

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

**APPEAL NO. 856/ATMCD/2015**

1. Ms. Rajni Gupta  
W/o Sh. Atul Gupta

2. Ms. Tanvi Gupta  
W/o Sh. Ankur Gupta  
Both are Resident of 1-C, Ram Chandra Lane,  
Civil Lines, Delhi - 110054

**.....Appellant**

**Vs**

North Delhi Municipal Corporation  
(Through its Commissioner)  
Civic Centre, Minto Road, New Delhi.

**..... Respondent**

<b>Date of Filing of Appeal</b>	<b>:</b>	<b>09.10.2015</b>
<b>Date of Order</b>	<b>:</b>	<b>27.10.2025</b>

**JUDGEMENT**

1. This is an appeal against the order of rejection dated 28.09.2015 vide which the respondent rejected the proposal of building plan of the appellants. As per respondents, the total plot area is 1712.62 sq. mtr. and the proposed building plan has been submitted for an area of 1264.68 sq. mtr. and the sub-division of the plot is not permissible unless the proposal of the complete plot is not submitted.
2. This rejection order has been challenged in this appeal on the grounds that the appellants purchased the area approximately 1264.68 sq. mtr from Punjab National Bank through auction and the same was registered on 20.12.2014. Initially this property No. 18 Ram Kishore Lane, Civil Line was in the name of Sh. Suresh & Sh. Mahesh Khandelwal and the site plan for addition & alteration was approved in 1982 for the entire plot measuring 1712.62 sq. mtr. The respondent was again approached for revalidation of additional construction which was also approved and completed on 06.01.1993. The appellants after

purchasing the property, got the site plan prepared & applied for approval and the respondent vide letter dated 27.04.2015 asked the appellants to apply for total plot area of 1712.62 sq. mtr. The appellants clarified that they are the owner of only 1264.68 sq. mtr. being purchased from Punjab National Bank but the respondent rejected their proposal on 28.09.2015. In this appeal it is contended that the appellants are bonafide purchaser of the plot and their proposal for building plan should be approved for the property owned by them.

3. The respondent contested the appeal on the ground that as per office record, the entire area of the plot bearing property No. 18 is 1712.62 sq. mtr. being a single plot. The appellants applied for sanction of building plan only in respect of 1264.68 sq. mtr. and the plot cannot be sub-divided being single entity and therefore sanction of building plan was rightly rejected.
4. It was argued for the appellant that the rejection of their sanctioned building plan is not as per law. The earlier owners got their plan sanctioned on 17.01.1990. The appellants purchased their plot subsequently and the contention of the respondent that since there is sub-division of the plot, the plan cannot be sanctioned is incorrect. The Hon'ble High Court and Hon'ble Supreme Court in several judgments have held that there being no fault of the purchaser in purchasing the part of the plot, the purchaser can apply for separate building plan for its property. Reliance has been placed on following judgments :

1. "Kanwal Sibal Vs. New Delhi Municipal Council & Ors.": W.P. (C) 3637/13 dated 27.05.2015.
2. "MCD Vs. Smt. Usha Devi Sharma: 127 (2006) DLT 275 (DB)".
3. "Samir Dev Sharma & Anr. Vs. South MCD": Appeal No. 933/17 dated 18.11.2019 of this Tribunal.
4. "Sneh Lata & Anr. Vs. North MCD".
5. "Sharda Nath Vs. Delhi Administration & Ors., Civil Appeal No. 1161/2009".
6. "EIH Limited Vs. North Delhi Municipal Corporation": W.P. (C) 6232/16 dated 03.10.2016.
7. "Rajeshwar Parshad Vs. Municipal Corporation of Delhi": AIR 1991 Delhi 71.

