

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

**APPEAL NO. 767/ATMCD/2023**

**APPEAL NO. 768/ATMCD/2023**

- 1. Dinesh Bansal  
S/o Sh. Raj Kumar  
R/o WZ 2243, Raja Park  
Rani Bagh  
Delhi-110034**
  
- 2. Sh. Pradeep Arora  
S/o Sh. Jiwan Dass Arora  
R/o BC-39 (West), Shalimar Bagh  
Delhi-110033**
  
- 3. Sh. Pradeep Kumar Bansal  
S/o Sh. Raj Kumar  
R/o WZ 2168, Second Floor  
Rani Bagh  
Delhi-110034**

..... **Appellants**

**Versus**

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

..... **Respondent**

**Date of Filing of Appeal : 29.11.2023**  
**Date of Judgment : 12.02.2026**

**JUDGMENT**

1. These are the two appeals challenging the demolition order dated 18.10.2023 in appeal no. 767/23 and the sealing order dated 20.10.2023 in appeal no. 768/23 passed in respect of unauthorized construction carried out in Property No. 1070, Kucha Natwa, Chandni Chowk, Delhi-110006 in the shape of entire Ground Floor, First Floor, Second Floor, Third Floor and one toilet at Fourth Floor. The brief facts necessary for disposal of these appeals are that the first

floor of the property except one shop was purchased by appellant no. 1 through Sale Deed dated 13.10.2010. The second floor and one shop at the first floor and the roof rights of the second floor were purchased by appellant no. 2 on 03.11.2004. The mother of appellant no. 3 purchased the roof rights of the second floor from appellant no. 2 on 10.08.2005 and thereafter, transferred the third floor to appellant no. 3 on 15.09.2014.

2. As per appellants, a fire broke out on 04.09.2022 in adjacent property no. 1061, Kucha Natwa and spread to properties no. 1062, 1063, 1070 (subject-property) and to property no. 1071. An FIR in this regard was also got registered by Delhi Fire Services on 13.09.2022. Because of that fire, the adjacent properties collapsed upon the subject-property and caused huge damage to the subject-property. The appellants repaired / reconstructed first, second and third floor of the subject-property to the same extent and no additional construction was raised. The brother of appellant no. 1 & 3 namely Sunil Kumar who has strained relations with them filed Writ Petition before Hon'ble High Court No. 17225 of 2022 alleging unauthorized construction and that Writ was disposed off on 21.04.2023 but the property of the appellants was illegally booked.
3. It was argued for the appellants that the construction up to third floor was existing since long and much prior to 08.02.2007 which is the cut-off date for protecting the construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appellants raised construction because of fire as permitted under clause 1.7.3 and clause 2.0.1 (d) of UBBL-2016 for which no prior permission is required, yet the respondent without considering the reply to the show cause notice and the documents of the appellants showing old construction booked the property and passed the impugned orders which are liable to be set-aside.
4. Ld. counsel for the respondent and the intervener on the other hand argued that the Sale Deeds of the appellants do not show the extent of construction existing in the property prior to fire. The fire in the adjacent property did not cause any substantial damage in the subject-property, yet the appellants under the pretext of repair because of fire, demolished and reconstructed the entire property from first to third floor and a toilet on the fourth floor which are new construction and unauthorized and cannot be protected under the

National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

5. I have perused the record. The documents relied by the appellants while submitting their reply to the show cause notice dated 17.04.2023 show that the electricity was energized on the second floor on 17.06.1999 and on the third floor on 22.03.2006. It is however relevant to note that at the third floor, the electricity was energized only for one private room. This document shows that there was only one room on the third floor as on 22.03.2006 when the electricity was energized. Further, a legal notice dated 21.06.2006 issued on behalf of one Sh. Chamanlal Gupta show that third floor was being constructed in the shape of a hall sometimes around January 2006.
6. However, the question remains as to whether fresh construction was raised after the fire broke out in the adjacent property or only some repairs were done. In this regard, the reply of the appellants dated 24.04.2023 given to the show cause notice dated 17.04.2023 and the averments made in the appeal are relevant which are in complete variations. In this reply dated 24.04.2023 on the last page in first paragraph, the appellants mentioned as under :

***“That the above-said persons had only got paint, whitewash and some minor repairs and renovations of the above-said floors, portions of property which had become black and damaged due to smoke and ablaze of sudden fire at property no. 1061-1063 on dated 04.09.2022 which are situated in same lane in front of each other having a gap of only 5 feet”.***

7. As per this paragraph, only repairs and renovations were done. Contrary to it, the appellants in para 9 of the appeal, stated as under:

***“9. That it is submitted that one of the adjacent property collapsed upon the appeal property, thereby causing huge damage to the appeal property as evident from the photographs annexed herewith as annexure-J”.***

8. In the appeal, altogether different submissions were made as compared to the reply. It was done only to save the unauthorized construction carried out in the property under the guise of repairs after the fire. The appellants tried to take advantage of the fire that broke out in the adjacent property.
9. The FIR registered by Delhi Fire Services is also relevant. As per this FIR, a fire broke in property no. 1059, 1060 and 1061, Kucha Natwa and the goods of a shop at second floor of 1070, which is part of the subject-property were burnt in that fire. As per this FIR, only goods lying in a shop on the second

floor were damaged and there was no damage to the entire property including first and the third floor. Admittedly this FIR was registered on 13.09.2022 after 10 days of fire on 04.09.2022 and was registered only after assessing the damage caused to the properties affected by fire. The appellants therefore without any substantial damage to their property, which fact was mentioned by them in their reply dated 24.04.2023, demolished the property up to first floor and raised fresh construction not only up to third floor but also constructed a toilet on the fourth floor which was never in existence.

10. The photographs available in the office record at page no. 217/C clearly show that the entire construction till the first floor was demolished and fresh construction was raised from first floor onwards.
11. As per documents filed by the appellants, only a room existed on the third floor on 22.03.2006 when the electricity was energized for only one room at third floor but after fire, the entire third floor was reconstructed. The appellants malafidely took benefit of the fire and reconstructed the entire property. They are not entitled to any protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 nor in terms of clause 1.7.3 read with 2.0.1 (d) of UBBL-2016 or 6.4.2 (h) of Delhi Building Bye-laws 1983. These provisions protect only when the existing construction damaged by fire etc. is reconstructed but not the fresh unauthorized construction when there was no damage to the building because of the fire, etc.
12. In these facts both the appeals are meritless and are dismissed. The impugned demolition and sealing orders are upheld.
13. 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 12.02.2026**

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