

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

**APPEAL NO. 14/ATMCD/2019**

1. **Shri Vinit**  
**S/o Shri Rajesh Kumar**  
**R/o 8763/3, First Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi**
  2. **Master Khushal**  
**S/o Sh. Rajesh Kumar**  
**Through his father and natural guardian**  
**Shri Rajesh Kumar S/o Shri Mangal Ram**  
**R/o 8763/3, First Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi**
  3. **Smt. Monika W/o Shri Raj Kumar Wadhawan**
  4. **Shri Raj Kumar Wadhawan**  
**S/o Shri Wazir Chand**  
**Both R/o 8763/3, Second Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi**
  5. **Smt. Kiran Tanwar W/o Shri Subhash Chander**  
**R/o 8763/3, Third Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi**
- ..... Appellants**

**Versus**

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

**..... Respondent**

**Date of Filing of Appeal : 04.01.2019**  
**Date of Judgment : 19.02.2026**

**APPEAL NO. 81/ATMCD/2019**

1. **Shri Vinit**  
**S/o Shri Rajesh Kumar**  
**R/o 8763/3, First Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi**

2. **Master Khushal**  
**S/o Sh. Rajesh Kumar**  
**Through his father and natural guardian**  
**Shri Rajesh Kumar S/o Shri Mangal Ram**  
**R/o 8763/3, First Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi**
3. **Smt. Monika W/o Shri Raj Kumar Wadhawan**
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**Both R/o 8763/3, Second Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi**
5. **Smt. Kiran Tanwar W/o Shri Subhash Chander**  
**R/o 8763/3, Third Floor**  
**Multani Dhanda, Paharganj**  
**New Delhi** ..... **Appellants**

**Versus**

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

**Date of Filing of Appeal** : **04.02.2019**  
**Date of Judgment** : **19.02.2026**

### **JUDGMENT**

1. These are the two appeals challenging the sealing order dated 16.05.2017 in appeal no. 14/19 and the demolition order dated 27.11.2012 in appeal no. 81/19 passed in respect of unauthorized construction carried out in Property 8763/3, Multani Dhanda, Paharganj, Delhi in the shape of Ground Floor, First Floor, Second Floor and Third Floor. The brief facts necessary for disposal of these appeals are that appellant no. 1 & 2 are the owners of first floor, appellant no. 3 & 4 are the owners of second floor and appellant no. 5 is the owner of third floor of the subject-property. The appellants have purchased their respective floors through GPA etc. executed by Smt. Anju and Smt. Roma. The GPA in favour of appellant no. 1 & 2 was executed on

06.04.2010, the GPA in favour of appellant no. 3 & 4 was executed on 23.09.2009 and for the third floor in favour of appellant no. 5 on 15.03.2010. Initially the property was booked and demolition order was passed on 08.10.2010 and sealing action was taken on 09.04.2012. The appellants preferred appeal no. 179 of 2012 against the earlier sealing order dated 28.12.2010. That appeal was allowed on 07.05.2012 with directions to the appellants to appear before the Quasi Judicial Authority and the respondent was directed to pass speaking order. It was also noted that since the ground floor owner withdrew its appeal for the ground floor, the sealing order dated 28.12.2010 was made final in respect of the ground floor. Pursuant to the order dated 07.05.2012, the appellants filed their reply and also appeared before the Quasi Judicial Authority who passed the sealing order on 16.05.2017. The appellants also challenged the demolition order in appeal no. 81 of 2019 claiming that the demolition order dated 27.11.2012 was never served upon them and the copy of the same was received only on 31.01.2019. It is also relevant to note that the earlier demolition order dated 08.10.2010 was challenged by Smt. Anju and Smt. Roma in appeal no. 241/12 and that order was also set-aside in this appeal on 16.08.2012.

2. The appellants have challenged these two orders on the ground that the matter was remanded back on 07.05.2012 with the directions to the Dy. Commissioner to pass detailed speaking order maximum within three months but the order was passed after more than five years. It was also stated that the reply of the appellants was not considered as their grounds taken in the reply were not dealt in the impugned sealing order. It was argued that the order was passed in mechanical manner only observing that status-quo of construction existing prior to 07.02.2007 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and since the appellants could not show that the construction was raised prior to this date, the impugned order was passed. It was argued that the property is situated in special area for which policy is yet to be framed under MPD-2021. Since the policy is yet to be framed for the special area, the protection available under Delhi Laws Special Protection Act is for the construction existing prior to 01.01.2012. It was argued that Special Area Building Regulations were notified on 17.11.2011 without providing any cut-off date of

protection and as such, the date on which the National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 came into force should be the cut-off date for special area. It was argued that in redevelopment plan, the entire existing construction at site shall come in compoundable limits in terms of clause 3.3.2 (v) of MPD-2021 and therefore, the impugned demolition and sealing orders should be set-aside and status-quo be maintained till policy of redevelopment for special area is framed.