5. Ld. counsel for the respondent MCD on the other hand has argued that this appeal is not maintainable. As per building bye-laws, the appellants are

required to apply for sanction building plan for the entire plot. The owners of the remaining plot have covered excess area than the permissible limit and the appellants cannot be given any permission to built on the plot since the maximum permissible ground coverage in Civil Lines area is 33.33% with permissible FAR of 75%. The total plot area is 1712.62 sq. mtr. out of which 100 sq. mtr. is to be left for road widening. The existing ground coverage is about 40% and the existing FAR is 100% and therefore no sanction building plan can be approved for the appellants unless the entire existing construction in the remaining area of the plot is demolished and fresh sanction building plan is applied. It was also argued that the judgments relied upon by the appellants are not applicable to the facts of this case. Particularly the judgment of Hon'ble Supreme Court given in Sharda Nath V/s Delhi Administration & Ors. since in that case the matter was settled between the parties. It was argued that appellants applied for grant of addition / alteration plan on 24.04.2015 for part portion of plot. No building plan can be applied for part portion as per clause 4.4.3 of MPD - 2021.

6. Having heard the submissions and after perusal the record and the case law on the subject, it is relevant to note that the entire plot No. 18 was owned by two persons namely Sh. Suresh & Sh. Mahesh Khandelwal. The same was duly recognized by the respondents who allowed additional construction which was completed on 06.01.1993. Therefore the appellants purchased the portion of the plot measuring 1264.68 sq. mtr. through public auction from Punjab National Bank. The respondent claimed that since the construction in the remaining plot existing as on date is above the maximum FAR permitted, the building plan of the appellants cannot be allowed unless & until the existing construction is demolished and fresh sanction building plan as per bye-laws is applied. The property in question was mutated in favour of the appellants on the basis of auction purchase. It is also admitted that the plot in question was divided and due to that division, the portion purchased by the appellants was mortgaged with the bank and was subsequently purchased by the appellants. The Hon'ble Supreme Court of India in the case of Sharda Nath V/s Delhi

Administration & Ors. in Civil Appeal No. 1161/2009 dated 17.10.2019 held as under:

“Learned Counsel for the Delhi Development Authority (DDA) stated that apparently there is no policy on sub-division but as and when court passed order, the same has been implemented. The illustration of such orders passed by the court were handed over by learned counsel for the DDA and that aspect has been verified i.e. LPA No. 429/2013 order dated 31<sup>st</sup> March, 2014 affirmed in SLP (Civil) No. 18783/2014, in the case of Madan Lal Gupta vs Municipal Corporation of Delhi & Ors. Reported in 2005(83) DRJ 629 and in the case of Sunil Kohli & Ors. V. Union of India & Anr. Reported in 2005(83) DRJ 637.”

“The aforesaid thus shows that the Delhi High Court, well versed with the local legal situation, has been passing such orders which have been accepted by the DDA and we see no reason why the same principle should not apply in the present case.

We thus direct that the plot which vests with the two parties divided as per the area mentioned in order dated 26<sup>th</sup> September, 2009 but the FAR would be as available for the whole plot which would be divided in the same proportion in respect of the two portions of the plot.

It would be thus permissible for the two parties to approach the South Delhi Municipal Corporation for sanction of plans in respect of their respective portions of the plot with FAR divided on the whole plot in proportion to the area vested with the two parties in the plot and to carry out construction accordingly. Each of the parties would be separately responsible for their portion of construction and violation, if any. Needless to say that for sanction of the plan ‘No Objection Certificate’ would not be required by any of the parties from the other party.”

7. In view of this law of the land laid down by Hon’ble Apex Court, the appellants have every right to apply for sanction building plan of the portion owned by them. The FAR available to them would be as available for the whole plot which would be divided in the same proportion in respect of the two portions of the plot. Therefore the impugned order dated 28.09.2015 is not sustainable and is liable to be set aside.
8. The appellants applied for addition / alteration in the existing construction upon the portion of the plot owned by them. The same has now been mutated in their name subsequent to rejection of their application. The respondent

therefore is directed to reconsider the application of the appellants in view of the law laid down by Hon'ble Supreme Court in the judgments of Sharda Nath.

9. The appellants be informed about the formalities, if any they are required to fulfill within 02 weeks from today. The appeal stands allowed.
10. The record of the respondent be sent 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 27.10.2025**

**(AMIT KUMAR)  
Addl. District & Sessions Judge-cum-P.O.  
Appellate Tribunal, Delhi.**