

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

APPEAL No. 630/ATMCD/23

APPEAL No. 655/ATMCD/23

**Smt. Rajni
W/o Sh. Devender,
R/o Flat No. 1, Ground Floor,
Khasra No. 829/1,
Situated in the Revenue Estate, Mahipalpur,
Now abadi known as Block-K-II,
Mahipalpur Extension, New Delhi-110037. Appellant**

Vs

**Municipal Corporation of Delhi.
Through its Commissioner,
17th Floor, Dr. S.P.M. Civic Centre,
Minto Road, New Delhi. Respondent**

Date of Filing of Appeal	:	26.09.2023 &
	:	06.10.2023
Date of Order	:	21.09.2026

ORDER

1. These are the two appeals challenging the demolition order dated 01.11.2021 in appeal no. 630/23 and the sealing order dated 03.1.2022 in appeal no. 655/23 passed in respect of unauthorized construction in the shape of basement to fourth floor in property falling in Khasra No. 829, Block-K-II, Mahipalpur Extension, New Delhi.
2. The appellant has challenged these two orders primarily on the ground that the show cause notices and the impugned orders were not served upon him prior to 25.09.2023 when e-mail was received by his counsel.
3. Ld counsel for the respondent on the other hand argued that the appellant purchased flat no. 1 only on 09.02.2022 whereas the impugned orders and

booking are prior to this date and there was no reason for MCD to serve the appellant as she purchased the property subsequently.

4. The appellant is the owner of a ground floor flat no. 1 in property falling in Khasra No. 829/1, Block-K-2, Mahipalpur Extension, New Delhi since 09.02.2022 the show cause notices u/s 344/343 DMC Act dated 22.10.2021 was served through pasting as per MCD record. However, there are no photographs of this pasting nor there are any witnesses to the pasting. The show cause notice u/s 345A DMC Act dated 25.11.2021 was sent through speed post to the owner/builder. This building have several flats and one single notice was issued and sent only to the owner/builder through speed post and there cannot be a presumption that it was received and served upon the appellant.
5. Though it is correct that the appellant purchased the property after passing of impugned orders but even her predecessor in interest who sold the property to the appellant was not proper in served.
6. The Commissioner, MCD in its circular itself has given certain directions for service through pasting vide circular dated 15.04.2010 which is as under :-

"It is observed that the service of show cause notice upon owner is found unsatisfactory and unreliable and, as such, most of the appeals, filed against the demolition orders, are allowed by the courts for lack of service of show cause notice upon owner. It has, therefore, been decided that pasting of notice should be supported by photographic evidence. The JE concerned will ensure the photographic evidence of pasting of notice and such evidence will form part of U/C and sealing files. EE(B) of respective zone shall ensure the uploading of information regarding unauthorized construction on MCD website soon after the passing of the necessary orders for demolition".

Even another circular bearing No.LAW/SOUTHDMC/ 2016/1227 Dt. 06.12.2016 was by the Chief Law Officer, SDMC which is reproduce as below:-

'It has been observed that the Executive Engineers of SDMC are passing demolition order/sealing order without verifying the service of show cause notice. The Appellate Tribunal has also observed that this is very careless attitude or some deliberate act to give benefit to the property owner as they knew very well that case will not stand to the scrutiny of the Court on this ground alone. Therefore, the Quasi

Judicial Authority should ensure that service has been done properly before passing any order under DMC Act.

Further the service, as far as possible should be done by way of speed post and a copy of internet delivery report with postal receipt should be kept on record and where service is not possible and pasting is to be done, photograph of pasting be taken and signatures of witness be obtained with their name and address.

In number of cases, the service of show cause notice of demolition or sealing is done by way of pasting or speed post, but necessary proof with regard to its service by pasting and signatures of two witnesses is not taken by the department. In case of service by speed post, the tracking report showing the service of the same upon the owner/builder is not placed in the u/c file, with the result the stay order are passed and finally appeals are allowed.

All concerned are hereby requested to kindly take note of the aforesaid orders and to ensure the compliance of such orders.”

7. Since none of the show cause notices were served upon the appellant and the impugned orders were passed in respect of property at Khasra No. 829, the same 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 appellant shall appear before the Quasi Judicial Authority on **12.10.2026 at 2.00 pm** and the speaking order be passed within 6 weeks of conclusion of the hearing.
8. The show cause notices and the impugned orders shall be considered being issued and passed in respect of the property of the appellant which is flat no. 1 ground floor of property falling in Khasra No. 827/1, 828/2, 829, 840 and 832/2, Block K-II, Mahipalpur, Extn., New Delhi.
9. 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 21.09.2026**

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