

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

**APPEAL NO. 80/ATMCD/2023**

**Smt. Kumkum Jain  
W/o Deepak Jain  
R/o House No. 121-A, East Azad Nagar  
Gali No. 6, Near Gurudwara  
Delhi-110051**

**..... Appellant**

**Versus**

**Municipal Corporation of Delhi  
(Through its Commissioner)  
17<sup>th</sup> Floor, Dr.S.PM Civic Centre  
Minto Road,  
New Delhi-110002.**

**..... Respondent**

<b>Date of Filing of Appeal</b>	<b>:</b>	<b>15.02.2023</b>
<b>Date of Judgment</b>	<b>:</b>	<b>19.11.2025</b>

**APPEAL NO. 343/ATMCD/2024**

**Smt. Kumkum Jain  
W/o Sh. Deepak Jain  
R/o House No. 54, East Azad Nagar  
Gali No. 4, Near Ram Leela Ground  
Delhi-110051**

**..... Appellant**

**Versus**

**Municipal Corporation of Delhi  
(Through its Commissioner)  
17<sup>th</sup> Floor, Civic Centre  
Minto Road,  
New Delhi-110002.**

**..... Respondent**

**Date of Filing of Appeal** : **14.05.2024**  
**Date of Judgment** : **19.11.2025**

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**JUDGMENT**

1. These are two appeals challenging the demolition order dt. 06.01.2023 and sealing order dated 12.04.2024 passed in respect of mezzanine floor between the first and ground floor of shop no. 3,4 & 5 of property no. 1757, Cheerakhana, Nai Sarak, Chandni Chowk, Delhi -06. Appeal no. 80/23 is against the demolition order whereas appeal no. 343/24 is against the sealing order.
2. The brief facts necessary for disposal of these two appeals are that the appellant purchased shop no. 3,4 & 5 at ground floor from the previous owner on 20.03.2015. The appellant intimated the respondent before carrying out repair and renovation work in these shops on 08.03.2018. The appellant thereafter received a show cause notice dated 23.03.2018 to stop the repair and renovation work. The same was replied on 03.04.2018. The appellant thereafter found another notice dated 10.05.2018 affixed at the property on 22.05.2018. The same was challenged in appeal no. 389 of 2018.
3. The respondent thereafter issued another show cause notice dated 22.05.2018 regarding unauthorized construction in the shape of amalgamation of three shops into one, encroachment upon common passage and unauthorized construction of additional floor between first floor and ground floor. The same was duly replied but sealing order dated 01.11.2018 was passed. The appellant filed another appeal no. 829 of 2018 against this sealing order. This Tribunal on 18.02.2022 set aside the sealing order and remanded the matter back for fresh

adjudication after passing a speaking order and considering the reply of the appellant. The respondent thereafter passed the impugned demolition order dated 06.01.2023 followed by the sealing order dated 12.04.2024.

4. These orders have been challenged on the ground that the alleged mezzanine floor is a temporary construction causing no danger to the structure. The building bye-laws permit re-roofing and the mezzanine floor is nothing but an internal partition permissible by building bye-laws. The mezzanine floor was never a subject-matter of the initial sealing order and the appellant has only carried out renovation work by replacing rotten wooden edges and there is no fresh construction. The building bye-laws provide that re-roofing and erection of internal partition can be done and this fact was ignored by the respondent. In the joint inspection done on 14.09.2018, the issue of loft was never raised and therefore the impugned orders are liable to be set aside.
5. Ld. counsel for the respondent on the other hand argued that the respondent never used the word loft in any of its notices. The respondent has booked additional floor constructed between first and the ground floor and the same is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act 2011. The sale deed of the appellant does not mention that there existed any loft and the loft means only 25% of the entire areas whereas an additional floor is coverage of the entire area and therefore the appeals are liable to be dismissed.
6. Record shows that the respondent initially booked unauthorized construction in the shape of amalgamation of three shops in one, encroachment on common passage and unauthorized construction of additional floor between ground floor and first floor. When the matter

was remanded back, the opportunity of personal hearing was given to the appellant and the speaking order dated 06.01.2023 for demolishing the mezzanine floor between first and ground floor was passed. The Quasi Judicial Authority was of the opinion that amalgamation of three shops and encroachment on common passage are not actionable as it is a private property and non-load bearing walls/internal partitions have been removed to convert three shops into one. However the unauthorized construction of mezzanine floor was found actionable and was directed to be demolished.

7. The word loft and mezzanine floor have been defined under UBBL 2016. The definition of loft under clause 1.4.68 provides “an intermediary space created by introduction of a slab between floors and ceiling of a room, passage or wherever it is provided with maximum clear height of 1.5 meter for storage purposes only”. The definition of mezzanine floor is provided under clause 1.4.73 which says “an intermediate floor between two floor levels above ground floor and at least one side of it for an integral part of space / floor below”. These two definitions show that loft is only introduction of a slab between floors and ceiling whereas mezzanine floor is an intermediate floor. In the present case, the show cause notice issued by the respondent since beginning states that there is unauthorized construction in the form of additional floor between first and ground floor. The respondent never claimed that a loft has been constructed. It was argued for the appellant only that a loft already existing was repaired. As already discussed loft is altogether different from floor. The photographs available in the office record show that the appellant constructed a mezzanine floor and not repaired the alleged existing loft.
8. Further, the appellant has failed to place on record any documentary proof to show that any loft or mezzanine floor existed in the property

prior to 07.02.2007. The appellant purchased the property in 2015 and as per the sale deed three shops on the ground floor bearing private no. 3,4 & 5 with passage in front was purchased. The site plan annexed with the sale deed does not show existence of any loft or mezzanine in the three shops purchased by the appellant. There is no house tax record to show that the loft or mezzanine floor was included in the property tax assessment. From the record it is visible that this additional floor was constructed after purchasing the property in 2015 without any sanction building plan. The demolition order dated 06.01.2023 seeking demolition of the mezzanine floor and the sealing order dated 12.04.2024 are speaking orders and suffers from no infirmity.

9. Both the orders are upheld and both the appeals are dismissed.
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 19.11.2025**

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