

(1991) 03 DEL CK 0024
In the Delhi High Court
Case No : Civil Writ Appeal No. 2684 of 1989

Rajinder Jaina

APPELLANT

Vs

Delhi Development Authority and Another

RESPONDENT

Date of Decision : 21-03-1991

Acts Referred:

Citation : (1991) 44 DLT 214

Hon'ble Judges : D.K. Jain, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : Y.K. Jain, Ravinder Sethi and V.K. Seth, for the Appellant;

Judgement

B.N. Kirpal, J.

(1) Rule D.B.

(2) The challenge in this writ petition is to the order dated 25th August, 1989 whereby the building plans of the petitioner have been revoked on the ground that the petitioner has raised unauthorised construction. In the impugned order it is stated that a show cause notice dated 14th June, 1989 was sent to the petitioner requiring him to rectify the deviations from the sanctioned plan which had been noticed. It is further stated that the petitioner had failed to comply with the building bye-laws in spite of the notice dated 14th June, 1989.

(3) In the writ petition it has been alleged that no show cause notice dated 14th June, 1989 was served on the petitioner and that the impugned order has been passed without any opportunity having been granted to the petitioner.

(4) More than 1 years have elapsed but till today no reply affidavit has been filed. The averment of the petitioner to the effect that "show cause notice dated 14th June, 1989 had not been served goes un rebutted. There can be no dispute with the proposition that the sanction of a building plan does give a vested right to the person in whose favor the plan has been sanctioned. If thereafter it is proposed to revoke the sanction plan, principles of natural justice will have to be

complied with and the least which will have to be done is to issue a show cause notice before action of revocation is taken. As there is no rebuttal of the averment that show cause notice was not served on the petitioner, we have no alternative but to quash the order dated 25th August, 1989 whereby the building plans of the petitioner were revoked.

(5) Before concluding, we are asked by Mr. Sethi to record the statement that notices under sections 30 and 31 of the Dda Act in respect of the building in question have been served on the petitioner. Counsel for the petitioner states that as far as his instructions go the service has been effected. We need not however, go into the question as it is not germane to the present petition.

(6) While quashing the aforesaid order dated 25th August, 1989, we make it clear that it is open to the respondents to take such action against the petitioner which may be available to the respondents in accordance with law.