

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

APPEAL NO. 77/ATMCD/2016

**Shri Vasudev Chawla
S/o Late Shri Mulkh Raju
R/o A-1 & 2, Block A
Budh Vihar Phase I
Delhi-110086**

..... **Appellant**

Versus

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

..... **Respondent**

Date of Filing of Appeal : 19.01.2016
Date of Judgment : 05.02.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 11.02.2015 passed in respect of Property No. A 1 & 2, Block A, Budh Vihar, Ph. I, Delhi – 86 and the brief facts necessary for disposal of this appeal are that the appellant purchased this built-up property within an area measuring 121.5 sq. yds. at the ground floor and 140 sq. yds. on the first floor on 11.02.2013. A shop on the ground floor measuring approximately 20 sq. yds. belongs to Mr. Shubhash Garg and Mr. Ramphal Garg.
2. As per the appellant, the property of the appellant is old and occupied and he only carried out some renovation work but on the false complaint of the owner of the shop at the ground floor, the property of the appellant was booked on 03.02.2015. He replied this show cause notice dated 03.02.2015 on 05.02.2015 but the same was not considered and the impugned demolition order was passed in respect of entire property from ground to third floor stating that the reply is not satisfactory. It was argued for the appellant that the documents of the appellant showing that the construction is old and

occupied were not considered and the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 was not provided. The respondent had no material to show that the construction was raised after 01.06.2014 and therefore, the demolition order should be set-aside.

3. Ld. counsel for the respondent on the other hand argued that as per ownership document of the appellant dated 11.02.2013, the property consisted only of ground and first floor with roof rights but as on date, the entire second floor and a room with toilet exist in the property and therefore, this construction has been raised subsequently and the burden is on the appellant to show that the second and part third floor was constructed before 01.06.2014 and therefore, the appeal is meritless and should be dismissed.
4. I have perused the record. The ownership documents of the appellant dated 11.02.2013 show that the property was built up on ground and first floor as on that date. The appellant has placed on record copy of a Rent Deed dated 24.11.2011 entered between the predecessor in interest of the appellant and tenant Shriram. Vide this Rent Deed one room set on the third floor was let-out to the tenant for 11 months on a monthly rent of Rs. 600/-. The owner also got the police verification done for this tenancy vide application dated 01.12.2011. This clearly shows that one room set was existing in the property in 2011. Therefore, the construction at the third floor was in existence much prior to 01.06.2014. The office record shows that no construction was going on when the property was booked on 03.02.2015. It was booked on complaint and on completion of the construction. There is no material available in the office file to show that the construction was on-going at the time of booking. The photograph dated 24.04.2015 in the office file do not show on-going construction. The Site Plan filed with the appeal show that there is only a room with toilet and kitchen on the third floor with open terrace. This one room set was let-out in November 2011. The property therefore being constructed prior to 01.06.2014 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being a part of unauthorized colony.
5. During the pendency of the appeal, the question of encroachment on the public land also arose. Status report was called from PWD and vide its status

report filed on 17.03.2015, it was stated on behalf of PWD that there is no encroachment in the property since 2012 till date.

6. In these facts, the property is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore, the demolition order dated 11.02.2015 is kept in abeyance and the matter is disposed off. The demolition order however is upheld and the respondent is at liberty to take action once the Act ceases to be in force.
7. 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 05.02.2026**

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