

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

**APPEAL NO. 76/ATMCD/2021**

**IN THE MATTER OF :-**

Raj Shekar Radhakrishnan (Deceased)  
Through LR  
Veena D Ryntathiang  
W/o Raj Shekar Radhakrishnan (Deceased)  
R/o. F-386, Asian Games Village,  
Siri Fort Road, New Delhi-110049.

.....Appellant

**Vs**

Municipal Corporation of Delhi  
Through Its Commissioner  
S.P. Mukherjee Civic Centre,  
Jawahar Lal Nehru Centre,  
Minto Road, New Delhi-110002  
New Delhi.

..... Respondent

**Date of Filing : 01.03.2021**  
**Date of Order : 21.11.2025**

**JUDGEMENT**

1. This is an appeal against the demolition order dated 06.01.2021 passed in respect of flat no. 386, Asian Games Village, Siri Fort Road, New Delhi-110049. The brief facts necessary for disposal of this appeal are that a show cause notice dated 27.07.2022 was served open the appellant received on 06.08.2022. As per the appellant he undertook only some repair work in terms of orders of Hon'ble High Court of Delhi passed in W.P.(C) No. 5711 of 2019 dated 19.09.2019 and 25.09.2019. The repair was done strictly as per the terms of these two orders yet the appellant illegally booked the property and the impugned demolition order dated 06.01.2021 was passed. It is claimed that the
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alleged unauthorized construction in the shape of second floor was done in 2002 and same is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment, 2011 and therefore the demolition order is liable to be set-aside.

2. Non-appeared for the respondent for arguments but from the office record and the status report filed by the respondent, it was the case of the respondent that after the show cause notice opportunity for hearing was given to the appellant who could not established that unauthorized construction exist prior to 07.02.2007 and therefore same is actionable and this appeal is liable to be dismissed. It was case of the respondent that additional 45.84 sq feet was constructed at the second floor after 07.02.2007 thereby violating the status quo as required under National Capital Territory of Delhi Laws (Special Provision) Second Amendment, 2011 and therefore demolition order was passed.
3. The demolition order dated 06.01.2021 shows that the respondent recorded in para 4(C) of the order that as per documents relating to house tax the area existing at the first floor is 143.6 sq meter in the year 2005. As per inspection the area was found to be 149.4 sq meter and further additional construction of 45.8 sq meter was carried out at second floor which violated the provisions of National Capital Territory of Delhi Laws (Special Provision) Second Amendment, 2011 and therefore no relief cannot be granted. It was submitted for the appellant that an area under staircase converted into bathroom having less than 6 feet height was not included in the house tax assessment which resulted in mentioning existing area as 143.6 sq meter instead of 149.75 sq meter and further there is no permanent construction on the second floor and the order is unsustainable.
4. As far as, the construction on the first floor is concerned the respondent itself as recorded in the impugned order that area at the first floor in the year 2005 was 143.6 sq meter, on inspection it was found to be 149.75 sq meter. There is a different of only 6.15 sq meter and the explanation given by the appellant that

an area under staircase used as bathroom having height less than 6 feet was not included is a plausible explanation. The appellant could not have extended the additional coverage by only 6 meter in the year 2005. Therefore, the first floor is extended to protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment, 2011.

5. Coming to the second floor, the appellant in this regard has relied upon a discussion dated 20.11.2002 between the appellant and Sh. K.K. Sasidharan, Sr. Administrative Officer, CIPET, Bhopal who were the owners of flat no. 388 regarding the same construction on the terrace of the roof and parapet walls on the open terrace.
6. In the year 2002, it was claimed that the appellant has included same area by raising cement grills and supporting brick piers. During the discussion it was recorded that the raising of this construction does not cause any damage to CIPET's rights and CIPET need not worry about parapet walls. This discussion dated 20.11.2002 reflects that even additional construction on the second floor existed in November, 2002. The respondent has not placed on record any documents to show that fresh construction on second floor was raised after 07.02.2007. The judgment of Hon'ble High Court of Delhi passed in **"Masonic Club Vs MCD & Ors, C.W.P. No. 6674 / 2000 and C.M. No. 10226 of 2000** provides that the notice must mention the specific area of unauthorized construction and the date of the said construction. In the present case, the show cause notice is completely silent in respect of these details. As far as the demolition order is concerned, the unauthorized construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment, 2011 being in existence prior to 07.02.2007 and therefore the demolition order dated 06.01.2021 is kept in abeyance till the Act in force.
7. The respondent is at liberty to take action once the facts ceases to exist.
8. The appellant however shall not violate the status quo.
9. The appeal is allowed.

10. Record of the respondent, if any, returned along with copy of this order and appeal, file be consigned to record room.

**Announced in the open Court  
today i.e. on 21.11.2025**

**(AMIT KUMAR)  
Addl. District & Sessions Judge-cum-P.O.  
Appellate Tribunal, Delhi.**