

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

APPEAL NO. 173/ATMCD/2021

**Seema Aggarwal
W/o Mr. Lalit Aggarwal
Owner of E-81, Second Floor
Greater Kailash-I
New Delhi**

Presently residing at:

**C-10, First Floor
South Extension-Part –II
New Delhi-110049**

..... **Appellants**

Versus

- 1. Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**
- 2. Mrs. Rajni Sethi
R/o E-81, Ground Floor
Greater Kailash-I
New Delhi-110048**
- 3. Mr. Suraj Gullani
R/o E-81, First Floor
Greater Kailash-I
New Delhi-110048**

..... **Respondents**

Date of Filing of Appeal	:	12.04.2021
Date of Judgment	:	16.01.2026

JUDGMENT

1. This is an appeal challenging the order dated 05.03.2021 passed by AE (B) in respect of second, third and fourth floor of Property No. E-81, Greater Kailash -I, New Delhi -110048. The brief facts necessary for disposal of this appeal are that property no. E-81, Greater Kailash -I, New Delhi-110048 was booked for unauthorized construction on 16.05.2005 in respect of deviation / excess coverage against sanction building plan at ground, first and second floors and unauthorized construction of the third floor. Thereafter, the demolition order dated 20.05.2005 was passed since no reply was received. Partial demolition action was taken on the second floor and projection at third floor on 02.06.2005. Thereafter, further demolition action was taken by demolishing servant quarter and toilet at the fourth floor on 02.08.2005 and thereafter, further demolition action was taken on 03.09.2005 demolishing the slab and balcony at third & fourth floor. Thereafter, sealing order dated 30.01.2006 was passed and the second & third floor of the property was sealed on 30.01.2006. Thereafter, coming into force of the Delhi Laws (Special Provisions) Act 2006, the property was de-sealed on 23.05.2006.
2. As per appellant, she visited the property in October 2020 after about 14 years and carried out certain repairs in her property on the second and third floor but the respondent no. 2 who is at ground floor of the property filed Writ Petition before the Hon'ble High Court and in pursuance to order dated 17.12.2020 passed by Hon'ble High Court, the respondent MCD gave personal hearing to the appellant and respondent no. 2 & 3 and passed the impugned order dated 05.03.2021 and again resealed the property on 06.04.2021. This order dated 05.03.2021 has been challenged on several grounds including that no show cause notice was served upon the appellant nor AE (B) is the Competent Authority to pass sealing order.
3. The respondent MCD, during the course of hearing, was asked to explain as to under which provision the order dated 05.03.2021 was passed by AE (B) and how the property was sealed. In the detailed status report dated 13.03.2024 and

29.05.2024 filed by MCD, it was stated that the order dated 05.03.2021 was passed by AE (B) under Section 343 of DMC Act in compliance to the orders of Hon'ble High Court dated 17.12.2020 passed in Writ Petition (C) No. 10535/2020 whereas the property was resealed on 06.04.2021 with prior approval dated 05.04.2021 of the Dy. Commissioner. The resealing was done since the appellant violated the status-quo as required to be maintained under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 by reconstructing the demolished portion of the property after it was de-sealed on 23.05.2006.

4. I have perused the record. Admittedly the property was sealed in pursuance to the sealing order passed by the Dy. Commissioner on 02.09.2005 and implemented on 30.01.2006. The property thereafter was de-sealed on 23.5.2006 after passing directions by the Competent Authority under Delhi Laws (Special Provisions) Act 2006. It means that the initial sealing order in pursuance to which the property was sealed stood withdrawn by the respondent after enactment of Delhi Laws (Special Provisions) Act 2006. If as per respondent, the appellant violated the status-quo order by reconstructing the demolished portion, the same gave a fresh cause of action to seal the property and same cannot be done as sought to be done by the respondent by just approval of Dy. Commissioner taken on 16.03.2021. Admittedly, neither any show cause notice was issued to the appellant nor an order under Section 345A of DMC Act was passed by the Competent Authority for sealing the property. The initial sealing order was of 02.09.2005 and property was de-sealed by the respondent of its own on 23.05.2006. The respondent cannot reseal it again after almost 15 years stating that the status-quo has been violated by the appellant. Reconstruction, if any of the demolished portion on the second, third and fourth floor of the property gave a fresh cause of action to the respondent which requires a fresh show cause notice and fresh sealing order as per law. The property cannot be sealed on the pretext of resealing by simply signing the noting by the Dy. Commissioner concerned. A speaking order is required to be passed by the Competent Authority to take punitive action against the property.

5. In above facts the appeal is allowed. The matter is remanded back with directions to the respondent to issue proper show cause notice to the appellant in respect of fresh cause of action of reconstructing the demolished portion. The appellant shall reply that notice within 15 days after receiving the show cause notice and fresh speaking order be passed within six weeks of conclusion of personal hearing of the appellant. The property be de-sealed within 72 hours. The appellant however shall not raise any further construction in the property during this period and shall appear before the Quasi Judicial Authority on 03.02.2026 at 2.00 PM.
6. The appeal stands disposed of.
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 16.01.2026**

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