

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

APPEAL NO. 638/ATMCD/2017

Shri Shreyak Jhaveri
(Since deceased through LRs)

i) Nita Shreyak Jhaveri,
Wd/o Late Shreyak Jhavri,
ii) Minjal Jhaveri,
D/o Late Shreyak Jhaveri,

2. Sh. Prashant Sarin,
S/o Sh. Varun Sarin

3. Smt. Miloni Sarin
W/o Shri Preashant Sarin,

All at B-106, Niti Bagh,
New Delhi.

.....Appellants

Vs

Municipal Corporation of Delhi
Through itsw Commissioner,
Civic Centre, Minto Road,
New Delhi-110002

..... Respondent

Date of Filing of Appeal : 31.07.2017
Date of Order : 04.11.2025

JUDGEMENT

1. The impugned sealing order dated 20.07.2017 was in respect of basement of property No.B-106, Niti Bagh, New Delhi.
2. The brief facts necessary for disposal of this appeal are that a notice u/s 345A of the DMC Act was issued to one Ms. Minjal Jhaveri to stop misuse of the

basement of this property and bring the premises within permitted use. A reply was received from her and after considering her submissions the Quasi Judicial Authority found that one Gift Design Company is being run from the basement which is a commercial activity and the property is liable to be sealed. This order has been challenged basically on the ground that appellant No.2 & 3 are son-in-law and daughter of appellant No.1 and have done their Master of Business Management and are running consultancy service from part of the basement under the name 'Atlantic Steel' and are providing only professional advice is permissible in the basement as per MPD-2021 and therefore the sealing order is liable to be set aside. It was also argued that appellants are not required to give any misuse charges and conversion charges as calculated by the respondent.

3. Ld. counsel for the respondent on the other hand argued that apart from professional activities, commercial activities were also done from the basement which have now been discontinued and therefore, the only question left to be answered in this appeal is about payment of misuse charges and the appellants are liable to pay misuse charges for the professional activities carried earlier in the basement.
4. The Hon'ble High Court in the Writ Petition (C) 4663/2007 titled as Delhi High Court Association and Others Vs Union of India & Ors has stayed the demolition dated 20.11.2006 and subsequent notices dated 17.06.2007, 24.06.2007 and 26.06.2007 kept in abeyance and that order is still in force.
5. The use of basement for professional services is permitted under MPD-2021 and no misuse charges are payable. Clause 15.8 of MPD-2021 permits the use of basement for management professionals. Ld. counsel for the respondent argued that this professional activity was not registered with the respondent under clause 15.9(i) and therefore, misuse charges are payable. Admittedly, the same has been kept in abeyance by the Hon'ble High Court in the above mentioned writ petition and therefore, the payment of misuse charges for non - registration of the professional activity at present cannot be enforced.
6. Coming to the argument that commercial activity was carried out from the premises, I have seen the office record produced by the respondent wherein

there is not even a single document which prima-facie show that Gift Design Company was being run from the basement and therefore, the arguments of the respondent that misuse charges are payable for earlier misuse of the basement for commercial purpose is meritless. The respondent did not have any material before it to conclude that the commercial activity was carried out from the basement.

7. Undisputedly, the basement is used for professional activity permitted under clause 15.8 of MPD-2021 and the payment of misuse charges for non-registration have been kept in abeyance by Hon'ble High Court.
8. In these facts no misuse charges are payable as on date. There is no misuser in the basement. The appeal is allowed and the sealing order dated 20.07.2017 is set aside. The respondent shall be however, at liberty to recover misuse charges as and when the abeyance order passed by the Hon'ble High Court is recalled. 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 04.11.2025**

(AMIT KUMAR)
Addl. District & Sessions Judge
P.O.: Appellate Tribunal, MCD