

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

APPEAL NO. 236/ATMCD/2017

Mr. Sheetal Chauhan
S/o Omkar Singh
R/o A-1/2, Anupam Enclave
IGNOU Road, Saidulajab Extension
New Delhi-110068 Appellant

Versus

Municipal Corporation of Delhi
Through its Deputy Commissioner
Green Park
New Delhi Respondent

Date of Filing of Appeal : 05.04.2017
Date of Judgment : 23.01.2026

APPEAL NO. 262/ATMCD/2017

Mr. Sheetal Chauhan
S/o Onkar Singh
R/o A-1/2, Anupam Enclave
IGNOU Road, Saidulajab Extension
New Delhi Appellant

Versus

Municipal Corporation of Delhi
Through its Deputy Commissioner
Green Park
New Delhi Respondent

Date of Filing of Appeal : 17.04.2017
Date of Judgment : 23.01.2026

JUDGMENT

1. Vide this order I will dispose of these two appeals challenging the demolition order dated 02.09.2014 in appeal no. 236/17 and sealing order dated 11.10.2014 in appeal no. 262/17 passed in respect of Property bearing No.

A1 to A3, Anupam Enclave, IGNOU Road, Saidulajab Extension, New Delhi. The brief facts necessary for disposal of these two appeals are that the property was booked for unauthorized construction on 14.08.2014 of basement and ground floor with shutters. The address was mentioned as property adjoining A1 & A2, Anupam Enclave, opposite B1 Anupam Enclave. The notice was served by pasting at site. It was pasted as none was present at site. Since no reply was received, the demolition order dated 25.08.2014 was passed with similar particulars. The same was also served by pasting. Subsequent thereto, the show cause notice under section 345A DMC Act dated 16.09.2014 was issued, followed by the sealing order dated 11.10.2014. The property was sealed at basement on two points and all the four shutters on ground floors were sealed on 11.10.2014. Later on 06.02.2016, the demolition action was taken and after de-sealing the property, all the shutters were demolished and the ground floor was made unusable. The basement was resealed at one point.

2. The appellant has challenged these two orders on the ground that notice was not sent to the appellant at the correct address. The correct address of the property is Shop No. 1-3, A1, Anupam Enclave and not A1, A2 and A3 as claimed by the respondent. The show cause notices and the two impugned orders do not mention the address of the property and say adjacent to A1 and 2 and opposite B1 and therefore, are not proper notices. The property was never sealed physically nor was completely demolished as alleged by the respondent. The property is old and occupied much prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Since no show cause notice was served upon the appellant, the impugned orders are liable to be set-aside on this ground alone.
3. Ld. counsel for the respondent on the other hand argued that there is no dispute in respect of the identity of the booked property. The appellant filed Civil Suit before Saket District Court after the demolition action and was aware about the identity of the property. The seal of the property was tampered for which an FIR was lodged and the appeal should be dismissed on this ground alone. On merits it was stated that the appellant has not filed a single document to show that the property was constructed prior to

01.06.2014 and therefore, in the absence of any sanction building plan, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available.

4. I have perused the record. The appellant before filing these appeals, filed a Civil Suit on 15.03.2016 before Sr. Civil Judge, Saket against MCD. He claimed in that Suit that construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, being constructed much prior to 01.06.2014. He admitted that on 06.02.2016, the officials of MCD demolished certain portions of the property. This clearly shows that the identity of the property booked by the respondent was never in dispute. Though, it is correct that the address of the subject-property was not mentioned in the show cause notices and the impugned orders but they were duly served by pasting at the subject-property. Section 444 of the DMC Act provides pasting as one of the modes of service and service through pasting is approved under law. Reliance for this can be placed on the following judgments :

- 1) Paramjeet Kaur v/s MCD 1994 (56) DLT 720.
- 2) Narender Prasad Dube Vs. Union of India 1999 (81) DLT 378.
- 3) Hari Dutt Vashistha Vs. MCD 1978 (2) ILR (Delhi) 28.
- 4) Usha Devi Sharma Vs. MCD 2020 (271) DLT 76.

5. Coming to the merits of the case, the appellant claims that the construction at the subject-property was raised much prior to 01.06.2014. However, the appellant has not placed even a single document on record to prove this fact. The tax payment receipt at page no. 28 of the appeal is dated 27.02.2017 through which the tax arrears up to 2015-16 and of the years 16-17 were paid. This document was created much after the booking. The document at page no. 29 not only does not show the area of the constructed portion but also does not show existence of any basement in the property. The document at page no. 30 is assessment bill for direct theft of electricity and show that some owner Rakesh Kumar Chaudhary indulged in power theft at one shop. Here also the basement is not mentioned. In the show cause notice at page no. 31, the basement is missing. Same is for the later at page no. 32 and all other documents. In none of the documents filed by the appellant, the basement at the property is mentioned. At page no. 37 of the appeal, the electricity bill of

Shop No. 2 show date of energization as 12.06.2015. It shows that the shop at second floor got the electricity connection much after 01.06.2014 and does not help the appellant.

6. It is also relevant to note that in the letter written by one Mr. R.S. Chauhan to the Dy. Assessor and Collector, MCD filed by the appellant at page no. 32, it is mentioned that the land is 200 sq. yd. consisting of basement, ground, first and second floor having 1800 sq. ft. area on each floor. This letter was received by the House Tax Department on 16.03.2005. If the contents of the letter are presumed to be correct, the property has basement to second floor having 1800 sq. ft. on each floor as in March 2005. Contrary to it, the photographs filed by the appellant in appeal no. 236/17 along with his affidavit of existing construction and the site plan show that there is no first and second floor in the property. It means that the property as existing as per the letter of the appellant in March 2005, was demolished and reconstructed. The burden was on the appellant to show as to when it was reconstructed.
7. The appellant has claimed that the correct number of the property is A1, Shop No. 1,2 & 3, Anupam Enclave. The same appears to be contrary to his own document relating to assessment bill for direct theft. This document shows that the Shop no. is A1, Ground Floor, Anupam Enclave which is contrary to the claim of the appellant that it is Property No. A1, Shop 1,2 & 3.
8. The appellant has failed to show that the construction in the property was raised much prior to 01.06.2014 or there is a sanction building plan.
9. In view of the discussion, there are no merits in these appeals. The construction is not entitled to any protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. These appeals are devoid of merits and both are dismissed and the demolition order dated 02.9.2014 and sealing order dated 11.10.2014 are upheld.
10. 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 23.01.2026**

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