02.05.2025

## ORDER

Present:

Sh. Dushyant Bhargava & Sh. Vikram Singh Nayal, Ld counsel for the appellant.

Sh. Madan Sagar, Ld counsel for the respondent.

- Status report is filed by respondent / MCD. Copy supplied.
- Ld. counsel for respondent / MCD takes a preliminary objection that appeal is barred by law and no application seeking condonation of delay is filed by appellant.
- Ld. counsel for appellant submits that they are impugning the demolition order dated 17.06.2011. He submits that they came to know about the aforesaid demolition order on service of vacation notice dated 24.03.2025 and limitation period be considered from the said date.
- 4. Ld. Counsel for respondent / MCD submits that no appeal against vacation notice is maintainable under Section 347(B) of DMC Act, 1957. He submits that it is the demolition order under Section 343 of DMC Act, 1957 which is appealable under Section 343 (2) of DMC Act, 1957. He submits that appellant is claiming start of limitation period from the date of vacation notice in order to bypass the limitation period.

Contd.....

- 5. Arguments heard and record perused. Section 343 (2) of DMC Act provides the mechanism for filing appeal against the demolition order passed under Section 343 of the DMC Act. As per Section 343, it is demolition order which is appealable and not the vacation notice. The vacation notice is issued only for executing demolition action so that persons residing in the building may evict timely before the demolition action of the building. The vacation notice does not give any cause of action for filing the appeal and cause of action arises from the date of demolition order.
- 6. In the present case demolition order dated 17.06.2011 is stated to have been served by way of affixation. Demolition order was not challenged by the appellant for a period of around 14 years. In the present appeal, application seeking condonation is not moved by appellant. It is clear that the appeal is highly time barred and no reasons have been assigned by appellant for its condonation.
- 7. The Hon'ble Supreme Court of India in the case of H. Guruswamy & Ors Vs Krishnaiah Since Deceased by LRS in Civil AppealNo.317 /2024 has mandated as follows:
  - "13. We are at our wits and to understand why the High Court overlooked all the aforesaid aspect. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High Courts that the concepts such as "liberal approach", "Justice

Contd...

- oriented approach", "substantial justice" should not be employed to frustrate or jettison the substantial law of Limitation."
- 15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.
- The length of the delay is definitely a relevant which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be nondeliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.
- 17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time."
- 8. From the mandate given by the Hon'ble Supreme Court of India it is clear that the concept such as liberal approach, justice oriented approach, substantial justice shall not be employed to frustrate the substantial law of limitation. The court owes a duty to first ascertain the

bonafides of the explanation offered by the party seeking condonation of delay.

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9. In view of the aforesaid, I find merits in submissions made by Ld. counsel for respondent / MCD that the appeal is not maintainable being time barred. No application seeking condonation of delay is moved and the delay is not explained by appellant. The appeal is dismissed being time barred.

A.No. 228/25 & 229/25

02.05.2025

Present: Sh. Dushyant Bhargava & Sh. Vikram Singh Nayal, Ld

counsel for the appellant.

Sh. Madan Sagar, Ld counsel for the respondent.

Status report is filed by MCD. Copy supplied.

Ld. counsel for the MCD takes a preliminary objection in respect of limitation period.

He submits that impugned order is dated 17.06.2011 and the appeal is filed after approximate period of 14 years in April, 2025.

He submits that no application seeking condonation of delay is moved by the appellant explaining the cause of delay.

Arguments on the point of limitation period heard at length from both the parties.

Put up for order today at 04.:00 PM.

(ABHILASH MALHOTRA)
Addl. District & Sessions Judge
P.O.: Appellate Tribunal, MCD
02.05.2025

## 04:00 PM

Vide separate order of even date. The appeal is dismissed being time barred.

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Copy of the order be sent to AE(B) concerned.

Record of the respondent (if any), returned along with copy of this order and appeal, file be consigned to record room.

A.No. 91/25

02.05.2025

Present: Sh. Parinav Gupta Ld counsel for the appellant.

Sh. Sanjay Sethi, Ld counsel for the respondent.

Vide separate judgment of even date, the present appeal is allowed and the matter is remanded back to the MCD for deciding the same afresh.

Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

A.No. 31/25

02.05.2025

Present: Sh. Rajeshwar Dagar, Ld counsel for the appellant.

Sh.Ashutosh Gupta, Ld counsel for the respondent.

Vide separate judgment of even date, the present

appeal is dismissed.

Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to

record room.

A.No. 413/24

02.05.2025

Present:

Sh. Shiv Kumar Chopra, Ld counsel for the appellant

joined through VC.

Sh. Pritish Aggarwal, Ld counsel for the respondent

joined through VC.

Arguments on the point of interim application as well as appeal are heard at length from Ld. counsels of both the parties.

Put up for order for 21.05.2025.

Interim orders to continue till the next date of hearing.

