

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

APPEAL NO. 577/ATMCD/18

**Sh. Harender Sngh
S/o Late Om Prakash,
R/o 29/149, Guru Nanak Marg,
Kewal Park, Azadpur,
New Delhi-110033.**

**Now at : H.No. 69,
Mahatma Gandhi Marg,
Near Shiv Mandir, Kewal Park,
Azadpur, Delhi-110033**

..... Appellant

Vs

**1. North Delhi Municipal Corporation,
Service to be effected through,
its Commissioner,
at Civic Centre, Minto Road,
New Delhi**

**2. Shri Suresh Dua, AE(B),
North Delhi Municipal Corporation,
its Commissioner,
at Civic Centre, Minto Road,
New Delhi**

.....Respondent

Date of Filing of Appeal	:	13.08.2018
Date of Order	:	28.10.2025

ORDER

1. This is an appeal challenging the demolition order dated 06.07.2018 and 13.07.2018 in respect of property bearing No. 69, Kewal Park, Azad Pur, Delhi-110033 and brief facts necessary for deciding this appeal as stated in the appeal are that the appellant is son of Late Smt. Ram Rati who

purchased property no. 69, Kewal Park, Delhi-110033 measuring 43 sq. yrd. from previous owner. One Bhagat Singh purchased the remaining portion of this property. Smt. Ram Rati raised four storey house and there is one room on the roof of fourth storey. The appellant moved an application dated 18.07.2017 with MCD for repairs of the property and waited for considerable time for the reply and thereafter carried out renovation. However, MCD served a show cause notice dated 06.07.2018 on 18.07.2018 which was duly replied on 20.07.2018 yet the demolition order dated 13.07.2018 was passed. This order has been challenged on the ground that the construction being old is protected but same was not considered by the respondent

2. The respondent on the other hand claimed that the property was booked initially for unauthorized construction upto third floor on 13.09.2017. Thereafter the appellant constructed fourth floor which was booked on 06.07.2018 and thereafter the demolition order was passed. The construction is in violation of Section 332 of DMC Act and the entire property is unauthorized and is liable to be demolished.
3. I perused the record filed by the respondent. The property was initially booked for unauthorized construction of entire ground floor to third floor on 13.09.2017. Thereafter it was further booked on 06.07.2018 for construction on the part portion of fourth floor. The documents filed by the appellant show that the property was in existence since 1979. The electricity connection was installed in the name of Smt. Ram Rati who was the mother of the appellant and the date of energization is 03.10.1979. The second meter was installed on 31.03.2000. This clearly shows that construction was existing in the property prior to the cut of date of 08.02.2007. The burden was on the respondent to show that the unauthorized construction upto third floor was carried by the appellant after 08.02.2007. The protection upto third is available to the appellant under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

4. As far as fourth floor is concerned, the appellant has claimed that it existed when the property was purchased by his mother. The sale document does not mention this fact. Further it was submitted for the appellant on 14.08.2018 that the appellant will demolish the non-compoundable structure himself but the same was never done. The appellant is not entitled to any protection as far as construction over and above the third floor.
5. In these facts, the demolition order dated 13.07.2018 is set-aside on in respect of ground to third floor of the property till National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force. The MCD is directed to take appropriate action in respect of any construction above the third floor in property no. 69, Kewal Park, Azad Pur, Delhi-110033. The demolition order is set-aside partially only upto third floor.
6. 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 28.10.2025**

**(AMIT KUMAR)
District Judge-cum-P.O.
Appellate Tribunal : MCD Delhi**

