

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

APPEAL NO. 418/ATMCD/2020

**Sh. Rajesh Tahilramani
S/o Sh. Prabhulal,
R/o 98-A, Mount Kailash,
East of Kailash,
New Delhi-110065.**

..... Appellant

Vs

**South Delhi Municipal Corporation.
Through its Commissioner,
S.P. Mukherjee Civic Centre,
Jawahar Lal Nehru Marg,
Minto Road,
New Delhi-110002.**

.....Respondent

Date of Filing of Appeal	:	28.12.2020
Date of Order	:	17.11.2025

APPEAL NO. 419/ATMCD/2020

**1. Madhu Chowdhry
W/o Sh. Pradeep Chowdhry
R/o 97-A, Mount Kailash,
East of Kailash,
New Delhi-110065.**

**2. Pradeep Chowdhry
S/o Sh. K.B. Chowdhry
R/o 97-A, Mount Kailash,
East of Kailash,
New Delhi-110065**

..... Appellants

Vs

**South Delhi Municipal Corporation.
Through its Commissioner,**

**S.P. Mukherjee Civic Centre,
Jawahar Lal Nehru Marg,
Minto Road,
New Delhi-110002.**

.....Respondent

Date of Filing of Appeal : 28.12.2020
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JUDGMENT

1. Vide this order I will dispose of these two appeals challenging the demolition order dated 9.11.2020. The appellant Rajesh in appeal No.418/2020 is the owner of first floor of flat No. 98-A, Mount Kailash, East of Kilash New Delhi whereas appellants Madhu Chaudhary and Pradeep Chowdhry are the owners of ground floor of flat No.97-A, Mount Kailash, East of Kilash New Delhi.
2. The demolition order was passed for deviations and excess coverage against the standard plan of DDA. Prior to that show cause notice was issued in both the cases which was duly replied by the appellants on 29.09.2020. As per record some additions and alterations in the property were got regularized by the appellants in accordance with prevalent policy. However, in latest inspection at site it was found that there are deviations and excess converge against the regularized plan which were neither permissible nor compoundable. Since the same were raised after regularization on 18.07.2012, even the benefit of the National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 was not available to the appellants.
3. The demolition order has been challenged on the ground that the respondent failed to appreciate that the order is not specific as it does not mention the exact deviations or specific description of excess coverage and it is liable to be set aside. The deviations exist on all the floors up to second floor and any demolition would cause structural damage to the building. It was stated that the projections towards the kitchen side is much less than the projections towards the staircase and the staircase was part of original standard/sanctioned plan and therefore these projections are to be regularized on payment of compoundable

charges. Benefit was also sought of a judgment of Hon'ble Supreme Court of India passed in the case of Asha Ekta Apartment cooperative Housing Society Vs Municipal Corporation of Mumbai, AIR 2013 SC 1861. During arguments it was also stated that all the deviations except two sunshades have already been demolished. Those sunshades will be demolished subject to outcome of appeal No.220/20 filed by the owner of second, third floor of the property as they are bearing load of those floors.

4. Ld. counsel for the MCD on the other hand argued that since the demolition order is not challenged and the demolition of major portion has been voluntarily done by the appellants, the appeal should be dismissed and the demolition order should be upheld.
5. Admittedly, the appellants have already filed affidavit stating that the excess coverage and deviations have already been demolished except of two sunshades. The same has already been verified by the respondent and as per their status report dated 17.12.2022 the projections are still existing. These projections are the sunshades which are extended up to second and third floor. The appellants in both the cases have voluntarily demolished the deviations and excess coverage except of two sunshades.
6. In these facts the demolition order dated 09.11.2020 is upheld. The MCD shall be at liberty to demolish the existing projection in the form of two sunshades as per law. Appeals are dismissed.

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 17.11.2025**

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