

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

APPEAL NO. 786/ATMCD/2022

**Anupama Khanna
W/o Vimal Khanna
R/o F-437-B, Fourth Floor
New Rajinder Nagar
New Delhi-110008**

..... **Appellant**

Versus

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

..... **Respondent**

Date of Filing of Appeal	:	22.12.2022
Date of Judgment	:	20.01.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 02.11.2022 passed in respect of fourth floor of Property No. F-437B, New Rajinder Nagar, New Delhi. The brief facts necessary for disposal of this appeal are that the respondent vide FIR dated 19.07.2022 booked unauthorized construction of entire third floor and part of fourth floor being constructed without sanction building plan. The deviation and excess coverage at ground, first and second floor were already booked on 23.11.1994. The appellant gave reply to this show cause notice and after giving personal hearing to her and her husband Vimal khanna, the order dated 02.11.2022 was passed wherein it was held that the construction at third floor is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being in existence prior to 07.02.2007 but the construction at fourth floor is not protected as the appellant failed to furnish any document regarding

construction of fourth floor except an invoice of LPG connection dated 05.03.1999.

2. This impugned order has been challenged by the appellant on the ground that the respondent failed to consider that the entire construction at fourth floor is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The order has been passed by the respondent in collusion of the husband and in-laws of the appellant. The documents furnished by the appellant were ignored and therefore, the demolition order should be set-aside.
3. None appeared for the respondent to argue till 02.50 PM. From the record, it appears that it was the case of the respondent that the construction at fourth floor cannot be protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 since the invoice dated 05.03.1999 of LPG connection does not show the extent of construction at the fourth floor.
4. I have perused the record. During the course of hearing, the respondent was directed to verify the said LPG connection but the same could not be verified by the respondent. Notices were issued to the concerned Gas Agency to verify this LPG connection and on 27.09.2023, the Manager of said Gas Agency appeared in the Court and placed on record the gas connection subscription voucher in the name of Raj Khanna. This subscription voucher show that this LPG gas connection was provided at the fourth floor of property no. F-437B, New Rajinder Nagar since 05.03.1999. This ex-facie prove that fourth floor was existing in 1999 having a gas connection. It shows that there was kitchen /dwelling unit on the fourth floor in 1999. The respondent did not verify this document before passing the impugned order and recorded that the registered Gift Deed dated 14.09.2022 shall prevail over this LPG invoice. Through this Gift Deed Smt. Premwati Khanna gifted entire ground floor and entire third floor with terrace to her son Vimal Khanna who is the husband of appellant. The respondent while relying upon this Gift Deed came to the conclusion that there is no construction on the terrace of third floor but totally ignored the LPG connection of 1999 showing construction at fourth floor since LPG connection was taken for fourth floor in 1999.

5. The demolition order and the show cause notice are completely silent as to when the construction at roof of third floor was raised. The initial booking of 1995 show that there were ground, first, second and pillars at third floor. It was for the respondent to mention in the show cause notice and the demolition order as to when the construction at third floor and the terrace of third floor was raised. The appellant on the other hand has shown that there was construction at fourth floor in 1999.
6. In these facts, the construction at fourth floor is also protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 as is on the third floor being existing prior to 07.02.2007. The impugned demolition order is kept in abeyance till National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force. The demolition order however is upheld. 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 20.01.2026**

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