

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

APPEAL NO. 239/ATMCD/2024

APPEAL NO. 240/ATMCD/2024

**Mohd Qanit Ansari
S/o Sh. Raisur Rehman
R/o H.No. 1697-98, T.F, Gali Madarsa
Mir Jumla, Lal Kua, Chandni Chowk
Delhi-110006**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal	:	02.04.2024
Date of Judgment	:	29.01.2026

JUDGMENT

1. These are two appeals challenging the demolition order dated 08.02.2024 in appeal no. 239/24 and the sealing order dated 06.03.2024 in appeal no. 240/24 passed in respect of unauthorized construction in the shape of basement, stilt and ground to fifth floor of Property No. D-40, Abul Fazal Enclave Part-I, Jamia Nagar, Okhla, New Delhi. The brief facts necessary for disposal of these appeals are that the appellant purchased this property measuring 600 sq. yds. part of Khasra No. 222, Village Okhla, New Delhi now known as D-Block, Abul Fazal Enclave on 23.03.2023 and 21.07.2023 by virtue of GPA, Agreement to Sell etc. As per appellant, the construction is old and occupied and no construction has been raised by the appellant, yet without serving any show cause notice and the two impugned orders, the property was booked and sealing was done on the fifth floor on 06.03.2024 and therefore, these appeals.
2. It was argued for the appellant that show cause notices and the impugned orders were never served upon the appellant and no opportunity of being heard was granted to the appellant to show that the construction is prior to 01.06.2014 and protected under National Capital Territory of Delhi Laws

(Special Provision) Second Amendment Act, 2011 and therefore, the appeals should be allowed and the impugned orders should be set-aside.

3. Ld. counsel for the respondent on the other hand argued that show cause notices and the impugned orders were duly served by pasting on the owner/occupier of the property and there is no material on record to show that the construction is old and occupied and therefore, the appeal should be dismissed.
4. I have perused the record. The documents of title executed in favour of the appellant are unregistered GPA, unregistered Agreement to Sell, Indemnity Bond, Will etc. These documents do not confer any title on the appellant and therefore, he was directed to produce ownership documents. The appellant thereafter filed copy of Khasra Girdawari, GPA etc. dated 10.10.1984 and an order of Hon'ble High Court dated 16.09.2014 passed in Writ Petition (Civil) No. 3844 of 2014. These documents filed subsequently i.e. GPA etc. are of Khasra No. 220. The khasra Girdawari is of Khasra No. 220/2 whereas the property in question is in Khasra No. 222 as per documents in favour of the appellant. The appellant therefore failed to prove that he is the owner of the property or how he is aggrieved by the impugned order since he does not have proper title documents. The order of Hon'ble High Court dated 16.09.2014 is in respect of Khasra No. 222 but only for area measuring 1 bigha 8.5 biswas and that too in favour of Haji Construction Company which was a partnership firm. The appellant purchased the subject-property from Kifayat Ullah who was only a partner in Haji Construction Company. Therefore, the appellant could not produce the relevant ownership document. His document dated 21.07.2023 in respect of 400 sq. yds. out of total 600 sq. yds., show that he himself being a proprietor of Aadam Enterprises along with Mr. Mohd. Hashim Hussain and Aziz Rabbani Khan sold the property to the appellant. It is a strange case where the appellant himself sold his property or share therein to the appellant himself and that too through unregistered document. Therefore, the appellant has no locus to file this appeal.
5. Coming to the aspect of service, the show cause notice dated 01.02.2024 for unauthorized construction was issued in the name of Gulrez Akhtar Saifi and Mr. Aziz Rabbani. Mr. Aziz Rabbani is the person who along with appellant and one Mr. Mohd. Hashim Hussain sold the property to appellant. The

appellant never informed the MCD that he has purchased this property and therefore, the notice was rightly issued in the name of erstwhile owner Mr. Aziz Rabbani. Further, this notice was served by way of pasting and photographs thereof are available in record. Demolition action was taken on 27.02.2024 and if the appellant was the owner, he must have been aware about this demolition done on 27.02.2024. Similarly the demolition order dated 08.02.2024 was issued in the names of Gulrez Akhtar Saifi and Mr. Aziz Rabbani and was served through pasting and photographs thereon are available on record. So there was proper service.

6. As far as the sealing show cause notice dated 21.02.2024 is concerned, the same was sent by Speed Post only to Gulrez Akhtar Saifi and returned unserved with the report 'No such Person'. The sealing order dated 06.03.2024 was not sent or served to anyone.
7. However, the fact remains that the appellant has failed to show that either he is the owner of the property or how is aggrieved by the impugned order.
8. Coming to the aspect of construction existing before 01.06.2014, admittedly the entire construction is without sanction building plan and can be protected only if it was raised prior to 01.06.2014. The appellant has not placed on record even a single document to show that this construction was raised prior to 01.06.2014 whereas, the intervener has placed on record photographs to show that the construction was raised continuously since September 2022 till the property was completed. These photographs clearly establish that the property was constructed much after 01.06.2014 and therefore, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available.
9. In these facts the appeals are devoid of merits and the same are dismissed. The impugned demolition order dated 08.02.2024 and the sealing order dated 06.03.2024 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 29.01.2026**

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