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

APPEAL NO. 249/ATMCD/18

1. Mehmood Zia
2. Masood Zia
Sons of Late mehboob Ali Zia
R/o 1374, Pahari Imli Matia Mahal,
Jama Masjid, Delhi-110006. …….. Appellants

Vs

New Delhi Municipal Council
Through its chief Architech,
Palika Kendra, New Delhi. …….Respondent

Date of Filing of Appeal : 13.04.2018
Date of Order : 28.10.2026

ORDER

1. This is an appeal challenging the order of rejection of application seeking sanction building plan dated 28.03.2018 in respect of property bearing no. 10-A, Todar Mal Road, Bangali Market, New Delhi.
2. The brief facts necessary for disposal of this appeal are that the appellants claim to be owner of this property by virtue of registered sale deed dated 13.08.1982. The appellants applied for sanction building plan on 10.09.1992 and that application was rejected on 05.11.1992. The appellants preferred W.P.(C) No. 1361/1993 before Hon'ble High Court which was decided on 07.12.2020 with directions to the appellants to seek NOC from L&DO and apply afresh for sanction building plan after obtaining the NOC. The appellants thereafter obtained the NOC and again applied for sanction building plan which was again rejected on 06.06.2001. The appellants challenged this rejection before this Tribunal in appeal no. 240/03 which was

allowed on 12.01.2005 directing the appellants to apply afresh for sanction building plan which shall be considered by Quasi Judicial Authority de-hors the objection regarding validity of the sale deed. The respondent challenged this order dated 12.01.2005 before the Appellate Authority who was the Lieutenant Governor of Delhi. The Appellate Authority dismissed the appeal vide order dated 12.06.2005 and directed the respondent to de-novo consider the fresh application for regularization. It was however, made clear by the Appellate Authority that there shall be no bar to the Quasi Judicial Authority to look into the whole matter of validity of the sale deeds of the appellants herein and take action for revocation of sanction, if the facts and circumstances so warrant.

3. The appellants again applied for sanction building plan which has been rejected vide impugned order dated 28.03.2018.
4. The appellants have challenged this order primarily on the ground that the appellants are the owners of the property by virtue of registered sale deeds which have not been challenged before any authority nor any challenge to these sale deeds is subjudice before any authority and therefore the contention of the Quasi Judicial Authority that this property does not belong to the appellants is without any merits. It was further argued that despite directions of this Tribunal in the judgment dated 12.01.2005 passed in the previous appeal that the Quasi Judicial Authority must raised all the objections in one go, the Quasi Judicial Authority is still raising objections in parts and is only trying to harass the appellants. It was argued that out of the 11 grounds mentioned in the rejection order, the appellants are ready to comply with objection no. 1, 4, 6, 7, 9 & 10. For objection no. 2 and 3, it was stated that since the property is free hold, no NOC from L&DO is required nor any lease plan is required. For objection no. 5, it was argued that no case regarding ownership of the property is pending. For objection no. 8, it was stated that the appellants do not intend to cut any tree so NOC from tree cutting officer is not required and the objection no. 11 has already been complied. In these facts, it was argued that the rejection order is liable to be

set-aside and the appellants should be given opportunity to comply with the objections raised in objection no. 1, 4, 6, 7, 9 & 10.

5. On behalf of the respondent, it was argued that the subject property is a government land and the appellants applied thrice for regularization and the same has been rejected and the title of the appellants is not clear. As per office record maintained by the respondent, the land of the subject property has been put to the disposal of the DDA for the purpose of development and maintenance. The appellants have obtained a sale deed from Mr. Rashid Khan who had no title in the subject property and since Rashid Khan did not have any ownership rights in the property, he was not competent to sell it to the appellants and therefore the appellants being not the owners of the property do not have any right to obtain any sanction building plan as only the owner of a property can obtain the sanction building plan.
6. I have perused the record. This Tribunal vide order dated 12.01.2005 passed in the previous appeal of the appellants no. 240/03 held that the Quasi Judicial Authority shall decide the fresh application for sanction building plan de-hors the objection regarding validity of the sale deeds. The Appellate Authority in the appeal preferred by the respondent though upheld the order dated 12.01.2005, but specified that there shall be no bar to the Quasi Judicial Authority to separately look into the whole matter of validity of the sale deeds of the appellants herein and take action as per law. Admittedly no separate proceedings have been initiated by the Quasi Judicial Authority to ascertain the validity of the sale deeds of the appellants. Ld counsel for the appellants has placed on record a final untrace report filed by the investigation agency in EOW complaint lodged by Under Secretary, Govt. of India wherein the investigation agency did not find any ingredient of forgery in the sale deeds of the appellants. No criminal liability of the appellants was found. The investigating agency did not find any sufficient documentary evidence as to how L&DO is the owner of the land.
7. This untrace report show that there is no forgery in the sale deeds executed in favour of the appellants and further there was no separate proceedings and

inquiry by the Quasi Judicial Authority in respect of the validity of the sale deeds.

8. I have gone through the sale deeds executed in favour of the appellants by Mr. Rashid Khan. Though it is correct that the sale deeds are completely silent as to how Mr. Rashid Khan or his ancestors Khwaja Peer became the owner of the property but it is sufficient to note that these sale deeds being registered documents cannot be ignored and this Tribunal is not competent authority to adjudicate on the validity of the sale deeds. It is also relevant to note that two sale deeds were executed by Mr. Rashid Khan for half portion each of the property but the dimensions of the properties are not properly described in these two sale deeds as the dimensions must show the remaining portion of the property in one of the directions.
9. Be that as it may, the respondent did not reject the application for sanction building plan on the grounds of defect in the title though same was argued in the Court. The respondent cannot be permitted to argue on an aspect which was never a ground for rejection.
10. Coming to the impugned order. The appellants are willing to comply with the objections no. 1, 4, 6, 7, 9 & 10. Let them do so. As far as the objection no. 2 & 3 relating to NOC from L&DO and non-submission of lease plan is concerned, the property being free hold no such objection can be raised. As far as objection no. 5 is concerned, no court case regarding ownership of plot is pending, the appellants do not intend to cut any tree and therefore the objection no. 8 is baseless and as per appellants they have already complied with objection no. 11.
11. In these facts, the respondent is directed to reopen the file relating to the sanction building plan and provide an opportunity to the appellants to comply with objections no. 1, 4, 6, 7, 9 & 10. The file be opened within 2 weeks and the appellants shall comply with these requirements within 4 weeks after reopening the file and the Quasi Judicial Authority shall decide the same afresh considering the observations made hereinabove. The impugned order

is set-aside and the matter is remanded back to the Quasi Judicial Authority for deciding the same afresh.

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 28.10.2026

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