

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

**APPEAL NO. 1136/ATMCD/2013**

1. **Sh. Urooj Ahmad**  
**S/o Late Sh. Mohd. Yunus**  
**R/o 69, Noor Nagar Extn.**  
**Johri Farm, Okhla**  
**New Delhi**

2. **Smt. Shabnam Urooj**  
**W/o Sh. Urooj Ahmad**  
**R/o 69, Noor Nagar Extn.**  
**Johri Farm, Okhla**  
**New Delhi**

..... **Appellants**

**Versus**

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

..... **Respondent**

**Date of Filing of Appeal** : **18.11.2013**  
**Date of Judgment** : **17.02.2026**

**JUDGMENT**

1. This is an appeal challenging the demolition order dated 07.11.2013 passed in respect of Property No. 1620, Lal Kuan, Delhi-06 for carrying out unauthorized construction of rooms in the shape of flats at First Floor and Fourth Floor. The brief facts necessary for disposal of this appeal are that this unauthorized construction in the shape of reconstruction of rooms in the shape of flats at first and fourth floor of this property was booked on 01.07.2017 and the show cause notice was accordingly issued. The reply of the appellants

was not found satisfactory and the demolition order dated 15.07.2013 was passed. The appellants challenged the same in appeal no. 396/13. The matter was remanded back vide order dated 08.08.2013 with the directions to pass speaking order by the Dy. Commissioner within maximum three months. Subsequent to that personal hearing was provided to the appellants and the impugned order dated 07.11.2013 was passed by the Dy. Commissioner concerned.

2. The appellants have challenged this order on the ground that the property is old and occupied since it was purchased by appellant no. 1 and his brother on 25.01.2001 and by appellant no. 2 on 03.11.2010 and therefore, is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The Dy. Commissioner did not give personal hearing as directed by this Court. The appellants carried out only some renovation work in 2001 and no alterations and constructions were made which can be seen from mutation and rectification order dated 01.08.2002 passed by Dy. Assessor & Collector, MCD and therefore, the impugned order should be set-aside.
3. Ld. counsel for the respondent argued that at the time of initial booking of 01.07.2013, the property was booked when the unauthorized construction was on-going. Two masons and six labourers were found working at the property. The matter was remanded back with the directions that the appellants shall not seek any adjournment after appearing on 22.08.2013, yet the appellants filed their reply on 22.08.2013 at 05.30. PM and thereafter did not appear repeatedly. The fresh construction was raised on the fourth floor whereas the first floor was reconstructed as can be seen from the site plan filed with the appeal as compared with the site plan annexed with the Sale Deeds and therefore, the appeal should be dismissed.
4. I have perused the record. As far as the aspect of not providing personal hearing is concerned, this Court vide order dated 08.08.2013 remanded the matter back with the directions to the appellants to appear before the Dy. Commissioner on 22.08.2013 at 03.00 PM with reply to the show cause notice. There was specific direction that the appellants shall not seek any adjournment on any ground. The impugned order shows that the appellants did not appear on 22.08.2013 and filed reply with Executive Engineer

(Building) at 5.30 PM on 22.08.2013. The appellants violated the order dated 08.08.2013 which directed them to appear with reply before Dy. Commissioner. Why the reply was filed with Executive Engineer (Building) that too at 5.30.PM instead of 03.00 PM before Dy. Commissioner remains unexplained. Thereafter, appellants were asked to appear on 30.08.2013 but they did not appear and later submitted another reply dated 14.10.2013. The appellants failed to appear before the Dy. Commissioner concerned and their two replies were duly considered. The appellants cannot take benefit of their own wrong. They did not appear before the Dy. Commissioner despite directions and now cannot say that no personal hearing was provided.

5. Coming to the merits of the case, admittedly the property was booked on 01.07.2013, when unauthorized construction was in progress as two masons and six labourers were found working. The appellants do not have sanction building plan and claim protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. As per their documents, appellant no. 1 and his brother purchased portion shown red in the site plan on 25.01.2001. Appellant no. 2 purchased portion shown in green on 03.11.2010. This plan will show that as on the date of purchase, there was no construction on the fourth floor except of a hall on the front portion of the roof and the rear portion was open terrace. Similarly, on the first floor, there was a covered veranda in the green portion and a hall of 19 x 21 ft. in the red portion on the front side and three rooms, one bath, one WC and one store in the rear portion of the first floor.
6. Even as per the case of the appellants, this extent of construction was there in January 2001 and November 2010. If the same is compared with the site plan filed by the appellants along with the appeal, there is one office measuring 21 x 31 ft. in the rear of the first floor and an office of 24 x 21 ft. in the front of the first floor apart from lobby and counter. This construction is in complete variation of the construction existing at the time of Sale deed. Similarly, on the fourth floor instead of half open roof on the rear and a hall in the front, there exist four rooms, lobby, two kitchens and two toilets. This construction is also in total variance as compared to the construction at the time of Sale Deed. The appellants therefore have raised unauthorized construction on the fourth floor and also reconstructed first floor.

7. The burden was on them to show that this construction was raised prior to 08.02.2007. The only document filed to support this contention is an order dated 06.03.2013 of Dy. Assessor & Collector apart from the Sale Deeds. This order dated 06.03.2013 is of no help as the cut-off date is 08.02.2007 for protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and any document subsequent thereto, shall not help the appellants. As far the Sale Deeds are concerned as already discussed, the construction shown in the site plan annexed with the Sale deeds on the first and fourth floor is in complete variance as compared to the construction shown in the plan filed with the appeal. The construction was raised after 08.02.2007
8. In view of this discussion, the appeal is meritless and the same is dismissed and the demolition order 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 17.02.2026**

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