

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

APPEAL NO. 580/ATMCD/2012.

Sh. Vijay Kumar Jain
Through his following legal heirs

1. Sh. Sharad Jain (Son of Late Sh. Vijay Kumar Jain)
W/o Sh. Deepak Gupta.

2. Sh. Saurab Jain (Son of Late Sh. Vijay Kumar Jain)
All R/o C-135, Pushpanjali, Delhi-110092.

3. Smt. Ritu Gupta (Daughter)
W/o Sh. Ajay Gupta
R/o 20/15, Shakti Nagar, Delhi.

3. Smt. Rachna Lodha (Daughter)
W/o Sh. Alok Lodha
R/o 2, Park Avenue,
Maharani Bagh, New Delhi.

4. Smt. Annu jain (Daughter)
W/o Sh. Rajnish Jain
R/o 5A/28, Ansari Road,
Daryaganj, New Delhi
....Appellants

Vs.

Municipal Corporation of Delhi
Through its Commissioner
Civic Center, Jawahar Lal Nehru Marg,
New Delhi-110002.

..... Respondent

Date of Filing of Appeal	:	26.10.2012
Date of Order	:	14.11.2025

ORDER

1. The appellant has challenged the demolition order dated 14.09.2012 passed in respect of unauthorized construction at fourth floor of property 3728, Choori Walan, Chawri Bazar, Delhi-110006. The order has been

challenged on the ground that the construction in the entire property including the fourth floor exists prior to 07.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

2. Ld counsel for the respondent on the other hand has argued that there is no document with the appellant to establish the construction at fourth floor existing before 07.02.2007 and therefore same is actionable as fresh construction was being raised at the time of FIR on 06.09.2012.
3. Records shows that the appellant has placed on record that house tax assessment order which shows that the rateable value of the property was enhanced from Rs. 39,150/- to 7 lacs with effect from 01.04.1996 when the appellant submitted that he has carried out alteration at ground and first floor and addition at second, third and fourth floor of the property measuring 12,360/- sq feet. Thereafter inspection was carried out by the respondent and fourth floor was found having construction of 25 rooms, 2 kitchens and four stores with bathroom, WC. The entire construction was of 12,300 sq. feet and rateable value of this floor was fixed at Rs. 7 lacs. This clearly shows that the fourth floor is in existence since at least 01.04.1996 which was much before 07.02.2007. In the office file of the respondent the unauthorized construction has been marked in red consisting of at least 7 rooms, kitchen store and hall. The respondent has not specified as to which out of this construction is after 07.02.2007 or is different from the inspection done by the property tax department on 25.03.1997. The order of demolition only says that there is unauthorized construction in the shape of hall, rooms, etc. at entire fourth floor. The appellant has established the existing construction on the fourth floor since 1996 and in facts the same is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 till the Act in force. Non-payment of property tax since 1996 for 4th floor is of no consequence once it is shown that 4th floor of property existed since 1996.

4. In facts, the demolition order dated 14.09.2012 is kept in abeyance till this act in force subject to appellant not violating the status quo qua the construction in the property.
5. Appeal is allowed.
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 14.11.2025**

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