

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

APPEAL NO 642/ATMCD/2019

**Sh. Kamruddin
S/o Late Sumer Khan
R/o H.No. 3, Vill. Toot Sarai
Malviya Nagar
New Delhi**

..... Appellant

Versus

**Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**

..... Respondent

Date of Filing of Appeal	:	25.10.2019
Date of Judgment	:	04.12.2025

APPEAL NO 123/ATMCD/2020

**Sh. Kamruddin
S/o Late Sumer Khan
R/o H.No. 3, Vill. Toot Sarai
Malviya Nagar
New Delhi**

..... Appellant

Versus

**Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**

..... Respondent

Date of Filing of Appeal	:	11.03.2020
Date of Judgment	:	04.12.2025

JUDGMENT

1. Vide this order, I will dispose of these two appeals challenging the sealing order dated 18.11.2019 in appeal no. 123/20 and the demolition order dated 26.09.2018 in appeal no. 642/19 passed in respect of H.No. 3, Vill. Toot Sarai, Malviya Nagar, New Delhi from ground to second floor. Both these orders have been challenged on the ground that show cause notices were never served and further the property is in existence prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act 2011.

2. Ld. counsel for the respondent on the other hand argued that appellant has not filed any ownership documents. The property tax documents do not show that the property existed prior to 01.06.2014. Further, fresh construction was raised as per status report dated 07.03.2023 and therefore the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act 2011 is not available.

3. I have perused the record. As far as the office record of the sealing file is concerned, there is no document on record to show that the show cause notice dated 17.10.2018 was ever served upon the appellant. Only the undated sealing order was received by one Sonia Khan on 28.11.2019. The respondent has failed to prove that the show cause notice dated 17.10.2018 was ever served on the appellant. In facts the sealing order is liable to be set aside and a fresh speaking order is required to be passed after giving an opportunity of being heard to the appellant. The sealing appeal is remanded back with direction to the respondent to pass speaking order within 6 weeks after giving opportunity to the appellant to file reply and personal hearing. The appellant shall appear before the Quasi Judicial Authority on 24.12.2025 at 02.00 PM.

4. Coming to the demolition appeal, the show cause notice prior to demolition order was served by way of affixation as the person at site refused to receive the notice. The same is proper service as per section 444 of DMC Act.

5. Coming to the merits of the case, the appellant has relied upon house tax record under self assessment scheme for the year 2017-18 which mentions that ground to third floor existed in the property constructed between 1980 to 1989. The

electricity connection shows that electricity was energized on the ground, first and second floor in February 2010. There is no document available in the office record to show that any fresh construction was raised from ground to second floor. The partial demolition of the column was done at the roof of second floor on 17.10.2018. There is no finding of the Quasi Judicial Authority as to why ground to second floor are not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act 2011 being in existence prior to 01.06.2014. The demolition order records that no reply has been received and the entire construction is unauthorized. The demolition order is therefore set aside with the direction to the respondent to pass a speaking order within 6 weeks after considering the documents, if any, and reply of the appellant and personal hearing. The appellant shall appear before the Quasi Judicial Authority on 24.12.2025 at 02.00 PM.

6. 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 04.12.2025**

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