

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

APPEAL NO. 515/ATMCD/2018

**Shashi Chaudhary
W/o Sh. Raj Kumar
R/o House No. 408
Teliwara, Shahdara
Delhi-110032**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal : 25.07.2018

Date of Judgment : 12.01.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 26.06.2018 passed in respect of unauthorized construction on the ground, first and second floor of Property No. 408, Teliwara, Shahdara. The Show cause notice dated 8.06.2018 was replied by the husband of the appellant on 28.06.2018 after passing of the demolition order. This reply was not before the Quasi Judicial Authority at the time of passing the impugned order. The office record however shows that area JE(B) discussed about this reply in letter dated 26.07.2018 and held that the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available as the appellant did not submit any document to show that the property is in existence before 07.02.2007.

2. This order has been challenged on the ground that the property is in existence up to second floor for last more than 20 years and the respondent booked the property of the appellant when her husband filed Civil Suit No. 224/18

questioning the illegal construction by the neighbour of the appellant namely Ms. Anita Rathor in collusion with one Sachin Thakur. The respondent was asked by the Civil Court to file status report of the suit property therein as well as the property of the appellant and without visiting the property of the appellant and without ascertaining the factual position, the show cause notice was issued against the property of the appellant on 08.06.2018. The AE(B), without considering the reply given by the husband of the appellant, passed the demolition order which is a non-speaking order. The order does not mention the details of unauthorized construction or the date and duration of this unauthorized construction and should be set-aside.

3. Ld. counsel for the respondent on the other hand argued that the JE (B) during inspection on 08.06.2018 noticed unauthorized construction in the property with projection on municipal land and the same was booked on 08.06.2018 and show cause notice was issued. The husband of the appellant did not reply the show cause notice in time and the reply was received on 28.06.2018, after passing the demolition order on 26.06.2018. Yet, on 26.07.2018, reply was considered and found to be contradictory to the record. The appellant failed to submit documents to show that the property is existing prior to 07.02.2007 and therefore, is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the appeal should be dismissed.
4. I have perused the record. The impugned demolition order which was passed prior to receiving the reply of the appellant did not mention about the details of the date and duration of the unauthorized construction. The FIR mentions that the property was booked on a court case as no ongoing construction was found on 08.06.2018. Further, the Office Order dated 26.07.2018, signed by the JE records that the appellant deposited house tax receipt of 31.03.2010 and did not submit any documents of/ before 07.02.2007 and is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. During the course of hearing, the respondent filed status report stating that the property is situated in Village Chandravali alias Shahdara. The list of urbanized villages was also filed. Since the subject-property is situated in an urbanized village, the cut-off date shall be 01.06.2014 and not 07.02.2007 under

National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

5. In view of this date, let us examine the documents of the appellant. The appellant has placed on record house tax receipt for the year 2004 to 2009-10 which show that the property tax was deposited. The respondent was asked to produce documents relating to property tax and the respondent filed house tax record as available with them and it was mentioned that the remaining record has been destroyed due to flood. The record of depositing the house tax by the appellant could not be verified by the respondent.
6. Be that as it may, the burden was on the respondent to show the date of unauthorized construction. The appellant has proved the payment of house tax. As per Sale Deed filed by the appellant dated 15.04.1988, she purchased the property consisting of two rooms, one store, open courtyard on the ground floor with electricity and water connection existing in the property. The respondent failed to establish as required under the judgment of "Masonic Club Vs MCD & Ors, C.W.P. No. 6674 / 2000 and C.M. No. 10226 of 2000" the exact date of unauthorized construction. The property was booked on a court case when no fresh construction was ongoing in the property. It was the duty of the respondent to establish that the unauthorized construction was raised in the subject- property after 01.06.2014. The respondent has failed to show that. The property is therefore protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
7. The impugned demolition order is therefore kept in abeyance till the Act is in force and the respondent shall be at liberty to take action once the Act is ceased to be in force.
8. The appeal is disposed of.
9. 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 12.01.2026**

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