

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

**APPEAL NO. 151/ATMCD/25**

**Sh. Amarnath Ahuja  
S/o Shri Kanshi Ram Ahuja,  
House No. 20/586, DDA Flats,  
Mandangir, New Delhi**

**..... Appellant**

**Vs**

**Municipal Corporation of Delhi  
Through its Commissioner,  
Dr. S P M Civic Centre,  
Minto Road, Delhi-110002**

**Shri Ashish Gupta  
s/o late Shri Man Ram Gupta  
r/o E-166, Masjid Moth, New Delhi-110048** .....Respondent

<b>Date of Filing of Appeal</b>	<b>:</b>	<b>18.03.2025</b>
<b>Date of Order</b>	<b>:</b>	<b>29.10.2025</b>

**ORDER**

1. By this order I will dispose of appeal. The brief facts necessary for disposal of the appeal are that show cause notice dated 25.06.2024 was issued in the name of Ashish Gupta and Anurag Garg for property no. 624-625 Main Road, Khari Baoli, Delhi-110006 for unauthorized construction on the basement, mezzanine and part of the fourth floor and unauthorized construction on municipal chabutra in front portion at first, second and third floor. This notice was sent by speed post to Ashish Gupta and was delivered to one Ram Singh. Thereafter, the sealing order dated 16.07.2024 was passed noting that no reply has been received. In pursuance to that

sealing action was taken and basement, mezzanine and fourth floor was sealed on 03.09.2024. The sealing order was served to Ashish Gupta and Anurag Garg on the same day. Thereafter Anurag Garg applied temporary de-sealing which was done on 27.01.2025. The owner closed the basement with permanent slab and fourth floor was demolished. Thereafter, the mezzanine floor, chabutra in front portion of first, second and third floor were sealed at one point each on 27.02.2025. The appellant has challenged this order on the ground that no new construction was raised at the first and the second floor purchased by him from Ashish Gupta on 11.01.2023 and 02.02.2023 yet without serving any notice upon him the property was sealed which is against the violation of National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 as well as Principle of Natural Justice.

2. Ld counsel for the respondent on the other hand argued that Ashish Gupta is respondent no. 2 but no notice was issued to him. Ashish Gupta was predecessor in interest of the appellant and the appellant never informed the respondent that he has purchased first and second floor of the property. The appellant has not filed any documents to show that construction on first and second floor was done with valid sanction plan or it was in existence prior to 07.02.2007. The Hon'ble Delhi High Court in the case of R.A. Bhoojwala Vs MCD 1995 (35) DRJ 162 and in ANZ Grindlays Bank Vs MCD 1995 (2) AD Delhi 573 as held that notice of unauthorized construction is required to be issued to the person who has raised unauthorized construction and not to subsequent purchaser and therefore, service of notice upon Ashish Gupta is sufficient. Counsel for the respondent also relied upon the judgment of the Hon'ble High Court passed in Manu Bhatia vs. NDMC in LPA no. 185/96 dated 06.09.1996.
3. Record shows that show cause notice dated 25.06.2024 in the name of Ashish Gupta and Anurag Garg was sent only to Ashish Gupta and as per track consignment report was served on one Ram Singh. This Ram Singh is neither a relative of Ashish Gupta or Anurag Garg or the appellant Amarnath

Ahuja. The burden was of the respondent to show that show cause notice was duly served upon the appellant or the previous owner Ashish Gupta/Anurag Garg. In the judgment replied upon by Ld counsel for the respondent, the Hon'ble High Court observed that notice is required to be issued to the person who has raised unauthorized construction and not to subsequent purchaser. In the present case, in the earlier round of demolition, an order dated 07.05.2024 was passed by the respondent wherein it was stated that the ground, first, second and third floor with mezzanine is protected till 31.12.2026 under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It means that till 07.05.2024, the alleged unauthorized construction on the chabutra on municipal land first, second and third floor did not exist. The appellant purchase first and second floor on 11.01.2023 and 02.02.2023 which was prior to 07.05.2024 and alleged unauthorized construction was raised subsequent to 07.05.2024. Once the first and second floor were sold to the appellant by Ashish Gupta in January and February, 2023, the question of raising unauthorized construction by him after selling the property to the appellant does not arise. In these facts, show cause notice was not served upon the appellant who raised the alleged unauthorized construction. Even otherwise the office record shows that the notice was served on one Ram Singh and how he is related to either of Ashish/Anurag or the appellant is not clear. Further, even as per the status report filed by the respondent on 10.06.2025, the property was de-sealed on an application of Anurag Garg who demolished fourth floor and closed the basement. It reflects that neither Ashish Gupta nor Anurag Garg had any concern with the first and second floor of the property. Since, no proper show cause notice was served upon the appellant, the impugned sealing order dated 16.07.2024 is set-aside. The respondent is directed to give an opportunity to the appellant of being heard as well as personal hearing. The appellant shall appear before the Quasi Judicial Authority on 11.11.2025 at 2.00 PM and the representation of the appellant shall be decided within 6 weeks after passing speaking order.

4. The appeal is allowed.
5. 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 29.10.2025**

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