A.No. 280/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. Jitender Kumar, Ld. counsel for the appellant joined through VC.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 08.05.2025.

A.No. 277/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present: Sh. Navin Gupta, Ld. counsel for the appellant.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 08.05.2025.

A.No. 197/20

02.05.2025

Present:

Sh. Ayush Aggarwal, Ld counsel for the appellant joined through VC alongwith Sh. Nityanand, Manager of appellant society present in the Tribunal.

Ms. Renu Soni, Nodal Officer on behalf of MCD.

Nodal Officer, MCD informs that Mr. Mikhil Sharda, Advocate who was representing the MCD in the present matter has left the panel and a new counsel needs to be engaged in the present case.

Accordingly put up for purposed already fixed on 26.09.2025.

## A.No. 668/23

02.05.2025

Present: none for the appellant.

Ms. Renu Soni, Nodal Officer on behalf of the

respondent / MCD.

Despite various calls none has appeared on behalf of

appellant in the Tribunal or in the VC.

In the interest of justice, no adverse order is being

passed today.

Put for the purpose already fixed on 26.09.2025.

A.No. 514/24

02.05.2025

Present: Sh. Dhruv Goyal, Ld counsel for the appellant joined

through VC.

Ms. Renu Soni, Nodal Officer on behalf of MCD.

Nodal Officer, MCD seeks some time to file the status report in terms of the order dated 10.03.2025. Opportunity granted.

Put up for further arguments on the point of appeal on 09.06.2025.

A.No. 417/21

02.05.2025

Present:

Sh. Tarun Khanna, Ld counsel for the appellant joined through VC.

Sh. Mahender Sharma, Ld counsel for the respondent joined through VC.

It is already lunch time. Ld. counsel for MCD submits that he is not available in post lunch session as he has to appear before some other court.

In the interest of justice one more opportunity is granted to the MCD to address the arguments in the matter.

Put up for purpose fixed on 26.09.2025.

Interim orders to continue till the next date of hearing.

A.No. 41/20

02.05.2025

Present: Sh. R.M. Asif, Ld counsel for the appellant.

Ms. Renu Soni, Nodal Officer on behalf of MCD.

Ld. counsel for appellant submits that he is not carrying his case file and not in a position to argue his case today.

In the interest of justice one more opportunity is granted to the appellant to address the arguments in the matter.

Put up for purpose fixed on 26.09.2025.

It is clarified that no request of further adjournment shall be entertained in the matter.

AE(B) concerned is directed to remain present in person on next date of hearing.

A.No. 165/25

02.05.2025

Present: Sh. Manoj Kumar, Ld counsel for the appellant.

Ms. Renu Soni, Nodal Officer on behalf of the respondent / MCD along with Sh. Vijay Meena, AE(B).

Status report is filed by respondent / MCD. Copy supplied.

Ld. counsel for appellant seeks some time to inspect the record before addressing arguments in the matter. Put up for further arguments on pending interim applications and appeal on 27.08.2025.

A.No. 95/25

02.05.2025

Present: Sh. M.P.S.Kasana, Ld counsel for the appellant.

Ms. Vasu Singh, Ld counsel for the respondent.

Status report is filed by respondent / MCD. Copy

supplied.

Record has been produced. It be deposited with

Registry and tagged with the file.

Ld. counsel for appellant seeks some time to inspect

the record before addressing arguments in the matter.

Put up for further arguments on pending interim

applications and appeal on 11.07.2025.

A.No. 729/24, 06/24, 05/24, 55/24 & 56/24

02.05.2025

Present: Ms. Namrata, Ld counsel for the appellant joined

through VC.

Sh. Ashutosh Gupta, Ld counsel for the respondent.

Ms. Namrata, Ld. counsel for appellant submits that she is recently engaged in the matter and seek some time to file her Vakalatnaama on record.

Put for the purpose already fixed on 17.09.2025.

A.No. 519/12 & 491/12

02.05.2025

Present: Sh. K.N. Singh, Ld counsel for the appellant.

Sh. Dharamvir Gupta, co-counsel for the respondent

MCD.

It is stated that Mr. Mohit Sharma who is counsel for the MCD in both the cases is not available today due to some personal exigencies.

In the interest of justice one more opportunity is granted to the respondent to address the arguments in the matter.

Put up for purpose fixed on 26.09.2025.

A.No. 151/25

02.05.2025

Statement of Sh. S.G.Asthana, Ld. counsel for appellant.

At Bar.

I am the counsel for appellant in the present appeal. On instructions of appellant, I submit that appellant is pressing the appeal only respect of sealing proceedings and appellant will seek appropriate remedy against the demolition proceedings.

I pray that the present appeal be considered only for the sealing proceedings.

(ABHILASH MALHOTRA)
Addl. District & Sessions Judge
P.O.: Appellate Tribunal, MCD
02.05.2025

RO&AC

A.No. 151/25

02.05.2025

Present:

Sh.S.G.Asthana & Sh. Sanjay Sharma, Ld counsel for the appellant.

