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

APPEAL NO. 877/ATMCD/2024

1. Gaurav Arora
S/o Shri Ved Prakash
R/o Private Flat no. 202, towards Eastern
Northern Side, First Floor, T-Extn,
Part-I, Uttam Nagar, New Delhi.
2. Rakesh Kumar
S/o Sh. Kailash Prasad
R/o Private Flat no. 404, towards Eastern
Northern Side, Third Floor, T-Extn,
Part-I, Uttam Nagar, New Delhi.
3. Mukand Madhav
S/o Sh. Amresh Kumar Thakur,
R/o First Floor, towards
Northern-Western Side (backside) of,
Built up Plot/Property No. 70-71-72, T-Extn.,
Part-I, Uttam Nagar, New Delhi.
4. Ravi Kant
S/o Sh. Ram Jeet
R/o Private Flat no. 301, towards Southern
Eastern Side, Upper Ground Floor, T-Extn,
Part-I, Uttam Nagar, New Delhi.
5. Kaushik Ganguly
S/o Sh. Krishan Kumar Gangluly
R/o Private Flat no. 101, towards Southern
Eastern Side (front side of built-up plot property no.
70-71-72, Upper Ground Floor, T-Extn,
Part-I, Uttam Nagar, New Delhi.
6. Jitendra Nainwal
S/o Sh. Mohan Singh
R/o Private Flat no. 102, towards Southern
Eastern Side (front side of built-up plot property no.
70-71-72, First Floor, T-Extn,
Part-I, Uttam Nagar, New Delhi.
7. Maya Devi
W/o Sh. Rajbir Singh
R/o Private Flat no. 101, towards Southern
Eastern Side of built-up plot property no.
70-71-72, Third Floor, T-Extn,
Part-I, Uttam Nagar, New Delhi. **…….. Appellants**

Versus

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

Date of Filing of Appeal : 01.10.2024
Date of Judgment : 29.10.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 06.07.2023 passed in respect of unauthorized construction in the shape of ground to fourth floor in property bearing plot not 70, 71, 72 out of Khasra No. 20/9 in the colony known as T-Extn. Part-I, Uttam Nagar, Matiyala Village, New Delhi.
2. The brief facts necessary for disposal of this appeal are that the 7 appellants purchased 7 flats in this property in February and March, 2015 through separate sale deeds executed by deleted respondent no. 2, 3 & 4 who were the builders of this property. The appellants filed civil suit bearing CS No. 142/15 seeking mandatory and permanent injunction against the builders for raising construction in the stilt floor meant for parking. The civil court impleaded MCD as defendant in that suit and sought status report. In pursuance to that the respondent booked the unauthorized construction in this property on 23.06.2023 and passed the demolition order dated 06.07.2023. The MCD thereafter demolished the unauthorized construction at stilt floor and also tried to take action at the upper floors of the property. The appellants challenged the said action in W.P.(C) No. 8311/24 which was disposed by the Hon'ble High Court on 30.05.2024 directing the MCD to supply the copy of show cause notice and the demolition order(s) to the appellants within 4 weeks and liberty was given to the appellants to challenge the demolition order before this Tribunal and hence this appeal has been filed.
3. The appellants have challenged the impugned order primarily on the ground that show cause notice was neither issued in their names nor they were given any opportunity to reply and present their case before the Quasi Judicial Authority and since the principles of natural justice were violated, the impugned order should be set-aside. It was argued for the appellants that as per the case of MCD the show cause notice was issued only in the name of owner/builder/occupier and was sent only through one speed post and was never served upon the appellants and the MCD record does not contain any tracking report and therefore the appellants were never served with the show cause notice and the impugned order should be set-aside.

4. Ld counsel for the respondent/MCD on the other hand argued that the show cause notice was duly served upon the builder which is sufficient compliance of service. The appellants never intimated the respondent about their ownership nor ever filed the property tax returns and the respondent was never aware about their ownership and had no reason to serve them. It was also argued that the sale deeds of the appellants mention the year of construction as 2014 onwards and the same was without any sanction building plan and is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the appeal is liable to be dismissed.
5. I have perused the record. The show cause notice dated 23.06.2023 was sent though speed post in the name of owner/occupier/builder. There is no tracking report as to who received this show cause notice. It is also noted in the office record of MCD that show cause notice was pasted at site on 28.06.2023 but neither there is any photograph to this pasting nor any witness to this pasting and the service through pasting cannot be held to be proper. As far as the service through speed post is concerned, there is only one speed post receipt whereas there are 7 appellants having 7 flats in the property which otherwise have 16 flats. The Quasi Judicial Authority is required to ensure service of show cause notice on each and every owner and occupant of the building having separate dwelling unit in the property. Service of show cause notice upon owner/builder/occupier through one speed post cannot be considered as proper service on all the appellants.
6. The opportunity of reply and personal hearing was never provided to the appellants since they were not served with the show cause notice.
7. In these facts, the demolition order dated 06.07.2023 is set aside with directions to the respondents to pass fresh speaking order after considering the reply and documents to be submitted by the appellants and after giving personal hearing to the appellants. The appellants shall appear before the Quasi Judicial Authority on 17.11.2026 at 2.00 pm with their replies and documents. The speaking order be passed within 6 weeks of conclusion of the hearing.
8. With the above observations, the appeal stands disposed of.

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 29.10.2026

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