

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

APPEAL NO. 133/ATMCD/2024

1. **Sh. Hakeem Rehman**
S/o Abdul Rehman
R/o H.No. D-190A, 1st Floor
Abul Fazal Enclave (Part-I)
Jamia Nagar, Okhla, New Delhi-110025
2. **Sh. Mohammad Haroon**
S/o Late Qamarul Islam
R/o A-184/2, Johri Farm
Noor Nagar Extension
Jamia Nagar, Okhla, New Delhi-110025 Appellants

Versus

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

Date of Filing of Appeal : 23.02.2024
Date of Judgment : 28.01.2026

APPEAL NO. 176/ATMCD/2024

1. **Sh. Hakeem Rehman**
S/o Abdul Rehman
R/o H.No. D-190A, 1st Floor
Abul Fazal Enclave (Part-I)
Jamia Nagar, Okhla, New Delhi-110025
2. **Sh. Mohammad Haroon**
S/o Late Qamarul Islam
R/o A-184/2, Johri Farm
Noor Nagar Extension
Jamia Nagar, Okhla, New Delhi-110025 Appellants

Versus

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

Date of Filing of Appeal	:	07.03.2024
Date of Judgment	:	28.01.2026

APPEAL NO. 253/ATMCD/2024

Sh. Sharafat Ullah
S/o Late Sh. Haji Barkat Ullah
R/o H.No. A-3, Nizamuddin West
New Delhi-110013 **Appellant**

Versus

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

Date of Filing of Appeal	:	05.04.2024
Date of Judgment	:	28.01.2026

JUDGMENT

1. Vide this judgment I will dispose of these three appeals. Appeal No. 133/24 challenges the demolition order dated 08.02.2024 and Appeal No. 176/24 is against the sealing order dated 06.03.2024 passed in respect of third property from D-15-A, Abul Fazal Enclave-I, New Delhi which as per High Court Plaintiff is Property No. 8 & 9, Abul Fazal Enclave-I, New Delhi. The Appeal No. 253/24 is against the demolition order dated 08.02.2024 passed in respect of second property from Main Road, near BSES Electric Pole, Abul Fazal Enclave -I, New Delhi.
2. The brief facts necessary for disposal of these appeals are that the two appellants of appeal no. 133 & 176 namely Sh. Hakeem Rehman and Sh. Mohammad Haroon purchased these properties bearing no. 8 & 9 measuring 400 sq. yds. in Khasra No. 220/2, Village Okhla now known as D-Block, Abul Fazal Enclave-I. They purchased this property on 10.09.2022 from Sh. Sharafat Ullah who is appellant in appeal no. 253/24. Sh. Sharafat Ullah in his appeal claimed that he is the owner of property no. 19, out of Khasra No. 222, Village Okhla now known as D-Block Abul Fazal Enclave-I, Jamia Nagar, New

Delhi. All these appellants claim that the property is old and occupied and exists prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and further, neither any show cause notice nor any of the impugned orders were served upon them. It was argued that even the property was not property identified by the respondent. The property in appeal no. 253/24 is second property from the Main Road whereas the property of the appellant is third property from the Main Road and the reply of the appellant dated 14.02.2024 was not considered nor an opportunity of being heard was provided and appeal should be allowed. Similarly in the other two appeals, the service of show cause notice was disputed and it was argued that the construction is old and occupied and should be protected.

3. Ld. counsels for the respondent on the other hand argued that the notices were duly served by pasting at the correct property but no reply was given. The property was booked when the unauthorized construction was going on as visible from the photographs and therefore, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available.
4. I have perused the record. As far as the service of show cause notices and demolition orders and sealing order is concerned, the office record of appeal no. 253/24 show that the property was booked on 01.02.2024 for unauthorized construction of basement, stilt and ground to fifth floor without sanction building plan. The notice was served through pasting of which photographs are available on record. Whether the property is second from Main Road or third from Main Road is of no consequence as the identity of the property is not disputed. The show cause notice record that the property is near BSES Electric Pole No. SVRQ282. The property and pasting of show cause notice is visible at page 6/C of the office record. Same is correct even for service for demolition order dated 08.02.2024. It was sent by Speed Post and thereafter, was served by pasting and similar photographs are there at page 1/C of the record. Therefore, the show cause notice and the demolition order were duly served at the correct property.
5. Coming to the appeal no. 133/24, in this case the show cause notice dated 01.02.2024 for unauthorized construction from basement to fifth floor was

pasted at site and the demolition order dated 08.02.2024 was also pasted at site. Photographs are available at page 1/C of the record. Similarly in appeal no. 176/24, the show cause notice dated 21.02.2024 was sent by post and thereafter, the sealing order dated 06.03.2024 was passed and was served by pasting as can be seen at page 6/C & 7/C of the record. Therefore, in all these three appeals, the show cause notices and the impugned orders were duly served. Service through Pasting is proper service under Section 444 of DMC Act for which reliance can be placed on following judgment :

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

6. Coming to the merits of these appeals, admittedly there is no sanction building plan since the subject-properties are in unauthorized colony. The protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 can be availed, only if the construction is prior to 01.06.2014. The appellants have not filed even a single document to show that the construction is old and occupied prior to 01.06.2014. On the other hand, the office record show that the construction was going on when the show cause notices in February, 2024 were issued and served in appeal No. 253/24. Though, in other two appeals, the show cause notices and orders mentioned (old and occupied), but the same does not mean that it exists since prior to 01.06.2014. The appellants have not filed any document to show that entire construction was raised prior to 01.06.2014.

7. Even the ownership documents of appellants are not proper. The GPA etc. dated 10.09.2022 are of property in Khasra number 220/2, where the GPA etc. dated 10.10.1984 are of Khasra number 220. These two are different Khasra number as can be seen from Khasra Girdawari filed by appellants.

8. In view of these facts, that the construction was going on much later after 01.06.2014, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available.

9. The appeals are devoid of merits and same are dismissed and impugned orders 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 28.01.2026**

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