

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

**APPEAL NO. 853/24**

- 1. Ms. Maninder Kaur,  
W/o S. Tarjit Singh,  
R/o A-73, Kirti Nagar,  
New Delhi**
- 2. S. Tarajit Singh  
S/o Sh. Gurmukh Singh,  
R/o L-100, Ground Floor,  
Kirti Nagar, Delhi,**
- 3. Ms. Suchi Kpoor,  
D/o Late Sh. Lav Kapoor,  
R/o A-2/82, Prateek Apartment,  
Paschim Vihar, Punjabi Bagh,  
Delhi-110063.**

**APPEAL NO. 854/24**

- 1. Ms. Maninder Kaur,  
W/o S. Tarjit Singh,  
R/o A-73, Kirti Nagar,  
New Delhi**
- 2. S. Tarajit Singh  
S/o Sh. Gurmukh Singh,  
R/o L-100, Ground Floor,  
Kirti Nagar, Delhi,**
- 3. Sh. Paramjit Singh Oberoi,  
D/o Late Waryam Singh,  
C/o Shop at ground floor,  
Paschim Vihar, Punjabi Bagh,  
1/7, Double Storey, Ramesh Nagar,  
New Delhi.**
- 4. Ms. Suchi Kpoor,  
D/o Late Sh. Lav Kapoor,  
R/o A-2/82, Prateek Apartment,  
Paschim Vihar, Punjabi Bagh,  
Delhi-110063.**

**..... Appellants**

**Vs**

**Municipal Corporation of Delhi**

**(Through its Commissioner)  
Civic Centre, Jawahari Lal Nehru Marg,  
Minto Road, New Delhi-110002**

**..... Respondent**

**Date of Filing of Appeal : 26.09.2024  
Date of judgment : 16.05.2025**

**APPEAL NO. 341/24**

**Paramjit Singh Oberoi,  
S/o Late Shri Waryam Singh,  
C/o Shop at Ground Floor in  
1/7, Double Storey, Ramesh Nagar,  
New Delhi**

**..... Appellant**

**Vs**

**Municipal Corporation of Delhi  
(Through its Commissioner)  
Civic Centre, Jawahari Lal Nehru Marg,  
Minto Road, New Delhi-110002**

**..... Respondent**

**Date of Filing of Appeal : 13.05.2024  
Date of judgment : 16.05.2025**

**APPEAL NO. 756/22**

**APPEAL NO. 757/22**

**Shri Karan Malik,  
S/o Shri Vineet Kumar Malik,  
Shop at Ground Floor, 1/7, Double Storey,  
Ramesh Nagar, New Delhi**

**..... Appellant**

**Vs**

**Municipal Corporation of Delhi  
(Through its Commissioner)  
Civic Centre, Jawahari Lal Nehru Marg,  
Minto Road, New Delhi-110002**

**..... Respondent**

**Date of Filing of Appeal : 13.12.2022  
Date of judgment : 16.05.2025**

## **JUDGMENT**

1. This common judgment will decide the orders passed by MCD which are impugned in appeal Nos.853/24, 854/24, 341/24, 756/22 and 757/22. In all the aforesaid appeals the issue involved and the property involved is common and therefore, the appeals are decided by this common judgment.
2. Ld. counsel for appellants submits that the property in question is double storey building. The ground floor of the property is having “property No.1/7”, Ramesh Nagar, Delhi and the first floor is having “property No.1/8”. It is argued that occupiers/owners of the first floor applied for a sanctioned building plan of the whole structure comprising number of 1/7 as well as 1/8 without taking any NOC/permission of the owners of the shops at ground floor (1/7). It is submitted that the above said sanctioned building plan dated 29.01.2022 was obtained by way of mis-representation and MCD by way of order dated 04.01.2024 in proceedings under Section 338 of the DMC Act revoked the said sanctioned building plan. It is submitted that after rejection of the said sanctioned building plan MCD gave a colour of unauthorized construction to the whole structure including the shops at ground floor (1/7).
3. He submits that demolition order dated 26.08.2022 was passed against the shops/structures at the ground floor (1/7) and demolition order dated 12.09.2022 was passed against the structural at first floor and second floor (1/8). It is submitted that owners/occupiers of first floor and second floor have not challenged the demolition order dated 12.09.2022 passed in respect of first floor and second floor. In respect of demolition order dated 26.08.2022 passed in respect of ground floor (1/7), it is submitted that the owners/occupiers at the ground floor were not party in the said proceedings and neither the show cause notice nor demolition order were addressed to them.
4. It is further submitted that in the impugned demolition order dated 26.08.2022 MCD has alleged deviation/excess coverage against the sanctioned building plan with defective heights and slab at ground floor. It is submitted no change in the structure has been done by the owners of the ground floor. It is submitted that the unauthorized construction was carried out by the owners/occupiers of property no. 1/8, at first floor and above and being

