

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

**APPEAL NO. 228/ATMCD/2017**

- 1. Smt. Madhubala @ Bala  
W/o Shri Lalit Mohan Sharma**
- 2. Shri Lalit Mohan Sharma  
S/o Shri Kartar Singh**

**Both R/o S-451, School Block  
Shakarpur  
Delhi-92**

..... **Appellants**

**Versus**

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

..... **Respondent**

**Date of Filing of Appeal : 03.04.2017**  
**Date of Judgment : 03.02.2026**

**JUDGMENT**

1. This is an appeal challenging the demolition order dated 28.03.2017 passed in respect of Property No. S-451, School Block, Shakarpur, Delhi. The brief facts necessary for disposal of this appeal are that the appellants purchased this property in 1994 by virtue of Agreement to Sell, etc and the Sale Deed was executed on 25.08.2006. As per appellants, construction in the property was raised prior to 08.02.2007 but on the false complaint of a tenant, the property of the appellant was booked and without supplying the copy of the demolition order, the action was taken. In the present appeal it was stated that the property is constructed in the special area and is exempted from punitive action under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being constructed prior to 17.01.2011. It was stated that the property is in special area and the cut-off date shall be 17.01.2011 since the definition of Special Area was introduced

on 17.01.2011 and no cut-off date has been provided for the protection of construction in the special area under Section 3 of the Act and therefore, the date of notification i.e. 17.01.2011 shall be the cut-off date. It was argued that since the respondent has failed to mention the date of alleged unauthorized construction in the show cause notice and in the demolition order, the protection of National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is available.

2. Ld. counsel for the appellant in support of his arguments relied upon the judgment of Hon'ble Delhi High Court passed in Khushi Sewa Sanstha Vs. The State and Ors. dated 16.01.2013 in Writ Petition No. 2000/12 of Hon'ble Supreme Court passed in State of UP Vs. Mahesh Narain AIR 2013 SC1778 and Delhi Airport Metro Express Pvt. Ltd. Vs. Delhi Metro Rail Corporation 290 (2022) DLT 116 (SC).
3. Ld. counsel for the respondent argued that the construction raised prior to **07.02.2007** is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for this special areas. The cut-off date of 17.01.2011 is not existing in the statute and is wrong interpretation of law. There is no document on record filed by the appellant to show that the construction was raised prior to 07.02.2007 and therefore in the absence of any sanction building plan, the appeal has no merits and is liable to be dismissed.
4. I have perused the record. The appellant has claimed protection of the existing construction and has claimed that since the definition of Special Area was introduced in National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 on 17.01.2011, the cut-off date for abeyance of the enforcement of the unauthorized construction in special areas shall be 17.01.2011 since no specific date has been provided for special area in Section 3 (2) (iii) of the National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
5. In this regard, it will be better to reproduce the relevant portion of Section 3 (2) for ready-reference:

**Section 3. Enforcement to  
be kept in abeyance –  
(1) (a) to (g)\*\*\*\***

**(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any Court, status quo-**  
**(i) as on the 1<sup>st</sup> day of January, 2006 in respect of encroachment or unauthorized development;**  
**(ii) in respect of unauthorized colonies, village abadi area (including urban villages) and their extensions, which existed on the 31<sup>st</sup> day of March, 2002 and where construction took place even beyond that date and (upto the 1<sup>st</sup> day of June, 2014), mentioned in sub-section (1);**  
**(iii) in respect of special areas as per the Building Regulations for Special Area, Unauthorized Regularized Colonies and Village abadis, 2010; and**  
**(iv) in respect of all other areas with the National Capital Territory of Delhi as on the 8<sup>th</sup> day of February, 2007, shall be maintained.**  
**(3)\*\*\*\*\***

6. Ld. counsel for the appellant has argued that no cut-off date for Special Area, Unauthorized Regularized Colony and Village Abadis have been provided under sub-clause iii of sub-section 2 of section 3 of National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. A bare

perusal of this provision will show that cut-off date as on 08.02.2007 has been provided under sub-section 2. After sub-clause (iii) of sub-section 2, the legislature has used the word 'and', which means that sub-clause (iii) & (iv) are to be read together. Under sub-clause (i) the date has been given as 01.01.2006, in sub-clause (ii) the dates have been given as 31.03.2002 and construction beyond this date up to 01.06.2014. There is no 'and' used between sub-clause (i), (ii) and (iii) but in between sub-clause iii & iv, the word 'and' has been provided which means that the cut-off date for Special Area, Unauthorized Regularized Colony, Village Abadi and all other area in NCT is 08.02.2007. When specific date has been provided in the statute, the provisions of General Clauses Act that when no date is provided, the date of notification shall be the cut-off date will not come to the aid of the appellant. There are no merits in the submission of Ld. Counsel for the appellant that no cut-off date has been provided under Section 3 of National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for Special Areas. Specific date of 08.02.2007 has been provided. Sub-clause (iii) & (iv) are to be read together.

7. Record further shows that the property of the appellant was booked initially for unauthorized construction on 13.02.2009 and demolition order dated 20.02.2009 was passed. This order was challenged by the appellant in appeal no. 794 of 2014 and the matter was remanded back for fresh hearing vide order dated 03.01.2017. The opportunity was provided and thereafter, after considering the documents of the appellant, the impugned demolition order has been passed. The order duly records that the appellant has not been able to furnish any document to show that the construction was raised prior to 08.02.2007 except of electricity bill dated 01.04.2003 for the ground floor only. In this appeal as well, the appellant has not filed any document to show that the construction was raised prior to 08.02.2007. Even as per PTR for the year 2009-10, the construction was in the property only up to second floor and that too raised in 2009-10. The documents of the appellant itself show that the construction was raised much after the cut-off date of 08.02.2007.
8. In these facts, there are no merits in this appeal and the same is dismissed and the demolition order dated 28.03.2017 is upheld.

9. 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 03.02.2026**

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