Ms. Renu Soni, Nodal Officer on behalf of the respondent / MCD.

Ld. counsel for appellant submits that they are pressing the present appeal in respect of sealing proceedings.

Separate statement of Ld. counsel for appellant is record in this regard.

The MCD seeks some time to file status report and record. Opportunity granted.

Advance copy be supplied to appellant.

Put up for further arguments on pending interim applications and appeal on 10.06.2025.

## A.No. 42/25 & 43/25

02.05.2025

Present: Sh. Lalit Tickoo & Sh. Naresh Saroo, Ld counsel for

the appellant.

Sh. Ashutosh Gupta, Ld counsel for the respondent.

Status report is filed by respondent / MCD. Copy

supplied. Status report is kept in appeal no.42/25.

Ld. counsel for appellant seeks sometime to inspect the record before addressing arguments in the matter.

Put for the purpose already fixed on 26.09.2025.

A.No. 234/25

02.05.2025

Present: Proxy counsel for the appellant.

Sh. Ashutosh Gupta, Ld. counsel for the respondent.

It is informed that arguing counsel for appellant Mr. Mukesh Kumar is unavailable today due to some medical exigency.

Ld. Counsel for respondent / MCD submits that they will file status report and MCD record during the course of the day.

Put for the purpose already fixed on 26.09.2025.

A.No. 164/25

02.05.2025

Present: Sh. M.P.S.Kasana, Ld counsel for the appellant.

Sh. Ashutosh Gupta, Ld counsel for the respondent.

Status report is filed by respondent / MCD. Copy supplied.

Record has been produced. It be deposited with Registry and tagged with the file.

Ld. counsel for appellant seeks some time to inspect the record before addressing arguments in the matter.

Put up for further arguments on pending interim applications and appeal on 11.07.2025.

Interim orders to continue till the next date of hearing in appeal no.164/25.

A.No. 323/24 & 291/24

02.05.2025

Present: Ms. Parul Verma proxy counsel for the appellant.

Sh. Ashutosh Gupta, Ld counsel for the respondent in appeal No.323/24.

Ms. Simran Auluck, Ld. counsel for the respondent in appeal No.291/24.

Sh. Sanjog Singh Arneja, Ld. counsel for intervener Sh. Raj Kumar.

Sh. Arsh Bhalla, Ld. counsel for intervener Sh. Rajender Prasad Aggarwal.

Fresh Vakalatname is filed by Sh. Arsh Bhalla, Ld. counsel for intervener Mr. Rajender Prasad Aggarwal. Ld. counsel for appellant has placed on record copy of the order dated 07.04.2025 passed by the Hon'ble High Court in CM(M) 633/2025 and CM APPL 20177-20178/2025.

An application under Order 1 Rule 10 CPC moved by intervener Mr. Rajender Prasad Aggarwal is pending for adjudication.

An adjournment is sought on behalf of the appellant as main counsel Sh. Anuj Garg is un-available today being busy before the Hon'ble High Court of Delhi.

Put up for arguments on aforesaid application under Order 1 Rule 10 CPC, pending interim applications and appeal on **26.09.2025**.

A.No. 274/25 & 275/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. Ajay Arora, Ld. Sr. counsel for the appellant along with Sh. Arush Kapoor and Sh Nitish Dubey, Advocates.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Ld. counsel for the appellant submits that they are apprehending coercive action and requests for a short date.

Put up for arguments on interim application(s) and appeal on 09.05.2025.

A.No. 271/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. R.K. Arora and Sh. Harish Narang, Ld. counsel for the appellant.

The present appeal is filed in respect of second floor (left side) portion of the property in question.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 05.06.2025.

A.No. 278/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present: Sh. Shamim A. Khan, Ld. counsel for the appellant.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 26.05.2025.

A.No. 272/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. R.K. Arora and Sh. Harish Narang, Ld. counsel for the appellant.

The present appeal is filed in respect of Third Floor (right side) portion of the property in question.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 05.06.2025.

A.No. 266/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. R.K. Arora and Sh. Harish Narang, Ld. counsel for the appellant.

The present appeal is filed in respect of basement portion of the property in question.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 05.06.2025.

A.No. 265/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. R.K. Arora and Sh. Harish Narang, Ld. counsel for the appellant.

The present appeal is filed in respect of upper ground portion of the property in question.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 05.06.2025.

A.No. 222/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present: Sh. Jitender Bhardwaj, Ld counsel for the appellant.

List of documents is filed by appellant. Along with list of documents photocopies of bills are filed. The bills do not bear the name and address of the seller. It does not mention any GST / VAT registration number. The bills also do not bear any signature or seal of the organization. Original bills are also not produced before the Tribunal. No application is moved seeking leave of the Tribunal to file additional documentary evidence at appellate stage. Accordingly, the said documents cannot be considered.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 09.06.2025.