aggrieved from the same one of the appellant Mr. Karan Malik also filed a civil suit for redressal for his grievance.

5. It is further argued that MCD in this status report dated 03.03.2025 also confirmed that the owners/occupiers of first floor and second floor have casted one more roof slab over the existing roof of the ground floor. It is argued that the aforesaid position of affairs in the MCD status report clearly shows that the owners/occupiers at ground floor (1/7) did not change their slab/ceiling and the old structural is intact and the owners /occupiers of first/second floor (1/8) made construction by constructing additional slab above the existing slab and the structure at ground floor was not changed.
6. It is argued that MCD neither made the owners/occupiers party in the demolition proceedings nor provided any hearing and also ignored the factual scenario that no change whatsoever has been done in the structure at ground floor (1/7). It is argued that the owners/occupiers at the ground floor cannot be victimized for the unauthorized construction which has been carried out by the owners/occupiers of the first and second floor especially in the circumstances when the owners/occupiers/ground floor have agitated the issue in this regard before the civil court. It is submitted that MCD has turned blind eyes and deaf ears to the plight of the appellants and have passed this order recklessly without application of mind.
7. Ld counsel for MCD submits that they have filed a status report dated 16.05.2025 in the Tribunal and approval has been taken from the competent authority in the department to grant a fresh hearing in the matter. He submits that MCD is ready to provide fresh hearing, appreciate documentary evidence and decide the matter as per law.
8. I have heard arguments and perused the record. Ld counsel for the appellants have raised serious issues which goes to the root of the matter. It is admitted position that of owners/occupiers of the ground floor were not party in the demolition and sealing proceedings before the MCD, however, only Mr. Karan Malik on his own submitted a letter before the MCD to clarify the status of affairs. The status report dated 03.03.2025 filed by the MCD shows that one more roof slab was casted over the existing roof slab of ground floor within a

margin of 25-30 cm. The owners/occupiers of the ground floor (1/7) had already filed a civil suit agitating the issue of unauthorized construction by the owners/occupiers of the first and second floor (1/8). MCD has already cancelled the sanctioned building plan on the ground of misrepresentation. It is the case of the appellants that they have not carried out any fresh construction in the property at ground floor (1/7) and are continuing with the status quo and entitled to protection National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The demolition order passed by the MCD is bereft of any appreciation and reasoning in this regard. In the status report dated 16.05.2025, MCD has conceded to grant a fresh hearing in the aforesaid matter.

9. In view of the above facts and circumstances, the appeal filed by appellant is allowed. The impugned demolition order dated 26.08.2022 and sealing order dated 05.12.2023 are set-aside. The matter is remanded back to the MCD for deciding the same afresh.
10. The appellants shall appear before the MCD on **30.05.2025 at 02.00 PM**. The MCD shall provide an opportunity to all appellants and other owners/occupiers to submit reply and also grant them personal hearing.
11. The MCD thereafter shall pass a speaking order after dealing with all the submissions, pleas and defenses raised by appellant and shall communicate the said order to appellant. The appellant shall not raise any unauthorized construction in the said property. MCD is directed to decide the matter afresh within a period of two months from 30.05.2025.
12. 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.
13. The file of the respondent be send back along with copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court  
today i.e. on 16.05.2025 (J)**

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