

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

APPEAL NO. 64/ATMCD/2024

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1. Shri Dinesh Singh Bisht
S/o Shri Heera Singh Bisht

2. Sh. Jeevan Singh Khanayat
S/o Sh. Nandan Singh Khanayat

3. Sh. Hemant Negi
S/o Sh. S.S. Negi

4. Smt. Geeta
W/o Sh. Nand Kumar,
All R/o H.No. A-20, Gali No. 13,
Mandawali Ucchepar,
East Delhi, Delhi-110092

..... **Appellants**

Versus

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

..... **Respondent**

Date of Filing of Appeal	:	05.02.2024
Date of Judgment	:	06.01.2026

JUDGMENT

1. Ld counsel for the appellant has challenged the demolition order dated 08.12.2023 in appeal no. 64/24 and sealing order dated 24.01.2024 in appeal no. 65/24 in respect of first, second and third floor of property no. A-20, Gali No. 13, Mandawali, Ucchepar, Delhi-110092 on the grounds that the show cause notices were never served upon the appellants nor the impugned orders. The appellants had challenged the unauthorized construction being carried on the fourth and fifth floor of this property through a writ petition

before Hon'ble High Court and in that writ petition these show cause notices and the orders were supplied. It was also argued that the property is old and occupied upto third floor as can be seen from the registered GPA dated 16.03.2010 through which the third floor of the property was purchased and therefore the property being in existence upto third floor before 01.06.2014 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 show cause notices and the demolition order were duly served by way of pasting at the site which was never replied by the appellants. The property was booked for unauthorized construction on 28.11.2023 from ground to fifth floor and the appeal is liable to be dismissed. It was argued that since the show cause notice was never replied nor any documents were submitted, there was no material with the responded to ascertain as to whether the property is protected upto third floor under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
3. I have perused the record. The show cause notice dated 28.11.2023 was served by way of pasting at the site and so was the demolition order dated 08.12.2023. The photographs showing the said pasting are available on record and therefore the show cause notice and the demolition order was duly served as provided under section 444 of DMC Act. The contention of the ld counsel for the appellants that the location mentioned in these photographs as per Google map is of some other property and same is not proper service is of no help to the appellants since the Google map do not show the exact location where the booked property situated. The Google map may show location of nearby property and therefore there is proper service.
4. Similarly, in sealing appeal no. 65/24, the show cause notice dated 05.01.2024 was duly served and was replied by the appellants. In the impugned order dated 24.01.2024, it is recorded that show cause notice was duly served but same has not been complied so far. In this case also the show cause notice was duly served.
5. Coming to the other aspect of protection available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, the

documents filed by the appellants with the appeal reflects that a registered GPA dated 16.03.2010 was executed in respect of a third floor of the property which was duly constructed at that time comprising of two bedrooms, one drawing room, one kitchen and one toilet-cum-bath. It reflects that this construction was existing as on 16.03.2010. The construction being in existence prior to 01.06.2014 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appellants admittedly challenged the construction on the fourth and fifth floor of this property in W.P.(C) no., 15585 of 2023 and the respondent booked the entire property including first, second and third floor. The construction upto third floor is protected till National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force. The show cause notices do not mentioned that any fresh construction is being raised after 01.06.2014 nor was found at the time of inspection.

6. In these facts the demolition order and the sealing order are kept in abeyance for first, second and third floor till National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force. The respondent shall be at liberty to take action against these floors once this act ceases to be in forced. The respondent, however is directed to take action for fourth and fifth floor of this property. The orders however are upheld.
7. 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 06.01.2026**

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