A.No. 279/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present: Sh. Ankur Aggarwal, Ld. counsel for the appellant.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 02.06.2025.

A.No. 269/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. R.K. Arora and Sh. Harish Narang, Ld. counsel for the appellant.

The present appeal is filed in respect of Third floor (left side) portion of the property in question.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 05.06.2025.

A.No. 270/25

02.05.2025

Fresh appeal filed. Be checked and registered.

Present:

Sh. R.K. Arora and Sh. Harish Narang, Ld. counsel for the appellant.

The present appeal is filed in respect of Second Floor (right side) portion of the property in question.

Issue notice of interim application(s) as well as appeal to the respondent through concerned Chief Law officer.

The Executive Engineer (B) is directed to ensure the presence of the concerned AE(B), who shall appear in person along with the record of the proceedings, status report and reply on next date of hearing.

Put up for arguments on interim application(s) and appeal on 05.06.2025.

A.No. 163/25

02.05.2025

Present: None for the appellant.

Ms. Jasleen Kaur, Ld counsel for the respondent.

No one is present on behalf of the appellant in Tribunal and in VC despite various calls since morning.

Ld. counsel for MCD seeks some time to file status report and record. Opportunity granted. Put up for purpose fixed on 26.09.2025.

A.No. 444/22

02.05.2025

Present:

Sh. Amit Kumar, Proxy counsel for the appellant

joined through VC.

Ms. Renu Soni, Nodal Officer on behalf of the

respondent / MCD.

It is informed that advocate Ms. Manjula Sharma has left the MCD panel and the MCD is in process to engage some other counsel in the matter.

In the interest of justice, one more opportunity is granted to respondent / MCD to address arguments in the matter.

Put for the purpose already fixed on 26.09.2025.

A.No. 839/24

02.05.2025

Present:

Sh. Hitesh, Sh. C.P. Singh and Dinesh Kumar, Ld counsels for the appellant.

Sh. Atul Tanwar, Ld counsel for the respondent.

- 1. The matter was listed for 30.07.2025. An application for early hearing was filed by the appellant and the notice was issued to the MCD.
- 2. Arguments on interim application seeking stay heard from Ld. counsel for both the parties.
- 3. Ld. counsel for appellant submits that MCD had issued a vacation notice in respect of property in question and in case the interim protection is not granted to the ground floor and first floor of the property their appeal will become infructuous. He submits that appellant is relying upon property tax documents, electricity bill, water bill etc to show that the structure is old. He submits that there is no sanctioned building plan of the property in question.
- 4. On the other hand, Ld. counsel for MCD submits that the appeal is not maintainable as vacation notice cannot be impugned under Section 347-B of the DMC Act. He submits that appellant has filed demolition order at page-26 of the appeal but despite that he has not impugned the said order to save himself from the limitation period as the

appeal is time barred. He submits that no application seeking condonation of delay is filed. He submits that appellant has filed on record collaboration agreement dated 07.11.2008 in which it is clearly stated that the old structure was demolished and the new structure has been raised. He submits that in view of collaboration agreement showing fresh construction by demolishing old structure, the property tax record and other documents pertaining to the old structure cannot be looked into.

- 5. He submits that in para-5 of the appeal the appellant has admitted construction of third and fourth floor in the year 2022. He submits that from the said admission it becomes clear that the appellant has breached the status quo and cannot claim protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
- 6. Arguments heard. Record perused. The present appeal has been filed impugning the vacation notice. Section 347-B and Section 343 of the DMC Act does not enlist or make any provision of impugning vacation notice. No application seeking condonation of delay is filed by the appellant and prima-facie the appeal is time barred.
- Apart from that the collaboration agreement dated 07.11.2008 filed by the appellant, records that the appellant got earlier structure demolished and a

fresh structure was constructed. The property tax returns and the collaboration agreement militate with each other and are contradictory documents filed by the appellant. Apart from that appellant in para-5 of the appeal admitted that they carried out further construction of third and fourth floor in the year 2022 and therefore, status quo as mandated under clause 3 (2) of National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 was breached.

- 8. In these circumstances it is prima-facie clear from the record that there are issues in respect of maintainability of the appeal and documents filed by appellant are contradictory with each other. I do not find any merits in the application seeking interim stay and accordingly same is dismissed.
- 9. Put up for arguments on the point of appeal on date already fixed i.e. 30.07.2025.
- 10. It is clarified that the observation made while passing of this order by this court shall not tantamount to the expression on the merits of this case.

Copy of the order be given dasti to both the parties.

A.No. 38/21

02.05.2025

Present: Sh. Dinesh Kumar Gupta, Ld counsel for the appellant

joined through VC.

Sh. Mohit Sharma, Ld counsel for the respondent.

Part arguments on the point of appeal heard.

