

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

APPEAL NO. 697/ATMCD/2016
APPEAL NO. 698/ATMCD/2016

Smt. Muklesh
W/o Sh. Dharamvir
R/o E-91, Pandav Nagar,
Delhi-110091.

..... Appellant

Vs

Municipal Corporation of Delhi
Through its Commissioner
Civic Center, Minto Road,
Delhi

..... Respondent

Date of Filing of Appeal	:	13.07.2016
Date of Order	:	27.11.2025

Judgment

1. Vide this order I will dispose of two appeals challenging the demolition order dated 23.02.2016 in appeal no. 698/16 and sealing order dated 16.03.2016 in appeal no. 697/16 in respect of property no. 194/195, Village Dallupura, Shahdara, Delhi. The brief facts necessary for disposal of both these appeals are that the appellant purchased this property from one Smt. Chameli on 15.10.2013 through GPA, Agreement to Sell, Will etc. As per these documents, the property was constructed up to three storeys i.e. ground, first and second. The respondent booked the property for unauthorized construction vide booking dated 11.02.2016 and show cause notice of the same date was issued. It was not replied and the demolition order dated 23.02.2016 was passed. Thereafter show cause notice for sealing was issued and the sealing order dated 16.03.2016 was passed.
2. The appellant in these two appeals has challenged these two orders on the ground that show cause notices were never served upon the appellant and further the construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and is also

situated in extended abadi of the village where no sanction building plan was required.

3. Ld. counsel for the respondent on the other hand argued that both the show cause notices and the orders were duly served upon the appellant through speed post. It was also submitted that the appellant did not furnish any document to show that the property was constructed prior to 01.06.2014 to get protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore appeals are liable to be dismissed.
4. The appellant has basically raised two grounds to challenge the two impugned orders. The first ground is non-service of show cause notice and the other is old construction prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
5. The first ground regarding non-service of show cause notices is not sustainable in view of the office record. The office record shows that the show cause notice dated 11.02.2016 was sent to the husband of the appellant on 15.02.2016 and the demolition order dated 23.02.2016 was sent on 24.02.2016 through speed post. The address mentioned on the notice is not disputed by the appellant and there is presumption under General Clauses Act that it was duly served. Similarly the show cause notice before sealing order was sent by speed post to the husband of the appellant on 04.03.2016 and the vacation notice dated 11.03.2016 was sent on the same day. The presumption is of favour of the service of notice.
6. Section 444 of the DMC Act provides the service of notices and under clause 1 (d) (iii) a notice is deemed to be served to a person if the document is sent by registered post to that person. In the present case notices were sent through speed post and are deemed to be served. Service on the husband of the appellant is service on the appellant herself and this contention of the Ld. Counsel for the appellant is not legally tenable.
7. Coming to the second argument that the construction is old and prior to 01.06.2014, the appellant was required to show through documents that the

property was constructed up to fifth floor prior to 01.06.2014. The only document filed by the appellant to prove this fact is the GPA etc. dated 15.10.2013. These documents show that when the appellant purchased the property, the same was constructed only up to three storeys i.e ground, first and second. As on date the property is constructed up to fifth floor and it was for the appellant to show that the floors above the second floor were constructed by her between 15.10.2013 till 01.06.2014. The appellant did not file any document to show the same. No property tax document, no electricity bill nor any document relating to the construction of the upper floors was filed by the appellant. The appellant thus failed to show that the property is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 in respect of the upper floors. The appellant thus violated the status quo as required to be maintained under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 as on 01.06.2014 in respect of the construction in the property. Once status quo order is violated, the protection available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 goes. In these facts even this ground of old construction being protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available to the appellant.

8. In view of the same I do not find any infirmity in the demolition order dated. 23.02.2016 and sealing order dated 16.03.2016.
9. The appeals are devoid of merits and 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 27.11.2025**

**(AMIT KUMAR)
AD&SJ-cum-P.O.
Appellate Tribunal : MCD Delhi**