior to 01.06.2014. It was for the appellant to show that the construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, which he has failed to show.
11. In these facts, it is clear that the construction was raised after 01.06.2014 and without any sanction building plan and as such there are no merits in this appeal. The demolition order is upheld and the appeal is dismissed.
12. 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 09.09.2026**

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