

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

APPEAL NO. 819/ATMCD/24

**Smt. Prem Bhardwaj,
W/o Sh. R.P. Bhardwaj,
R/o 297, Sarswati Vihar, Pitampura,
Delhi.**

..... Appellant

Vs

**Municipal Corporation of Delhi.
Through its Commissioner,
Civic Centre, 17th floor, Minto Road,
New Delhi-110002.**

.....Respondent

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| Date of Filing of Appeal | : | 19.09.2024 |
| Date of Order | : | 30.10.2025 |

APPEAL NO. 905/ATMCD/24

**Smt. Prem Bhardwaj,
W/o Sh. R.P. Bhardwaj,
R/o 297, Sarswati Vihar, Pitampura,
Delhi.**

..... Appellant

Vs

**Municipal Corporation of Delhi.
Through its Commissioner,
Civic Centre, 17th floor, Minto Road,
New Delhi-110002.**

.....Respondent

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| Date of Filing of Appeal | : | 09.10.2024 |
| Date of Order | : | 30.10.2025 |

ORDER

1. Vide this order I will dispose of appeal No.819/24 and 905/24 since not only the property involved is same, the parties are also same.
2. Appeal No.819/24 is against the rejection order dated 02.09.2024 of the regularization application in respect of property No.B-297, Sarswati Vihar, Pitam Pura, New Delhi whereas appeal No.905/24 is against the sealing order dated 8.12.2023 in respect of the same property.
3. The facts in brief for disposal both these appeals are that the appellant being the owner of her property applied for regularization of her unauthorized construction and the regularization application was rejected on 02.09.2024 for 11 reasons and the prominent amongst them is reason No.3 regarding the height of the building being more than permissible limits. On this aspect it was argued by the appellant that height of the building is 15.9 mtrs i.e. the deviation of only 6.15% which is permissible as per annexure –IV UBBL-2016 clause B(ii) where the deviations upto maximum extent of 10% are compoundable on payment of penalty. Ld. counsel also argued that since the deviations in height is compoundable, the rejection of the regularization application is flimsy and the respondent MCD should be directed to reconsider the regularization application.
4. The same has been opposed by Ld. counsel for MCD as well as the intervener. It was argued that the maximum height permissible for a building is 15 mtrs. and no deviation is permitted in the height. Further it was argued that the appellant has already lost against the demolition order and in earlier appeal No.754/23 the similar attempt

to challenge the regularization was rejected and appeal against that order was dismissed as withdrawn and therefore, the present appeal is not maintainable. Attention of the Court was also drawn towards several orders passed by the Hon'ble High Court of Delhi in the Writ petitions of the petitioners and interveners.

5. Let us examine Annexure –IV and Annexure VI of UBBL-2016 which is relied upon by the appellant. Annexure–VI of the Bye-laws in terms and conditions under 4.4.3 in condition No.III talks about the height. It says 'height- the maximum height for building shall be 15 mtrs in plots without stilt parking and 17.5 mtrs in plots with stilt parking'.
6. This provision provides the maximum height of a building to be 15 mtrs and admittedly the property of the appellant is without stilt parking
7. The Annexure –IV of the Bye laws under clause A talks about non compoundable items. It was argued for the appellant that since height is not mentioned under clause –A, the same is compoundable. I do not find any force in this argument since sub clause 6 of clause – A states that 'all other provisions of these bye-laws except items given in para-B below shall not be compounded / regularized and shall have to be rectified by altering / demolition at the risk and cost of the owner'. This sub clause -6 specifically states that all the provision of bye-laws except given in para-B are non compoundable. Now let us refer to para-B which talks about compoundable items. Para-B states that the authorities shall be empowered to compound deviations subject to penalty in cases of FAR / limits of coverage, deviations in covered area. Though it was argued for the appellant

that under sub clause-II of Para-B, the height is permitted to be compounded but in view of clause -6 of Para-A, the height is non-compoundable. The same is also supported by the facts that in the notes under para-B (ii), there is no penalty mentioned in respect of deviations in the height. It only talks about the size of canopy and walls, front balcony, staircase, toilet, roof projections, partition walls etc but not about the height. Therefore, there is no force in the contention of Ld. counsel for appellant that the extra height above 15 mtrs. is compoundable.

8. In view of this discussion, I do not find any infirmity in the rejection order dated 02.09.2024 passed by the Quasi Judicial Authority, the same does not suffer any legal infirmity. The appeal is dismissed and in view of this dismissal the appeal against the sealing order dated 08.12.2023 bearing appeal No.905/24 is also dismissed. It is also relevant to mention that the appellant has not challenged the demolition order in pursuance to which the sealing order was passed. It was also informed during arguments that the appeal against the earlier demolition order bearing appeal No.574/16 was also dismissed on 25.03.2022 and the appeal against that order was also dismissed on 21.12.2022.

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 30.10.2025**

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