The then AE(B) who passed the order in question is directed to appear in person before the Tribunal on the next date of hearing.

Put for the purpose already fixed on 20.08.2025.

A.No. 81/24

02.05.2025

Present:

Sh. Khushi Maurya, Proxy counsel for the appellant.

Ms. Renu Soni, Nodal Officer on behalf of the respondent / MCD.

It is informed that main counsel for appellant Mr. A.K. Azad is unavailable today due to broken shoulder.

Perusal of record shows that since last two hearings appellant is seeking adjournments on medical grounds and interim order is being extended.

The Tribunal depreciates such practice as the interim application is yet to be decided and the appellant is enjoying interim protection in the grab of adjournments.

Appellant is given one last and final opportunity to address arguments in the matter subject to cost of Rs.5000/- to be deposited in the Registry.

It is clarified that no request for further adjournment shall be entertained in the matter.

Put up for further arguments on pending interim applications and appeal on 26.09.2025.

Interim orders to continue till the next date of hearing.

A.No. 174/23

02.05.2025

Present: Sh. Mahesh Issar, Ld counsel for the appellant.

Ms. Renu Soni, Nodal Officer on behalf of the

respondent / MCD.

Ld. counsel for appellant seeks adjournment to move appropriate application for consideration the additional documents filed by the appellant in this case. He also seeks some time to file original documents appellant is relying upon.

Put for the purpose already fixed on 26.09.2025.

A.No. 935/16

02.05.2025

Present:

Sh. Parvez Bashista, Ld counsel for the appellant.

Ms. Sudesh Sharma, Ld counsel for the respondent.

An application under Section 151 CPC is moved for impleading the legal heirs of deceased appellant Mr. Kailash Balani. It is informed that appellant Mr. Kailash Balani had died on 02.11.2024. Copy of death certificate is filed alongwith application. Surviving members certificate is also filed. Ld. counsel for applicant submits that right to sue survive in favour of legal heirs. Ld. counsel for MCD does not oppose the application.

Arguments heard. Record perused. Appellant Mr. Kailash Balani had died and right to sue survive in favour of legal heirs of deceased appellant. Accordingly the application seeking impleadment of legal heirs of deceased appellant is allowed. Amended memo of parties is taken on record.

Put up for arguments on pending interim application and appeal on **26.09.2025**.

Interim orders to continue till the next date of hearing.

A.No. 175/25

02.05.2025

Present:

Sh. M. Mukul and Sh. J. K. Pandey, Ld counsels for the appellant.

Sh. Ashutosh Gupta, Ld counsel for the respondent.

- The present case was listed for hearing on 09.07.2025. The appellant moved an application seeking early hearing and notice was issued to the MCD.
- 2. Arguments on the interim application seeking stay is heard from Ld. counsels for both the parties. It is submitted by Ld. counsel for the appellant that the show cause notice as well as demolition order mention the structure as old and protected property. He submits that the property was purchased by the father of the appellant vide Sale Deed dated 28.05.1970. He submits that the property comprised of a plot of 200 sq. yards and thereafter the property bearing plot number S-99 was divided amongst the family members and the same is reflected in the Will dated 28.05.2009 and the said plot was divided amongst family members and was numbered as 99-A, 99-B and 99-C comprising of 600 sq. feet each.
- 3. He submits that appellant has placed on record electricity bills to show that the structure is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. He submits that the existing structure is built

- upon old structure i.e. ground floor and first floor which is reflected in the house tax assessment order dated 01.04.2019 (at page 42 of the appeal).
- 4. Ld. counsel for the MCD submits that the property is situated in unauthorized regularized colony and cut off date is 08.02.2007. He submits that Sale Deed dated 28.05.1970 mentions the plot size as 200 sq. yards. He submits that house tax assessment dated 01.04.1999 (at page 42 of the appeal) is also in respect of property bearing number S-99 measuring 200 sq. yards. He submits that the Will dated 28.05.2009 is after the cut off date and clearly shows the sub division in the year 2009 which was impermissible. He submits that appellant erected new structure on sub divided land bearing private number 99-B measuring 600 sq. feet which has come to his share. He submits that site plan (at page 49 of the appeal) shows exclusive stairs which are available to the property and belies the submissions made by the appellant that the property in question is built up on existing structure. He submits that it has remained unexplained where are the stairs for other properties i.e. 99-A & 99-C. He submits that the house tax returns filed by the appellant pertaining to the year 2013 and are of no relevance being after the cut off date. He submits that the electricity bills filed along with additional documents pertaining to property number S-99 which was undivided property and no electricity bill of property number S 99-B is filed on

