

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

APPEAL NO. 640/ATMCD/2014

**Shri Parveen Kapoor
Son of Late Shri Madan Lal Kapoor
9491/11, Multani Dhanda
Paharganj
Delhi-110055**

..... Appellant

Versus

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

**2. Deputy Commissioner
Building Department
Sadar Paharganj Zone
Municipal Corporation of Delhi
Delhi-110055**

..... Respondents

Date of Filing of Appeal	:	27.08.2014
Date of Judgment	:	27.01.2026

APPEAL NO. 756/ATMCD/2014

**Shri Parveen Kapoor
Son of Late Shri Madan Lal Kapoor
9491/11, Multani Dhanda
Paharganj
Delhi-110055**

..... Appellant

Versus

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

**2. Deputy Commissioner
Building Department
Sadar Paharganj Zone
Municipal Corporation of Delhi
Delhi-110055**

..... Respondents

Date of Filing of Appeal	:	29.09.2014
Date of Judgment	:	27.01.2026

JUDGMENT

1. These are two appeals challenging the demolition order dated 16.05.2014 and the rejection of regularization application order dated 21.08.2014 passed in respect of Property No. 9482-9493, Gali No. 11 & 12, Multani Dhanda, Paharganj, New Delhi. The brief facts necessary for disposal of these two appeals are that the appellant claims to be running his business of guest house from the subject-property. It is claimed that because of complaints by one Balvinder Kapoor, the appellant applied for regularization of his building plan under Simplified Procedure on 06.07.2019 and the application for regularization was accepted and the property was regularized on 20.4.2012. This regularization was challenged by Balvinder Kapoor by filing an appeal before this Tribunal and in that appeal, this Tribunal on 08.07.2013 sought status report from the respondent about the regularization plan of the appellant. The respondent in pursuant to that direction issued show cause notice dated 17.07.2013 and vide order dated 23.10.2013 passed under Section 338 of the DMC Act revoked the regularized building plan. The appellant challenged the order dated 23.10.2013 in his appeal no. 1237 of 2013. The appeal was allowed on 26.05.2014 and the matter was remanded back with directions to the appellant to apply afresh for regularization within 20 days. The appellant thereafter applied afresh for regularization but the same was rejected on 21.08.2014 and prior thereto, the demolition order dated 16.05.2014 was passed.
2. In these appeals, these two orders have been challenged. It was argued for the appellant that demolition order dated 16.05.2014 is liable to be set-aside as this Court while allowing the appeal no. 1237/13 on 26.05.2014 directed the respondent not to take any action against the subject-property till the outcome of regularization application directed to be filed afresh, yet the respondent passed the demolition order on 16.05.2014 and deliberately concealed this fact of demolition order being passed even before 26.05.2014 when the orders were passed in appeal no. 1237/13. It was also argued that the rejection of regularization application dated 21.08.2014 is also liable to be

set-aside since the appellant complied with all the formalities and without joint inspection of the property at site, the application was rejected. It was argued that vide letter dated 13.08.2014, the respondent fixed the date and time for joint inspection on 16.08.2014 at 12.30 PM, but changed this date unilaterally to 19.08.2014 at 03.00 PM on the pretext of some Writ Petitions and no joint inspection was carried out and therefore, the order dated 21.08.2014 should be set-aside.

3. Ld. counsel for the respondent on the other hand argued that both the appeals are time-barred. The order of demolition dated 16.05.2014 was passed since there was no sanction building plan and there are no merits in this appeal. The order dated 21.08.2014 was passed since the appellant failed to comply with invalid notice dated 28.07.2014 nor submitted documents of ownership. The proposed plan submitted was not correct as per building bye-laws and therefore, site was not inspected. It was argued that in view of these facts, the appeals should be dismissed.
4. I have perused the record. Vide order dated 26.05.2014 while disposing of appeal no. 1237/13, my Ld. Predecessor observed that the revocation of the sanction building plan is to be set-aside keeping in view the fact that three different plans were submitted by the appellant at different stages and the site plan produced by the appellant during hearing of that appeal, did not have any portion marked yellow stated to be non-compoundable construction. This Court observed that MCD is at liberty to go ahead with the proceedings but before taking any demolition action in respect of compoundable construction, the outcome of regularization application has to be awaited. It was further observed that there is no obstruction for taking demolition action in respect of non-compoundable deviation. It means that there was no embargo put on MCD vide this order for passing demolition order. The only restriction was not to take demolition action qua compoundable construction till disposal of regularization application. There was no restriction as far as demolition action for non-compoundable deviation. In these facts, there are no merits in the argument of the appellant that vide order dated 26.05.2014, the respondent was directed not to pass any demolition order. Though the order dated 16.05.2014 should have been brought to the notice of this Tribunal when the

order dated 26.05.2014 was passed but that by itself does not make the demolition order dated 16.05.2014 as invalid.

5. Coming to the aspect of rejection of regularization application, though it is correct that no physical inspection was done before rejecting the regularization application, that by itself is not sufficient to allow the appeal. The office record shows that after order dated 26.05.2014, the appellant applied for regularization on 13.06.2014. An invalid notice dated 28.07.2014 was issued. The appellant replied to this notice on 06.08.2014. A reminder dated 08.08.2014 to the invalid notice dated 28.07.2014 was issued seeking compliance of invalid notice dated 28.07.2014, for joint inspection for 13.08.2014 and affidavit that no further unauthorized construction will be raised. Thereafter, another invalid notice dated 13.08.2014 was issued fixing fresh date for joint inspection for 26.08.2014. Thereafter, letter dated 14.08.2014 was issued preponing the date of inspection to 19.08.2014. The appellant gave reply on 19.08.2014 to the letter dated 14.08.2014 but did not get the property inspected. Thereafter the order dated 21.08.2014 rejecting the regularization application was passed. The appellant on 29.08.2014 gave a representation to reopen his file.
6. The record shows that the date for joint inspection was preponed from 26.08.2014 to 19.08.2014 vide letter dated 14.08.2014 and same was duly brought to the notice of appellant. The appellant instead of permitting joint inspection on 19.08.2014 preferred a letter dated 19.08.2014 stating that there is no order by Hon'ble Delhi High Court. The appellant should have agreed for joint inspection on 19.08.2014, but instead, asked for details of High Court orders. Further not only that, the joint inspection was not permitted and the appellant did not comply with the invalid notice dated 28.07.2014. At Serial No. 3 of this invalid notice, he was asked to submit structural drawing by registered Architect. In his reply dated 06.08.2014, he stated that structural drawings are not traceable. At Serial No. 7 of the invalid notice, he was asked to give an affidavit that there is no extra dwelling unit in contravention to MPD-2021 but in his reply, he did not mention anything about this affidavit. Same is correct even for Serial No. 8, 10, 11, 12, and 13. The appellant himself did not comply with the requirements of this invalid notice dated 28.07.2014 and cannot challenge the order dated 21.08.2014 only

because joint inspection was not done. Further, admittedly there are non-compoundable deviations like projection on municipal land in the property on three sides which are non-compoundable.

7. In these facts, there are no merits in these two appeals and these appeals are dismissed.
8. 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 27.01.2026**

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