

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

APPEAL NO. 282/ATMCD/2024

Sh. Gulab Singh
S/o Late Sh. Sohan Lal
R/o House no. 34/1, Khasra No. 68,
Chara Mandi, Mathura Road,
Hari Nagar, Ashram,
New Delhi – 110014.

..... Appellant

Vs

Municipal Corporation of Delhi
(Through its Commissioner)
17th Floor Civic Centre, Minto Road,
New Delhi – 110002

..... Respondent

Date of Filing of Appeal : 22.04.2024
Date of Order : 26.04.2024

ORDER

1. Vide this order, I shall decide the appeal filed against impugned demolition order dated 04.04.2024, passed with respect to property bearing no. 34/1, Khasra No. 68, Chara Mandi, Mathura Road, Hari Nagar, Ashram, New Delhi – 110014 for unauthorized construction of second floor and tin shed at the roof of the second floor of the property in question.

2. Ms. Prachi Gupta, Ld. counsel for the appellant has contended that the show cause notice was sent through speed post, which was delivered at the address of the appellant on 12.04.2024, pursuant to which appellant filed his reply within 3 days, however, the Quasi Judicial Authority had already passed the demolition order on 04.04.2024 i.e. before service of the show cause notice and no opportunity of hearing was given to the appellant before passing of the impugned demolition order. She further contended that the demolition order has been passed by the Quasi Judicial Authority in violation of the principle of natural justice. She prayed that appeal may be allowed and impugned demolition order may be set aside.

3. Sh. S. Adil Hussain, Ld. counsel for the respondent has contended that property in question was booked for unauthorized construction and show cause notice dated 21.03.2024 was issued in the name of the appellant, which was served through pasting on 22.03.2024 and also sent through speed post but as no reply was received, therefore, demolition order was passed. Ld. counsel for respondent however admitted that the show cause notice sent through speed post was delivered at the address of the appellant on 12.04.2024. He prayed that appropriate order may be passed.

4. I have heard Ld counsel for the appellant, Ld counsel for the respondent and perused the appeal, impugned order and record. Perusal of the above shows that property bearing no. 34/1, Khasra No. 68, Chara Mandi, Mathura Road, Hari Nagar, Ashram, New Delhi – 110014 was booked for unauthorized construction in the shape of second floor and tin shed on the roof of the second floor and a show cause notice dated 21.03.2024 was served through pasting and same was also sent through speed post but as no reply was submitted, impugned demolition order dated 04.04.2024 was passed.
5. A perusal of the record shows that the unauthorized construction in the property in question was booked and show cause notice dated 21.03.2024 was issued in the name of the appellant, which is shown to have been served through pasting on 22.03.2024. However, while pasting the said show cause notice at site, signature of two witnesses were not obtained, which is mandatory.
6. As per the noting at page no. 9/C of the record, the said show cause notice was also sent through speed post, receipt of which has also been annexed. The tracking report of the said speed post is at page no. 8/C of the record, which shows that the show cause notice sent through speed post was delivered upon the appellant on 12.04.2024.

7. Vide show cause notice dated 21.03.2024, the appellant was granted 3 day's time to file reply. The appellant thus could file reply to the said show cause notice by 15.04.2024.
8. The appellant submitted his reply on 15.04.2024 i.e within 3 days from receiving the said show cause notice. The said reply is at page no. 45/C of the record.
9. The Quasi Judicial Authority, however, passed the demolition order dated 04.04.2024, without waiting for the service of the show cause notice through speed post.
10. The impugned demolition order dated 04.04.2024 has been passed in violation of the principle of natural justice, therefore, same is not sustainable in law.
11. In view of the above facts and circumstances, the appeal filed by the appellant is allowed. The impugned demolition order dated 04.04.2024 is set aside. The matter is remanded back to the Quasi-Judicial Authority for deciding the same afresh.
12. The appellant shall appear before the Quasi Judicial Authority on **03.05.2024 at 02.00 PM**. The Quasi Judicial Authority shall provide

an opportunity to the appellant to submit an additional reply, if any and also grant him personal hearing.

13. The Quasi-Judicial Authority thereafter shall pass a speaking order after dealing with all the submissions, pleas and defences raised by the appellant and shall communicate the said order to the appellant. All the proceedings shall be completed by the Quasi Judicial Authority within a period of 2 months from the date of hearing.

14. The appellant shall however not raise any unauthorized construction in the property in question.

15. The record of the respondent be send back alongwith copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court
Today i.e. on 26.04.2024**

**(PITAMBER DUTT)
AD&SJ-cum-P.O.
Appellate Tribunal : MCD Delhi**