- record. He submits that as per admitted case of appellant, the property S 99-B come into picture by way of Will dated 28.05.2009 and the older bills cannot be looked into for sub divided portion of property which has been created in the year 2009 only.
- 5. Arguments heard and record perused. The appellant has placed on record the additional documents along with the application on 15.04.2025. The said application is still pending. The property tax returns filed along with the said application are pertaining to the year 2013 which is after the cut off date. The property tax of the year 2006-2007 is filed in the year 2013 and the property tax returns cannot be said to be filed prior to the cut off date. Moreover, there is overlapping in payment. Tax receipt no. 077892 dated 10.03.2013 is for the year 2004-2005 to 2012-2013. Receipt no. 87504 dated 10.03.2013 is for the year 2006-2007 to 2012-2013. It is not understood why tax for the year 2006-2007 to 2012-2013 is paid twice. It creates doubt about the said receipt.
- The electricity bills filed along with said application pertain to the undivided property S-99 and no electricity bills of property number S 99-B is filed and the electricity bill for un-divided property cannot be looked into.
- 7. It is admitted position that there is no sanctioned building plan. The house tax assessment for the year 01.04.1999 shows only structure upto to 1<sup>st</sup> floor was there in plot of 200 sq. yards. The site plan (at page 49

of the appeal) filed by the appellant shows that structure from stilt to third floor in a plot of 55.74 sq. meter/ 600 sq. feet. From the site plan which is primafacie clear that the structure is independent of the old structure as there was no stilt parking mention in the property tax assessment for the year 01.04.1999. The Will of 2009 clearly shows that there is sub division of the property after the cut of date. MCD record contains the photographs of the property prima-facie showing new construction. From the documents on record it is prima facie clear that the appellant has failed to show any prima facie case for grant of protection at this juncture.

- 8. Accordingly, the interim application seeking stay is dismissed.
- 9. It is clarified that the observation made while passing of this order by this Tribunal shall not tantamount to the expression on the merits of this case.
- 10. Now to come up for arguments on the point of appeal on the date fixed i.e. **09.07.2025.**
- 11. Copy of this order be given dasti to both the parties.

A.No. 24/25 & 25/25

02.05.2025

File is taken up today on application seeking early hearing.

Present:

Dr. Ajay Chaudhary, Ld counsel for the appellant. Sh. Sanjeet Kumar, Ld. proxy counsel for Sh. Pritiesh

Sabbharwal, Ld. Counsel for the respondent.

Ld. counsel for appellant submits that they are impugning the order by which sanctioned building plan was rejected. He submits that building material is lying at site and in case appeal is not heard on priority appellant will suffer a huge loss due to dilapidation of building material.

Notice of the application be issued to MCD for 03.06.2025.

A.No. 93/25

02.05.2025

File is taken up today on application under Section 151 CPC seeking early hearing.

Present: Sh. Puran Chand, Ld counsel for the appellant.

Ld. counsel for appellant submits that MCD is likely to take coercive action against the property in question and in case interim application seeking stay is not heard on merits the appellant will suffer irreparable loss and appeal will become infructuous.

Notice of the application be issued to the respondent / MCD for 23.05.2025.

A.No. 03/23

02.05.2025

Present: Sh. Vimal Dhingra, Ld counsel for the appellant.

Sh. V.K. Aggarwal, Ld counsel for the respondent.

Ld. counsel for respondent MCD submits that his relative has died and he has to rush for attending the final rites.

In the interest of justice one more opportunity is granted to the respondent to address the arguments in the matter.

Put up for purpose fixed on 26.09.2025.

A.No. 105/23

02.05.2025

Present: Sh. Dalip Rastogi, Ld counsel for the appellant.

Sh. Atul Tanwar, Ld counsel for the respondent.

Ld. counsel for appellant seeks some time to file

affidavit clarifying the status of ownership.

In the interest of justice, one more opportunity is granted to appellant to address arguments in the

matter.

Put up for further arguments on the point of

clarification on 15.05.2025.

A.No. 168/25

02.05.2025

Present: Proxy counsel for the appellant.

Sh. Ashutosh Gupta, Ld. counsel for the respondent.

It is informed that arguing counsel for appellant Mr. Mukesh Kumar is unavailable today due to some medical exigency.

Ld. Counsel for respondent / MCD submits that they will file status report and MCD record during the course of the day.

Put for the purpose already fixed on 26.09.2025.

## APPEAL NO. 357/ATMCD/2022

Sh. Govind Ram Gupta & Ors.

Versus

**Municipal Corporation of Delhi.** 

### 02.05.2025

### <u>ORDER</u>

- 1. This Order will decide application seeking interim stay filed by the appellants.
- 2. It is submitted by Ld. counsels for appellants that the impugned order had been passed on the premise that there are deviations /excess coverage against the revised sanctioned plan dated 08.06.2020. It is argued that the said sanctioned plan has been revoked arbitrarily and appellants have filed a separate appeal bearing no. 91/2025 impugning the revocation order.
- 3. It is submitted that appellants have carried out construction in the property in question as per revised / regularized sanctioned building plan dated 08.06.2020. It is argued that it is not the case of the MCD that the structure in question had been raised without any sanctioned building plan. It is argued that the impugned order does not specify the nature of deviations and its measurements. It is argued that the property in question comprises of 12 blocks / units

which are owned by different individuals and the impugned order does not specify what kind of violations exist in each block and MCD had passed a blanket order in respect of all the blocks. It is argued that even if the demolition order remains unopposed, it does not specify what structure needs to be removed / demolished by the MCD and what are its measurements.

