

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

**APPEAL NO. 538/ATMCD/2022**

**APPEAL NO. 540/ATMCD/2022**

**Shri Pankaj Batra**  
**S/o Shri Manohar Lal**  
**R/o 46, Kohat Enclave, Delhi-110034**  
**Also at:**  
**Shop No. 249, Old Lajpat Rai Market**  
**Chandni Chowk**  
**Delhi-110006**

**..... Appellant**

**Versus**

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

**..... Respondent**

<b>Date of Filing of Appeal</b>	<b>:</b>	<b>01.09.2022</b>
<b>Date of Judgment</b>	<b>:</b>	<b>05.01.2026</b>

**JUDGMENT**

1. Vide this order I will dispose of these two appeals challenging the demolition order dated 18.01.2016 in appeal no. 540/22 and sealing order dated 27.01.2022 in appeal no. 538/22 passed in respect of first and second floor of property bearing Shop No. 249, Old Lajpat Rai Market, Delhi -110006. The brief facts necessary for disposal of these two appeals are that the appellant is the owner of subject property and it is claimed that the construction in the shop was raised at the time of allotment in the form of basement, ground, first and the second floor. A Writ Petition No. 3332/1998 titled as "M/s Ellar Traders Vs. Govt. of NCT of Delhi & Ors." was filed before the Hon'ble High Court of Delhi, where unauthorized construction in the area of old Lajpat Rai

Market was in issue. The Hon'ble High Court vide order dated 15.02.2000 ordered the owners to furnish an undertaking to remove unauthorized construction beyond FAR of 300 and after compliance, the said shop was not to be demolished. That Writ was disposed of on 20.08.2014 directing for finalization and implementation of re-development plan of old and new Lajpat Rai Market and till then, the properties were protected. It is claimed that the appellant has not carried out any new construction after 07.02.2007 and therefore, the alleged unauthorized construction is entitled for protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was claimed that the demolition order dated 18.01.2016 was never served upon the appellant. The sealing show cause notice dated 12.11.2020 was duly replied by the appellant, yet without considering the reply, the sealing order dated 27.01.2022 was passed. These two orders have been challenged on the ground that demolition order was never served, whereas in the sealing order, the respondent failed to consider the documents of the appellant reflecting no fresh construction after 07.02.2007 and that the protection available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 was not given.

2. Ld. counsel for the respondent on the other hand argued that the appellant has failed to furnish any document which reflects that the property is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The property tax documents prior to 07.02.2007 have not been filed. The survey conducted after the orders of Hon'ble Delhi High Court in respect of shop at Lajpat Rai Market has not been filed. The appellant deliberately did not reply to the notice issued by the Property Tax Department and suo-moto assessment was done by the respondent for the purposes of property tax. Electricity Bill has been withheld deliberately. The notices of the demolition order and the sealing orders were served by the same mode and therefore, the pleas of non-service of orders are baseless and therefore, the appeal should be dismissed.
3. I have perused the record. The respondent submitted the office record only of the sealing file. The office record of demolition file was not submitted. It

cannot be presumed that the notice of the demolition file and the demolition order were served in the same manner as that of the sealing file. There is no such presumption under law. The sealing show cause notice was duly replied by the appellant and same was even considered while passing the sealing order dated 27.01.2022. The burden was on the respondent to show that the show cause notice dated 11.01.2016 and the demolition order dated 18.01.2016 were duly served upon the appellant. In the absence of any office record, it is to be believed that the same were not served and therefore, the demolition order is liable to be set-aside. In facts, the demolition appeal no. 540/22 is allowed and the matter is remanded back. The demolition order dated 18.01.2016 be considered as show cause notice and same be replied within two weeks from today with directions to the respondent to pass speaking order within six weeks after giving opportunity of being heard to the appellant. The appellant shall appear before the Quasi Judicial Authority on 19.01.2026 at 02.00 PM.

4. Coming to the sealing appeal no. 538/22, the only contention of the appellant is that the construction is old and existing prior to 07.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. In this regard, the appellant has relied upon property tax receipt for the year 2006-07 showing existence of basement, ground, first and second floor in the subject property. It is correct that as per this property tax receipt, these floors were in existence prior to 07.02.2007 but the other document reflects that the status-quo was violated subsequently. The appellant subsequently filed additional documents of the property tax self assessment form for the year 2005-06. The same shows that the basement and ground floor were having covered area of 14.90 sq. mtr. which is equal to 160.38 sq. ft. The first and second floors were having covered area of 16.70 sq. mtr. equivalent to 179.97 sq. ft. This PTR filed by the appellant show construction of basement and ground floor each as 160.38 sq. ft. and first and second floor each as 179.97 sq. ft. and the net tax payable was Rs. 3924/-. The same was duly deposited by the appellant. Contrary to it, the site plan filed by the appellant at page no. 78 of the appeal and the affidavit filed with the appeal showing extent of construction in the property reflect extent of

construction from basement to second floor of 194.75 sq. ft. This reflect that even as per the documents filed by the appellant, the extent of construction in 2006-07 as mentioned in the PTR changed and increased to the extent of construction mentioned in the affidavit and the site plan. The appellant increased the covered area on the basement and the ground floor by 34.37 sq. ft. and on the first and second floor by 14.78 sq. ft. and therefore, violated the status-quo qua construction after 07.02.2007. The documents and the affidavit of the appellant are contrary to its own case claiming that the construction is old and occupied and exists prior to 07.02.2007. The appellant therefore, is not entitled to the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 as fresh construction was raised after 07.02.2007. There are no merits in appeal no. 538/22 challenging the sealing order dated 27.01.2022.

5. The appeal is dismissed and the sealing order is upheld.
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 05.01.2026**

**(AMIT KUMAR)**  
**Addl. District & Sessions Judge**  
**PO: Appellate Tribunal, MCD, Delhi**