

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

APPEAL NO. 283/ATMCD/2024

- 1. Imran Khan**
- 2. Najeem Khan**
- 3. Mujim Khan**
- 4. Mohd. Fardeen Khan**

**All Sons of Sh. Nawab Khan
All Residents of WZ-150, Khayala Village,
New Delhi**

..... Appellants

Vs

- 1. Municipal Corporation of Delhi
(Through its Commissioner)
Dr. S.P. Mukherjee Civic Centre,
J.L. Nehru Marg,
New Delhi – 110001.**
- 2. Dy. Commissioner
West Zone, MCD,
First Floor, Shivaji Enclave,
Near Est Gate Hall,
New Delhi – 110027.**
- 3. Assistant Engineer (Building)
West Zone, MCD Building Department,
Delhi**

..... Respondents

Date of Filing of Appeal : 22.04.2024
Date of Order : 03.05.2024

ORDER

1. Vide this order, I shall decide the appeal filed by appellants against the sealing order passed with respect to property bearing no. WZ-150, Khayala Village, New Delhi.

2. Sh. Babu Lal, Ld. counsel for appellants has contended that the property in question is situated in a village abadi, therefore building bye-laws are not applicable. He further contended that MCD has no jurisdiction to initiate the proceedings, therefore, sealing order dated 26.02.2024 is contrary to law and liable to be set aside. He prayed that appeal may be allowed and impugned sealing order may be set aside.

3. Sh. Avishek Kumar, Ld. counsel for the respondent has contended that the property in question was booked for unauthorized construction and show cause notice under Section 343 of the DMC Act was issued, which was duly received by appellants but they filed reply after expiry of the statutory period and even reply was also not found satisfactory, therefore, demolition order was passed. He further contended that appellants have not challenged the said demolition order. He further contended that sealing show cause notice was also issued, which was duly served, pursuant to which appellants submitted their reply, in which they had admitted that they purchased the property in question in the year

2015 and thereafter constructed the same thereafter without any sanction building plan. He further contended that the sealing order has been passed by the Quasi Judicial Authority in accordance with law. He prayed that appeal may be dismissed.

4. I have heard Ld counsel for appellant, Ld counsel for the respondent, perused the appeal, impugned order as well as the record. A perusal of the above shows that property bearing no. WZ-150, Khayala Village, New Delhi was booked for unauthorized construction in the shape of ground floor, first floor and second floor and show cause notice dated 20.02.2024 under Section 345A of the DMC Act was issued, which was duly served upon appellants, pursuant to which they filed their reply dated 21.02.2024, which was found not satisfactory, therefore, sealing order dated 26.02.2024 was passed.

5. It is the admitted case of appellants that they purchased the property in question in the year 2015 and raised construction over the same thereafter without any sanction building plan.

6. The appellants have challenged the sealing order without specifying the date of the said sealing order on the ground that the

property in question is situated in a village abadi i.e. lal dora, therefore, the MCD has no jurisdiction to initiate the proceedings.

7. The above contention of Ld. counsel of appellant is not sustainable, ***Clause 3 of the Building Regulations for Special Areas, Unauthorized Regularized Colonies and Village Abadis, 2010***, notified on 17.01.2011 talks about building regularization, which reads as under:-

Building Regulations

Building plan in special area, unauthorized regularized colonies and village abadis rural / urban will be considered only for the plots which form part of approved / notified Layout Plan of the Area by the Competent Authority. The Area in respect of which there is now approved Layout Plan shall be governed by the provisions of the Master Plan / Zonal Development Plan. This shall be the responsibility of the residents / RWA to prepare layout plan and get it approved from the local body. All existing exemptions with respect to sanctioning of building plans in the village abadis will cease to exist from the date of notification of these regulations.

(i) Number of Dwelling Units (DUs), FAR, height of building, basement and other conditions shall be as per MPD – 2021 norms for

*residential plotted
development. However, full
ground coverage will be
permissible and setbacks will
not be insisted upon.*

(ii) to (xiii)

8. As per Clause 3 (i) of the Building Regulations for Special Areas, Unauthorized Regularized Colonies and Village Abadis, 2010, the provisions of Master Plan Delhi 2021, Building Bye-Laws etc. were made applicable in village abadis as well, therefore, after 17.01.2011, any construction in a village abadi can be carried out only after obtaining a sanction building plan.

9. The appellant admittedly, purchased the property in question in the year 2015 and thereafter raised construction over the same without any sanction building plan. The construction was raised after 01.06.2014, therefore they are not entitled for any protection under the Special Act well.

10. In view of the above facts and circumstances, I am of the considered view that the Quasi Judicial Authority has passed the impugned sealing order dated 26.02.2024 in accordance with law and I find no legal infirmity in the same. Accordingly, the appeal filed by appellants is dismissed.

11. Record of the respondent be returned along with copy of this order.

File be consigned to Record Room after due compliance.

Announced in the Open Court

Today i.e. on 03.05.2024

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