- 4. Ld counsel for the MCD reiterates that the impugned order had been passed after following due process of law. He submits that the revised plan dated 08.06.2020 is revoked by MCD due to misrepresentation and consequently the unauthorized structure in the property was required to be booked and acted upon.
- 5. Arguments heard and record perused. It is admitted position on record that the property in question comprises of 12 blocks / units. There is a sanctioned building plan and regularization plan. The regularization plan was revoked later on. It is *prima facie* clear that the deviations / violations exiting in each of the blocks is not specified in the impugned order. Though MCD in their status reports filed after institution of the case has specified the nature of deviations in each block.
- 6. The root of the matter lies in the revocation of the revised / regularized sanctioned building plan dated 08.06.2020. The said revocation is challenged in appeal

number 91/2025. Vide separate judgment the Tribunal has set aside the revocation order under Section 338 of the DMC Act, 1957 with direction to the MCD to decide the issue afresh. The fate of the unauthorized structure depends upon the adjudication under Section 338 of DMC Act, 1957. Therefore, in order to protect the subject matter property it is necessary that no further coercive action be taken against the property in question as the MCD is going to adjudicate the question of revised / regularized building plan afresh.

- 7. In view of the aforesaid, the interim application seeking stay is allowed and it is directed that no further coercive action be taken against the property in question till further orders.
- 8. It is clarified that pendency of present appeal shall not restrict the domain of MCD to decide the issue of revised /regularization plan which is remanded back for fresh adjudication in appeal no. 91/2025 and MCD is at liberty to decide the same as per extant law without being influenced from the observations made in this order. The MCD is further at liberty to de-seal the sealed portions (if any) of the property in question for the purposes of obtaining measurement, photographs and for proper adjudication.
- 9. It is further clarified that the observations made while passing of this order by this Tribunal shall not tantamount to the expression on the merits of this case.

10. Put up for filing of status report by the MCD as well as for further arguments on the point of appeal on **08.10.2025.** 

Announced in the open Court today i.e. on 02.05.2025 (s)

(ABHILASH MALHOTRA)
AD&SJ-cum-P.O.
Appellate Tribunal: MCD Delhi

# APPEAL NO. 318/ATMCD/2022 Sh. Govind Ram Gupta & Ors.

Versus

**Municipal Corporation of Delhi.** 

#### 02.05.2025

## ORDER

- 1. This Order will decide application under Section 5 of the Limitation Act, 1963 dated 07.06.2022 as well as application seeking interim stay filed by the appellants.
- 2. In respect of the limitation, it is stated that impugned order was not served upon the appellants and when the property in question was sealed the appellants came to know about the orders and filed the present appeal. It is argued that MCD record does not have any file noting of the efforts made to effect in person service of the show cause notice as well as impugned order upon the appellants. It is submitted that the affixation proceedings are not witnessed by any public person and the original photographs are also not filed. Ld. counsel for the MCD opposes the application and submits that the impugned order was passed after following due process of law.
- 3. Arguments heard and record perused. Appellants are disputing the service of the impugned order. It is stated that the appellants came to know about the impugned order only

when the property was sealed. MCD record do not contain any postal receipts and is silent as to what efforts made to effect service in person upon the appellants. The affixations proceedings are not witnessed by any public person. Original photographs are not on file. In these circumstances, it is *prima facie* clear that the service of impugned order is not free from doubts. Appellants have raised grounds in appeal which need to be considered and appreciated on merits. The application seeking condonation is allowed and the delay is condoned.

- 4. It is clarified that the observations made while deciding this application shall not tantamount on the expression on the merits of this case.
- 5. It is submitted by Ld. counsels for appellants that the impugned order had been passed on the premise that there are deviations /excess coverage against the revised sanctioned plan dated 08.06.2020. It is argued that the said sanctioned plan has been revoked arbitrarily and appellants have filed a separate appeal bearing no. 91/2025 impugning the revocation order.
- 6. It is submitted that appellants have carried out construction in the property in question as per revised / regularized sanctioned building plan dated 08.06.2020. It is argued that it is not the case of the MCD that the structure in question had been raised without any sanctioned building

plan. It is argued that the impugned order does not specify the nature of deviations and its measurements. It is argued that the property in question comprises of 12 blocks / units which are owned by different individuals and the impugned order does not specify what kind of violations exist in each block and MCD had passed a blanket order in respect of all the blocks. It is argued that even if the demolition order remains unopposed, it does not specify what structure needs to be removed / demolished by the MCD and what are its measurements.

