

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

**APPEAL NO. 267/ATMCD/2018**

- 1. Sh. Vikram Yadava  
S/o Maj. General (Retd.) Ugrasen Yadava**
- 2. Sh. Arun Kumar Yadava  
S/o Maj. General (Retd.) Ugrasen Yadava  
Through GPA Holder Maj. General (Retd.) Ugrasen Yadava  
S/o Late Col. Ram Chandra**
- 3. Mrs. Rekha Yadava  
W/o Maj. General (Retd.) Ugrasen Yadava  
Through GPA Holder Maj. General (Retd.) Ugrasen Yadava  
S/o Late Col. Ram Chandra**

**All Residents of:**  
**House No. 3774, Sector-23**  
**Gurgaon, Haryana-122017**

**And Also At :**  
**RZA 291- A, B & C**  
**Mahipalpur Extension**  
**New Delhi-110037**

**..... Appellants**

**Versus**

- 1. Municipal Corporation of Delhi  
Through its Commissioner  
Civic Centre, Minto Road  
New Delhi**
- 2. Deputy Commissioner  
Najafgarh Zone, MCD  
Kakrola Housing Complex  
Opposite Punjab National Bank  
Najafgarh Road, Najafgarh  
New Delhi-110059**

**..... Respondents**

**Date of Filing of Appeal : 24.04.2018**  
**Date of Judgment : 02.02.2026**

**JUDGMENT**

1. This is an appeal challenging the sealing orders dated 04.10.2010 and 26.03.2010 in respect of Property bearing No. RZA/291, Mahipalpur

Extension, New Delhi. The brief facts necessary for disposal of this appeal are that the appellants are the owner of this property located at Mahipalpur Extension, NH-08 and the area has been granted Certificate of Provisionally Regularized Unauthorized Colony by the Govt. of NCT of Delhi. The appellants had leased out the premises to one M/s Signature Heritage and Infratech Pvt. Ltd. The respondent sealed the premises on 26.03.2010.

2. The appellant claims that they have duly deposited the conversion charges with MCD as per MPD-2021, yet the property was sealed. A show cause notice dated 30.08.2010 was issued alleging misuse of the premises. The appellants and the Director of their lessee visited the respondent but the demolition order dated 04.10.2010 was passed. The lessee of the appellant filed appeal no. 129 of 2011 against this sealing order but same was not brought to the notice of the appellant. The attorney of the appellants filed an application under order I rule 10 CPC in that appeal but the lessee withdrew that appeal. Thereafter the appellant through their attorney / father filed appeal no. 970/14 wherein the respondents were directed to calculate the misuser charges as the property was sealed on the ground of misuse. There were some technical defects in that appeal and therefore, the appellants filed this appeal with the submissions that the appeal no. 970/14 shall be withdrawn. The appellant in that appeal did not press the application to bring on record the legal heirs of their father and that appeal abated on 06.01.2023.
3. The appellants have challenged the order dated 04.10.2010 on the ground that the reply to the show cause notice was not considered. Proper opportunity of hearing was not provided to the appellants. The property is situated on NH-08 which is a notified mixed land use street having Right of Way of 60 mtrs. There is no encroachment on public land. Mahipalpur Extension falls under provisionally regularized unauthorized colony and government has allowed commercial activity in this locality on NH-08. Numerous hotels are in operation on the entire stretch where the subject-property is situated and the construction of the property is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore, the impugned sealing order should be set-aside.

