

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

APPEAL NO. 964/ATMCD/2013

Smt. Premwati
W/o Late Sh. Yad Ram
Since deceased through LR's

1.1 Sh. Krishan gopal
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032

1.2 Sh. Sanjay Kumar
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032

1.3 Sh. Rajiv Kumar
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032

1.4 Sh. Amit Kumar
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032

1.5 Late Smt. Raj Bala
W/o Sh. R. K. Verma R/o 1883, Janta Flat, G.T.B. Enclave, Delhi

1.6 Smt. Madhu Bala
W/o Sh. Nain Singh
R/o 1/7595, Gali No. 8, East Gorakh Puri, Delhi

1.7 Smt. Tara Wati W/o Sh. Rajinder Kumar
R/o H.No. 92, Mohalla Ojhan
Kashipur, Udham Singh Nagar
Uttarakhand

1.8 Smt. Raj Panwar W/o Sh. R.S. Panwar
R/o B-45, Kanti Nagar, Delhi

1.9 Smt. Brij Bala W/o Sh. Vinay Kumar
R/o 1/5721, Gali No. 16
Balbir Nagar, Shahdara, Delhi-32

..... Appellants

Versus

**Municipal Corporation of Delhi
(Through its Dy. Commissioner)
Building Department
Shahdara North Zone
Delhi**

..... Respondent

**Date of Filing of Appeal : 30.10.2013
Date of Judgment : 13.11.2025**

APPEAL NO. 244/ATMCD/2015

**Smt. Premwati
W/o Late Sh. Yad Ram
Since deceased through LR's**

- 1.1 Sh. Krishan gopal
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032**
- 1.2 Sh. Sanjay Kumar
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032**
- 1.3 Sh. Rajiv Kumar
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032**
- 1.4 Sh. Amit Kumar
S/o late Sh. Yadram
R/o 1617-A/1, Uldhanpur
Navin Shahdara, Delhi-110032**
- 1.5 Late Smt. Raj Bala
W/o Sh. R. K. Verma R/o 1883, Janta Flat, G.T.B. Enclave, Delhi**
- 1.6 Smt. Madhu Bala
W/o Sh. Nain Singh
R/o 1/7595, Gali No. 8, East Gorakh Puri, Delhi**
- 1.7 Smt. Tara Wati W/o Sh. Rajinder Kumar
R/o H.No. 92, Mohalla Ojhan
Kashipur, Udham Singh Nagar
Uttrakhand**

**1.8 Smt. Raj Panwar W/o Sh. R.S. Panwar
R/o B-45, Kanti Nagar, Delhi**

**1.9 Smt. Brij Bala W/o Sh. Vinay Kumar
R/o 1/5721, Gali No. 16
Balbir Nagar, Shahdara, Delhi-32**

..... Appellants

Versus

**Municipal Corporation of Delhi
(Through its Dy. Commissioner)
Building Department
Shahdara North Zone
Delhi**

..... Respondent

**Date of Filing of Appeal : 27.04.2015
Date of Judgment : 13.11.2025**

JUDGMENT

1. These are two appeals relating to property no. 1617-A/1, Village Uldhanpur, Naveen Shahdara for which the respondent passed the demolition order dated 19.09.2013 and also rejected the regularization application of the building plan on 16.03.2015. Appeal no. 964/13 is against the demolition order and appeal no. 244/15 is against the rejection of regularization. These orders have been challenged on the ground that the construction in the property existed prior to 2007 as visible from the property tax record, rent deed and verified house tax receipts which were not considered. No fresh site inspection was done after the Tribunal's order dated 01.08.2013 passed in appeal no. 139/13 and the regularization application was rejected in mechanical manner without application of mind. The entire action of the respondent is at the behest of one Narayan Shah, a neighbour of the appellant and the rejection of the regularization application is contrary to building bye-laws and therefore both the orders are liable to be set aside.
2. Ld. counsel for the respondent on the other hand argued that the appellant failed to establish that the construction is old. The property tax documents are self assessment and cannot be relied upon. The appellant did not complete the formalities as per invalid notice in regularization application and therefore the same was rejected. The appellant failed to show that no fresh construction was raised in the property and the appeals are liable to be dismissed.

3. Record shows that this is second round of litigation between the parties. The appellant earlier filed appeal no. 139/13 challenging the demolition order dated 08.06.2010. The matter was remanded back on 01.08.2013 directing the respondent to inspect the property afresh and issue fresh show cause notice. Similarly in appeal no. 965/13 the respondent was directed to reopen the rejected regularization application of the appellant and decide within 02 months. The respondent reopened the application and again rejected it on 16.03.2015.
4. In the demolition appeal, it was argued for the appellant that no fresh inspection was done after 01.08.2013 in compliance to the order passed in appeal no. 139/2013. As per respondent, fresh inspection was done on 08.08.2013 and fresh show cause notice dated 12.08.2013 was issued.
5. The office file produced by the respondent does not contain any document to show that the property was reinspected after 01.08.2013 before issuing fresh show cause notice dated. 12.08.2013. The show cause notice dated 12.08.2013 states that the property was inspected on 08.08.2013 but no document in respect of this inspection apart from this show cause notice is on record. The order dated 01.08.2013 is very clear that the EE (B) shall inspect the property in detail. There is no document to show that it was ever reinspected on 08.08.2013. As a matter of record the office file notings starts from 12.08.2013 and do not even record that any reinspection was done on 08.08.2013. The notings dated 12.08.2013 simply states that in compliance to order dated 01.08.2013, fresh show cause notice has been served. There is no inspection report dated 08.08.13. The demolition order is liable to be set aside on this ground itself.
6. Further, the house tax record and the order dated 19.09.2013 passed by the respondent show that there is a stilt floor in the property followed by ground and first floor. The appellant in her house tax record has been mentioning this stilt as ground floor, ground floor as first floor and first floor as second floor. Even as per the case of the respondent there is a mumty only on the second floor. The appellant filed a rent agreement before the respondent dated 23.09.2004 through which entire second floor consisting of a room, kitchen, bathroom, wc and balcony was let out to tenant. This rent agreement was brushed aside by the respondent mentioning that there exist no second floor in the property. The respondent did not appreciate that the appellant is referring the first floor as second floor, ground floor as first floor and stilt as ground floor in her house tax return. This rent agreement proves that the second floor (actually first floor) existed in the property in September 2004. The demolition order dated 19.09.2013 which is basically passed on the basis of FIR dated 31.05.2010 is liable to be set aside even on this ground. The same therefore is set aside.

7. Coming to the appeal challenging the regularization application. As per respondent the appellant failed to comply the invalid notice dated 08.04.2013 and therefore her regularization application was rejected. One of the ground is non-removal of non-compoundable projections on municipal land. The appellant is directed to remove these non-compoundable projections and thereafter apply for fresh regularization as per building bye-laws which shall be considered by the respondent on merits. There is no infirmity in the rejection order dated 16.03.2015 as the non-compoundable projections are required to be removed before regularization.
8. In view of the above, the demolition appeal is allowed and the demolition order dated 19.09.2013 is set aside with directions to the respondent to inspect the property afresh in the presence of the appellant after proper notice and pass speaking order after giving opportunity of personal hearing to the appellant.
9. The regularization appeal is dismissed and the appellant is directed to comply with the invalid notice dated 08.04.2013 and after demolishing the non-compoundable projections apply afresh for regularization.
10. 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 13.11.2025**

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