- 7. Ld counsel for the MCD reiterates that the impugned order had been passed after following due process of law. He submits that the revised plan dated 08.06.2020 is revoked by MCD due to misrepresentation and consequently the unauthorized structure in the property was required to be booked and acted upon.
- 8. Arguments heard and record perused. It is admitted position on record that the property in question comprises of 12 blocks / units. There is a sanctioned building plan and regularization plan. The regularization plan was revoked later on. It is *prima facie* clear that the deviations / violations exiting in each of the blocks is not specified in the impugned order. Though MCD in their status reports filed after institution of the case has specified the nature of deviations in each block.

- 9. The root of the matter lies in the revocation of the revised / regularized sanctioned building plan dated 08.06.2020. The said revocation is challenged in appeal number 91/2025. Vide separate judgment the Tribunal has set aside the revocation order under Section 338 of the DMC Act, 1957 with direction to the MCD to decide the issue afresh. The fate of the unauthorized structure depends upon the adjudication under Section 338 of DMC Act, 1957. Therefore, in order to protect the subject matter property it is necessary that no further coercive action be taken against the property in question as the MCD is going to adjudicate the question of revised / regularized building plan afresh.
- 10. In view of the aforesaid, the interim application seeking stay is allowed and it is directed that no further coercive action be taken against the property in question till further orders.
- 11. It is clarified that pendency of present appeal shall not restrict the domain of MCD to decide the issue of revised /regularization plan which is remanded back for fresh adjudication in appeal no. 91/2025 and MCD is at liberty to decide the same as per extant law without being influenced from the observations made in this order. The MCD is further at liberty to de-seal the sealed portions (if any) of the property in question for the purposes of obtaining measurement, photographs and for proper adjudication.

- 12. It is further clarified that the observations made while passing of this order by this Tribunal shall not tantamount to the expression on the merits of this case.
- 13. Put up for filing of status report by the MCD as well as for further arguments on the point of appeal on **08.10.2025.**

Announced in the open Court today i.e. on 02.05.2025 (s)

(ABHILASH MALHOTRA)
AD&SJ-cum-P.O.
Appellate Tribunal : MCD Delhi

A.No. 171/21

02.05.2025

Present: None for the appellant.

Ms. Renu Soni, Nodal Officer on behalf of MCD.

Despite various calls none is appearing on behalf of the appellant in the Tribunal and in VC.

Put up at 2.00 p.m.

(ABHILASH MALHOTRA)
Addl. District & Sessions Judge
P.O.: Appellate Tribunal, MCD
02.05.2025

2.40 p.m.

Present: None for the appellant.

Ms. Renu Soni. Nodal Officer on behalf of MCD.

None has appeared on behalf of appellant since morning in the Tribunal and in VC despite various calls. None had appeared on behalf of the appellant on 10.09,2024 and 03.01,2025 as well.

It is 2.40 p.m. The present appeal is dismissed in default.

Interim stay granted vide order dated 12.04.2021 stands vacated.

Copy of the order be sent to AE(B) concerned for information.

Record of the respondent if any be returned alongwith copy of this order and appeal file be consigned to record room.

A.No. 226/25

02.05.2025

Statement of Sh. Nitesh Singh, Ld. counsel for

appellant.

At Bar.

I am the counsel for appellant in the present appeal.

There are certain technical defects in the present

appeal, I seek permission to withdraw the present

appeal.

I pray that 07 working days be provided for filing fresh

appeal.

RO&AC

(ABHILASH MALHOTRA) Addl. District & Sessions Judge

P.O.: Appellate Tribunal, MCD

02.05.2025

A.No. 226/25

02.05.2025

Present:

Sh. Nitesh Singh, Ld counsel for the appellant.

Ld. counsel for appellant submits that there are certain technical defects in the present appeal and they want to withdraw the present appeal so that fresh appeal may be filed. He pray that 07 working days be granted for taking steps.

Separate statement of Ld. counsel for appellant is recorded in this regard.

In view of the statement, the present appeal is dismissed as withdrawn.

Appellant is granted liberty to file fresh appeal within 07 working days from today.

It is clarified that the observations made while passing of this order by this Tribunal shall not tantamount to the expression in respect of limitation period as well as on the merits of this case.

File be consigned to record room.

A.No. 184/25

02.05.2025

Present: Sh. Dalip Rastogi, Ld counsel for the appellant.

Sh. Ashutosh Gupta, Ld counsel for the respondent.

Ld. Counsel for respondent / MCD submits that MCD record is not traceable and he needs some time to take instruction in the present matter. He submits that as the record is not traceable and the matter is already listed for 09.05.2025, the department has instructed him that MCD will not take any coercive action against the property in question till next date of hearing.

In view of the aforesaid, the application seeking early hearing is disposed of.

Put for the purpose already fixed on 09.05.2025.

Copy of order be given dasti.