

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

APPEAL NO. 977/ATMCD/2015

APPEAL NO. 978/ATMCD/2015

1. Sh. Ashwni Kumar Jain
S/o Sh. S.K. Jain

2. Smt. Ritu Jain
W/o Sh. Ashwani Kumar Jain
Both R/o 314, Ambika Vihar
Sunder Vihar, New Delhi-110087.

..... Appellant

Vs

Municipal Corporation of Delhi
Through its Commissioner
Dr. S.P. Mukherjee Marg, Civic Center,
Jawahar Lal Nehru Marg,
New Delhi-110002.

..... Respondent

Date of Filing of Appeal	:	28.10.2015
Date of Order	:	02.12.2025

JUDGMENT

1. The only dispute in these two appeals is about the misuser charges to be paid for the first and second floor of the property no. A-333, Mira Bagh, New Delhi. The appellant as per the directions of the Hon'ble High Court and without prejudice to his rights and contentions has only deposited an amount of Rs. 14 lacs towards the misuser charges as demanded by the respondent of Rs. 28,96,880/-. Both the floors are already de-sealed after deposit of Rs. 14 lacs.

2. The basic contention between the parties is rate of misuser charges and the extent of area for which misuser charges are payable. The first and second floor have total area of 236.21 sq. mtrs. each.

3. It is case of the appellant in appeal no. 977/15 that the total area leased out by the appellant to its tenant was only 111.5 sq. mtrs on the first floor and in appeal no.

978/15, total area leased out by the appellant to its tenant on the second floor was 116 sq. mtrs and the appellant is liable to pay the misuser charges for these area @ Rs. 2048/- per sq. mtrs which falls in the other category.

4. On behalf of the respondent, it was argued that the entire floor was being misused and the charges are payable @ Rs. 4088 sq. mtrs, which falls in the category of retails shops.

5. I have seen the impugned notice dated 24.01.2013. The tenant of the appellant in appeal no. 977/15 was using a portion of the first floor i.e. 111.5 sq. mtrs for running an academy of hospitality management for commercial purposes. No retail shop was being operated from the premises.

6. Similarly, in the other appeal bearing no. 978/15, a portion of the second floor i.e. 116 sq. mtrs was used by the tenant of the appellant for running a coaching institute for higher education and research in the name of M/s ICFAL group. No retail shop was operated from the second floor also.

7. Both these activities shall fall in the definitions of other activities as per MPD-2021 as defined under clause 15.7.1 (h). In these facts, the misuser charges for C&D category of the colony will be Rs. 2048/- per sq. mtrs.

8. Further, the appellant had misused only a portion of the floor in both the cases i.e. 111.5 sq. mtrs on the first floor and 116 sq. mtrs on the second floor which can be seen from the Joint Inspection Report carried by the respondent and appellant, copy of which is available along with the reply filed by the respondent to the application of the appellant u/s 151 CPC.

9. The appellant is not required to pay the misuser charges for the entire floor as submitted by the respondent.

10. In these facts, the misuser charges for the first floor shall be $1.5 \times 2048 \times 111.5$ which comes to Rs. 3,42,528/- in appeal no. 977/15 and the misuser charges for the second floor shall be $1.5 \times 2048 \times 116$ which comes to Rs. 3,56,352/- in appeal no. 978/15.

11. The appellant is required to pay only these two amounts in these two appeals respectively.

12. An amount of Rs. 14 lacs is already lying deposited with the respondent as per the directions of the Hon'ble High Court. The respondent is required to refund the excess amount.

13. Both the appeals stand disposed of.

14. 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 02.12.2025**

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