

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

**APPEAL NO. 220/ATMCD/20**

**Sh. Narendra Prasad  
S/o Sh. Jagdish Prasad Bhatnagar,  
R/o Flat No.99-A, Mount of Kailash Apartments  
East of Kailash.  
New Delhi.**

**..... Appellant**

**Vs**

**Municipal Corporation of Delhi.  
Through its Commissioner,  
Civic Centre, Near ITO,  
New Delhi**

**.....Respondent**

<b>Date of Filing of Appeal</b>	<b>:</b>	<b>15.09.2020</b>
<b>Date of Order</b>	<b>:</b>	<b>20.11.2025</b>

**JUDGMENT**

1. This is an appeal challenging the demolition order dated 01.06.2020 passed in respect of property bearing duplex flat No.99-A, Mount of Kailash Apartments, East of Kailash, New Delhi, existing on the second and third floor.
2. The appellant who is the owner of this flat has challenged the demolition order on the ground that the respondent did not go through the file relating to regularization of the additional coverage of this property regularized on 30.07.2014 and further the demolition order states that there are deviations and excess coverage against the regularized plan at second and third floor without specifying the deviations and the excess coverage and therefore, the impugned order is liable to be set aside.

3. Ld. counsel for the appellant in this regard placed judgment of Hon'ble High Court of Delhi passed in the case Ramesh Chand Vs SDMC W.P.(C) 8607/2020 dated 03.11.2020 specifically para-10 where the Hon'ble High Court has observed that a show cause notice which does not specify the nature and extent of deviation is vague and cannot be responded to. It was argued for the appellant that not only the notice was vague but the respondent also failed to consider the sanctioned building plan submitted by the appellant while obtaining permission for installation of lift and therefore, the order is liable to be set aside.
4. Ld. counsel for the respondent on the other hand argued that it is duplex flat and earlier the regularization was granted in respect of additional compoundable coverage and thereafter some additional construction was raised by the appellant as well as the residents of ground and first floor against which the show cause notice was issued which was duly replied by the appellant and he was well aware about the deviation in his property and therefore, cannot argue that the deviations was not in his knowledge. It was also submitted that when the plan was submitted along with application for installation of lift the same was considered only from the aspect of giving NOC for the lift and not whether the construction in the property is as per regularization granted or not.
5. Record shows that a show cause notice dated 01.05.2019 was served upon the appellant claiming unauthorized construction in the shape of deviations against standard plan of DDA and extra height of lift railing which was more than sanctioned. It was duly replied by the appellant on 06.05.2019 stating that the allegations are vague and not as per record and the installation of lift has been sanctioned as per plan which was submitted with the MCD and there is no deviation and height is in accordance with the sanctioned plan. This reply to the show cause notice clearly reflects that the appellant was aware about the deviations existing

in his property as he claimed that the same is as per sanctioned plan and even the height is in accordance with the sanctioned building plan. So there appears to be no ambiguity as far as the extent of deviations is concerned. The facts herein are distinguishable from the facts before the Hon'ble High Court in the case of Ramesh Chand Vs SDMC (Supra).

6. Coming to the next contention that the building plan was submitted while applying for sanction of lift and therefore, same is a approved sanctioned plan and there is no deviations in the property. The said site plan submitted while applying for sanction of lift clearly reflects deviations in the property on the second and third floor which have been shown in shaded portion in the site plan. The appellant himself has shown these deviations in shaded portion in the site plan which are projections on the municipal land existing from ground floor till third floor and are neither compoundable nor permissible under BBL. The status report filed by the respondent MCD clearly shows that no rectification was done by the appellant for these deviations despite show cause notice.
7. The demolition order dated 01.06.2020 clearly records that there are excess coverage and deviations on the second and third floor of this duplex flat and structure has also been raised on the third floor of the flat. Through the excess height of the railing of the lift has been rectified. This clear show that the deviations were in the knowledge of the appellant and he rectified the height of the railing voluntarily but did not bother to demolish the deviations and excess coverage and projections on the municipal land as shown in the sanctioned building plan in the shaded area. The explanation of the respondent that this plan was considered only on the aspect of granting sanction to construct the lift and not for any other aspect is a plausible explanation.
8. Otherwise also any illegality in construction cannot be perpetuated only because this plan was submitted while obtaining for sanction of lift and no

objection was raised by the respondent in respect to unauthorized excess coverage and deviations. The impugned demolition order dated 01.06.2020 is a reasoned speaking order which has been passed after giving hearing to the appellant and I find no merits in the appeal, same is 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 28.11.2025**

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