

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

APPEAL NO. 54/ATMCD/2025

**Sh. Abdul Nasim
S/o SK Abdul Masum
R/o 2503, Kucha Baqaullah Khan,
Tiraha Behram Khan, Darya Ganj,
Delhi-110002**

..... Appellant

Versus

**1. Municipal Corporation of Delhi
(Through its Commissioner)
Civic Centre, Jawahar Lal Nehru Marg,
New Delhi-110002.**

**2. Deputy Commissioner,
City Sadar Pahar Ganj Zone
Municipal Corporation of Delhi
Nigam Bhawan,
2nd Floor Old Hindu College,
Kashmere Gate, Delhi-110006**

..... Respondents

Date of Filing of Appeal : 29.01.2025

Date of Judgment : 21.03.2025

JUDGMENT

1. The present appeal has been filed by the appellant impugning the demolition order dated 06.01.2024 passed by the MCD under 343 of The Delhi Municipal Corporation Act, 1957 (hereinafter referred as DMC Act, 1957) in respect of the unauthorized construction in the shape of entire construction at ground, first, second and third floors of the property bearing no. 2503, Kucha Baqaullah Khan, Tiraha Behram Khan, Darya Ganj, Delhi.

2. It is the case of the appellant that he is the owner of property bearing No. 2503, Kucha Baqaullah Khan, Tiraha Behram Khan, Darya Ganj, Delhi and have purchased the same vide GPA, Agreement to Sell dated 24.11.2021. It is argued that the present order had been passed by the MCD in haste and the structure is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It is submitted that appellant had filed on record property tax returns showing that the structure is old and the same is not considered by the MCD. It is submitted that a room was constructed on the top floor of the property in question and the same was already demolished by the appellant.
3. Ld. Counsel for MCD submits that order was passed after providing opportunity of hearing to the appellant. Appellant appeared before the MCD and submitted his reply dated 29.11.2024 which was duly considered and appreciated in the impugned order. It is submitted that documents filed by the appellant are contradictory. It is argued that the appellant had constructed the entire new structure and therefore, the property tax returns in respect of the old structure is of no relevance. It is pointed out that photographs of the new structure is available at the MCD record. It is pointed out that while making new construction the property nos. 2503 & 2504 have been amalgamated which is evident from the photographs placed on record.
4. I have heard the arguments and perused the record. It is the case of the appellant that vide GPA, Agreement to Sell etc. dated 24.11.2021, he had purchased ground and first floor of the property admeasuring 28 sq. yards. From the aforesaid documents, it is clear that on 24.11.2021 only ground and first floor existed in the property bearing no. 2503, Kucha Baqaullah Khan, Tiraha Behram Khan, Darya Ganj, Delhi. In reply dated 29.11.2024 filed by the appellant before MCD the said

position is reaffirmed by the appellant. In property tax returns for the year 2021-2022 (at page 40-41 of the appeal) the structure in property no. 2503 is mentioned at ground and first floor only. It is evident from the record filed by the appellant himself that in the year 2021-2022 the structure which existed in the property no. 2503 was ground and first floor only.

5. Appellant has filed the property tax returns for the year 2024-2025 (at page 45 of the appeal) which shows the structure in property no. 2503 as ground, first, second and third floors. In the site plan (at page 55-56 of the appeal) also appellant has admitted that property is constructed from ground floor to third floor. The photographs filed by the appellant himself also confirmed the said position. The affidavit filed by appellant (at page 62-64 of the appeal) also admits the existence of structure from ground to third floors.
6. From the admitted position on record, it is clear that the appellant has made construction on the property in question after purchasing the same. In the year 2021, only ground and first floor existed in the property in question but in the year 2024 the second and third floors have also surfaced. This admitted position substantiates the case of the MCD that appellant had demolished the old structure and has erected a new building. This also stands corroborated by the photographs filed by the MCD on record. Admittedly, the appellant had not obtained any sanctioned building plan. As the old structure has been changed and status quo has been violated, therefore, protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available. It is clear from the record that structure from ground to third floors of property bearing no. 2503, Kucha Baqaullah Khan, Tiraha Behram Khan, Darya Ganj, Delhi is constructed without

any sanctioned building plan and the same is unauthorized and liable to be demolished.

7. In view of the aforesaid, the demolition order dated 06.01.2024 is upheld and the appeal is hereby dismissed. The interim application stands disposed off.
8. Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

**Announced in the open Court
today i.e. on 21.03.2025 (s)**

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