

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

APPEAL NO. 108/ATMCD/2024

**Shivangi Sharma
D/o Shri Uma Shankar Sharma
R/o 6/16, Flat No. 1
Ground Floor, Roop Nagar
Malka Ganj
Delhi - 110007**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal	:	16.02.2024
Date of Judgment	:	10.09.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 20.04.2023 passed in respect of unauthorized construction carried out in the Property No. 6/16, Ground Floor, Roop Nagar, Delhi – 110007 in the shape of room, toilet and bathroom in front set back (hereinafter referred as subject property).
2. The brief facts necessary for disposal of this appeal are that the father of the appellant purchased the property bearing flat no. 1 at ground floor and thereafter executed gift deed in favour of the appellant on 02.06.2023. The respondent booked the property vide show cause notice dated 20.04.2023 recording that apart from the booked portion

in the shape of room, toilet and bathroom in front set back, the rest of the property is old and occupied. The show cause notice was not replied by the father of the appellant who was the owner at that time and thereafter, the impugned demolition order was passed. The father of the appellant however submitted his reply in response to the demolition order on 09.05.2023.

3. The appellant has challenged the impugned order on the ground that the show cause notice was never served upon the appellant and further, that the covered area of the property is 970 sq. feet since the date of its purchase by the father of the appellant on 25.10.1985 for which the property tax has been regularly paid. The appellant has not raised any fresh construction and only certain repairs including re-flooring of one room was done by the appellant and the immediate neighbors filed a false complaint against the appellant and the respondent without inspection and verifying the facts, booked the property and therefore, the impugned order should be set aside.
4. Ld. counsels for the MCD and the intervener on the other hand argued that the show cause notice as well as the demolition order were duly served upon the father of the appellant and the argument of the appellant that same were not served is incorrect. It was further argued that the appellant raised fresh construction of a room, toilet and bathroom in the front set back which is clearly visible in the photographs taken at the time of construction and therefore there are no merits in this appeal which should be dismissed.
5. I have perused the record. Admittedly the father of the appellant Sh. Uma Shankar Sharma, in whose name the show cause notice was issued and the demolition order was passed, was the then owner of the property. He executed gift deed subsequently on 02.06.2023 and as such the respondent rightly issued the show cause notice and the demolition order in his name. The show cause notice sent through speed post returned un-served with the report "no such person at this address". It was thereafter pasted at the subject property on 12.04.2023 and photographs of the pasting are available at page 6/C and 7/C of the office record. Pasting through service is approved and proper mode of service under section 444 of DMC Act and has been approved by the Hon'ble High Court in the following judgments :

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

6. In these facts the appellant's father who was the then owner was duly served. It is relevant to note that the demolition order was also served through pasting and the father of the appellant filed reply to the demolition order on 09.05.2023 stating that the demolition order was found pasted on the wall of the property. If the demolition order served through pasting was duly served, there is no reason to hold that the show cause notice, served in the similar way was not served.
7. Coming to the merits of this appeal. The Agreement to Sell dated 25.10.1985 executed in favour of the father of the appellant in respect of the subject property shows that a ground floor flat measuring 970 sq. feet was purchased by the father of the appellant but it does not say that the covered area was 970 sq. feet. The site plan filed by the appellant show that there exist open space as well in this flat.
8. It is however relevant to note that this agreement to sell had a plan attached with it where the boundary of the flat was marked in red. The appellant deliberately withheld this annexed plan as the same would have revealed the extent of construction existing in the property at that time. However, the appellant conveniently filed the site plan annexed with the gift deed executed in her favour on 02.06.2023 which was subsequent to impugned demolition order dated 20.04.2023 only to misguide this Tribunal to show that the construction referred in the gift deed is existing since prior to 08.02.2007.
9. The photographs filed by the intervener along with the application under order I rule 10 CPC clearly show that this room, toilet and bathroom have been constructed recently at the time of booking. These photographs have not been disputed and clearly depicts the unauthorized construction undergoing at the time of booking. The appellant has failed to show that this booked construction is prior to 08.02.2007 whereas the record of MCD and these photographs clearly show that fresh unauthorized construction was

raised in the property in and around March, April 2023, which is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

10. In these facts, there are no merits in this appeal and the same is dismissed.

11. 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 10.09.2026**

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