

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

APPEAL NO. 812/ATMCD/2018

**Sh. Gian Chand
S/o Late Sh. Sunder Lal
R/o 3431, Gali Lallu Miser,
Qutub Road, Sadar Bazar,
Delhi – 110006.**

..... Appellant

Vs

**North Delhi Municipal Corporation
(Through its Commissioner)
City S.P. Zone, Civic Centre,
Minto Road, New Delhi**

..... Respondent

**Date of Filing of Appeal : 30.10.2018
Date of Order : 01.05.2024**

ORDER

1. Vide this order, I shall decide the appeal filed by the appellant against impugned demolition order dated 12.09.2018, passed with respect to property bearing no. 3431, Gali Lallu Miser, Qutab Road, Sadar Bazar, Delhi – 110006 for unauthorized construction of entire ground floor, first floor, second floor and third floor including projection on Municipal Land.

2. Sh. V.P. Singh Parihar, Ld. counsel for the appellant has contended that the property of the appellant is situated on the roof of properties no.

3430 and 3432, Gali Lallu Miser, Qutab Road, Sadar Bazar, Delhi – 110006. He further contended that property bearing no. 3431 is also having first floor and second floor, on which electricity connection was installed, which was prior to 07.02.2007. He further contended that the Quasi Judicial Authority has not considered these documents i.e. the house tax return and electricity meter with respect to the first floor of the property bearing no. 3431 and has not granted protection to the first floor of property bearing no. 3431. He prayed that appeal may be allowed and protection may be granted.

3. Sh. Dharamvir Gupta, Ld. counsel for the respondent has contended that the property in question was booked for unauthorized construction in the shape of entire ground floor to third floor, including projection on Municipal Land and show cause notice was issued, which was duly served upon the appellant as well as his brother, who filed reply and also attended personal hearing and thereafter Quasi Judicial Authority granted protection to the ground floor and first floor of the property in question and passed the demolition order with respect to second floor and third floor of the property in question as the appellant could not produce any document to show that the second floor and third floor of the property in question were raised prior to 07.02.2007. He prayed that appeal may be dismissed.

4. I have heard Ld. counsel for the appellant, Ld. counsel for the respondent, perused the appeal, impugned order as well as record. A perusal of the above shows that property bearing no. 3431, Gali Lallu Miser, Qutab Road, Sadar Bazar, Delhi – 110006 for unauthorized construction of entire ground floor, first floor, second floor and third floor including projection on Municipal Land and show cause notice dated 02.04.2018 was served upon the appellant as well as his brother, who filed their reply and also attended personal hearing and thereafter the Quasi Judicial Authority has passed the impugned demolition order dated 12.09.2018 thereby granted protection to the ground floor and first floor but not granted any protection to the second floor and third floor of the property in question.

5. The only plea of the appellant is that the second floor i.e. the first floor of the property bearing no. 3431, Gali Lallu Miser, Qutab Road, Sadar Bazar, Delhi – 110006 was in existence prior to 07.02.2007. To substantiate the said plea, appellant has relied upon an electricity bill in the name of Smt. Sunita Sharma, which was energized on 19.03.2007. On that basis, it is argued that the first floor of the property bearing no. 3431 was existing prior to 07.02.2007.

6. The said contention of Ld. counsel of the appellant is not sustainable for the simple reason that as per the inspection and status report, filed by the respondent on 17.03.2023, property bearing no. 3431, is existing on the roof of property bearing no. 3430 and 3432. Meaning thereby that the property numbers of ground floor are 3430 and 3432 and property number of first floor is 3431. Thus, property bearing no. 3431 is the number of the first floor. Besides first floor, the said property is also having second floor and third floor.
7. Neither the appellant nor his brother, who attended the hearing before the Quasi Judicial Authority, produced any material to show that second floor and third floor, existing at site, over the roof of property bearing no. 3431, were existing prior to 07.02.2007 or 17.01.2011.
8. The electricity bill relied upon by the appellant, before the Quasi Judicial Authority with regard to the second floor of the property in question, was installed much after 2011. As the electricity energization date of the said connection was 11.10.2014 i.e. much after 17.01.2011.
9. The appellant could not produce any document to show that second floor and third floor of the property in question were existing prior to 07.02.2007 or 17.01.2011.

10. In view of the above facts and circumstances, I am of the considered view that the Quasi Judicial Authority has passed the demolition order dated 12.09.2018 in accordance with law and I find no legal infirmity in the same. Accordingly, the appeal filed by the appellant is dismissed.

11. 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 01.05.2024**

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