4. Ld. counsel for the respondent on the other hand argued that the property is in unauthorized colony and therefore, no activity like running a guest house can be permitted. The property in question though abuts NH-08 which has been declared mix land use road as per MPD-2021 but since the property is in unauthorized colony, the guest house cannot be permitted. The property cannot be de-sealed in violation of MPD-2021. This appeal is not maintainable as the earlier appeal filed by the appellants through their father / attorney abated and therefore, the appeal should be dismissed.
5. I have perused the record. Though the appellants have challenged two sealing orders in this appeal dated 26.03.2010 and 04.10.2010 but the record show that there is no sealing order dated 26.03.2010. As per office record, sealing action was taken on 26.03.2010 with reference to a show cause notice dated 17.12.2009 bearing no. 109/B/UC/NG/09. This is a show cause notice issued under Section 344(1) read with Section 343 of DMC Act. There was only sealing action carried out on 26.03.2010. There is no such order dated 26.03.2010. Therefore, the only order under challenge is 04.10.2010.
6. Coming to the arguments of maintainability of this appeal, appeal no. 129/11 which was withdrawn was filed by the tenant of the appellants M/s Signature Heritage and Infratech Pvt. Ltd. Therefore the appellants being the owner had every right to file their own appeal against the sealing order. The second appeal no. 970/14 was filed by the appellants through their father / attorney and during the pendency of that appeal, the present appeal was filed with submission that the appeal no. 970/14 shall be withdrawn. Unfortunately, the father / attorney passed away on 10.08.2018 after filing this appeal and in that appeal the proceeding abated and only this appeal was pressed. In these facts this appeal is maintainable more so when sealing of the property is a continuous cause of action.
7. Coming to the merits of the appeal. The record shows that the property was booked for unauthorized construction since 15.07.2002 and a sealing order dated 14.09.2005 was passed on account of unauthorized construction. Subsequently the seal allegedly was broken and the unauthorized construction continued and finally the sealing order dated 04.10.2010 was passed for misuse.

8. The office record of the respondent reveals that the appellants as well as their lessee applied for de-sealing of the premises which was sealed for misuse. The respondent in office note dated 24.03.2011 through the then AE (B) noted that the de-sealing may be allowed as the property abuts main NH-08 and exist on 60 mtrs road having mixed land use. The colony is registered at Serial No. 1140 of the unauthorized colony list. The unauthorized construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the property was de-sealed on 07.03.2008 only for the protection granted under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
9. This office note clearly shows that the unauthorized construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Secondly, the property is though in unauthorized colony but certainly is on notified mixed land use road having 60 mtrs Right of Way. The AE of the respondent himself recommended the de-sealing of the property. Similarly, vide office note dated 12.05.2011 in respect of de-sealing application, it was recorded that the property is on notified mixed land use and the applicant has undertaken to not to use the same for any non permissible activity as per MPD-2021 and therefore, the property should be permanently de-sealed. Further, the office note dated 17.08.2011 says that the property is in unauthorized colony and exist prior to 08.02.2007 and is protected under the Delhi Laws (Special Provision) Act and therefore, the Dy. Commissioner of the zone may directly de-seal the property. The file was forwarded by the AE for permanent de-sealing.
10. These facts clearly show that the property, though is in regularized unauthorized colony but it abuts NH-08 which is a notified mixed land use road having 60 mtrs Right of Way.
11. The status report filed by the respondent dated 13.03.2024 is also material. As per this report, there are several guest houses / hotels found in existence / operation in the vicinity of the subject property. The property was clarified to be on declared mixed land use as per MPD-2021. The photographs annexed with this report also show that numerous hotels / guest houses are running

on that road adjoining the subject-property. One can also take the judicial note of the fact that while going towards airport in Delhi from Dhaula Kuan side, once we reach at the flyover of Mahipalpur crossing, there are numerous hotels / motels / guest houses running on the stretch from the beginning of the flyover till Radisson hotel. If all other hotels are permitted to being run being situated in regularized unauthorized colony, how can appellants be given different treatment. It is not the case of the respondent that all other hotels etc. adjoining the subject-property are in regularized colony and only the subject-property is in regularized unauthorized colony. The appellants cannot be given different treatment by sealing the subject-property on account of misuse and permitting all other entities situated similarly to run their hotels / guest houses etc.

12. The appellants admittedly have deposited the misuser charges and have been paying the property tax at commercial rate for the subject-property. As per MPD-2021, guest houses are permissible on a road notified as mixed land use having ROW of 60 mtrs. Undisputedly, numerous hotels and guest houses are running in the same vicinity. The construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. No useful purpose shall be served if the property is kept sealed despite the construction being protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The property is on notified mixed land use as per MPD-2021 and is in the list of regularized unauthorized colony. The impugned order is therefore not sustainable. The appeal is allowed and the sealing order is set-aside. The property bearing no. RZA/291, Mahipalpur Extension, NH-08, New Delhi be de-sealed within a period of three weeks. The appellants shall not carry out any construction, addition / alteration without sanction from the respondent. The respondent shall be at liberty to take action, if there is any violation of this order by the appellants. The appellants shall not use the property for any purpose which is not permissible under MPD-2021.

13. The appeal is allowed.

14. The record of appeal no. 970/14 be also sent back.

15. 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 02.02.2026**

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