3. Ld. counsel for the respondent on the other hand argued that the appellants have wrongly claimed that date of enforcement of National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for the special area is 01.01.2012. The said cut-off date is 08.02.2007 as provided under the Act. The building was constructed after 07.02.2007 without any sanction building plan and therefore, is unauthorized construction and no protection is available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
4. I have perused the record. The appellants in their replies submitted before the Quasi Judicial Authority after the matter was remanded back on 07.05.2012 claimed that the construction is old and occupied. The property tax has been duly deposited and the cut-off date for protection of construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for special area is 01.01.2012 and therefore, no punitive action can be taken against the subject-property. In the impugned order, the Quasi Judicial Authority observed that the status-quo qua the construction existing prior to 07.02.2007 is to be maintained for special area. The Quasi Judicial Authority was of the opinion that the cut-off date for special area is 07.02.2007 and not 01.01.2012 as claimed by the appellants. It further recorded that Smt. Anju Puri and Smt. Roma Puri purchased ground floor one room without roof rights and one small room, kitchen, bathroom & toilet with roof rights on 25.11.2008 and thereafter, sold first, second and third floor to the appellants in 2009 & 2010 and therefore, the construction on the first, second and third floor was raised after 25.11.2008 and same is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. I do not find that the Quasi Judicial Authority

did not deal with the contentions raised by the appellants in their replies. Though the order is not elaborate, yet it dealt with these contentions.

5. Now coming to the aspect as to what is the cut-off date for construction protected for special area properties under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. 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 01.01.2012. It was stated that the property is in special area and the cut-off date shall be 01.01.2012 since the definition of Special Area was introduced on 17.11.2011 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. 01.01.2012 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.
6. 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).
7. I have perused the record. The appellants are claiming protection of the existing construction and have claimed that since the definition of Special Area was introduced in National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 w.e.f. 01.01.2012, the cut-off date for abeyance of the enforcement of the unauthorized construction in special areas shall be 01.01.2012 as 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.
8. 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)\*\*\*\*\***

9. 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) after the mark of semicolon, but in between sub-clause (iii) & (iv), the word 'and' has been provided after the semicolon 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) of sub-section 2 of Section 3 are to be read together.

10. In view of the same let us examine the documents of the appellants to ascertain when the construction at first, second and third floor was raised. Smt. Roma purchased one shop on the ground floor measuring approximately 18.4 sq. mtr. without roof rights on 27.08.2008 from Sh. Ram Niwas Goel. Further, Smt. Anju and Smt. Roma purchased one room measuring 9 X 21 ft. without roof rights and one small room, kitchen, bath and toilet with roof rights on the ground floor from Smt. Darshana Kaur on 25.11.2008. The site plan annexed with this registered GPA dated 25.11.2008 show that there was no construction except of the ground floor in the subject-property. Therefore as on 25.11.2008 only ground floor was existing and the subsequent construction was raised thereafter.
11. Record shows that appellant no. 1 & 2 purchased first floor on 06.04.2010 from Smt. Anju and Smt. Roma, appellant no. 3 & 4 purchased second floor on 23.09.2009 from them and the third floor was purchased by appellant no. 5

from Smt. Anju and Smt. Roma on 15.03.2010. The first, second and third floor therefore were constructed much after 08.02.2007 and undisputedly after November 2008. The property tax documents filed by the appellants are only after November 2008. The property tax receipt dated 24.09.2009 depositing tax from April 2004 to 31.03.2010 for ground and first floor is also of no help to the appellants since the property tax was deposited both for ground and first floor and does not reflect as to what was the extent of construction on the first floor and otherwise also this receipt is of 24.09.2009 i.e. after 25.11.2008 when the ground floor was purchased by Smt. Anju and Smt. Roma. The tax was deposited under Amnesty Scheme only for ground and first floor and therefore, is of no help to the appellants. Same is true for the receipt dated 14.12.2009 for the house tax for the second floor. It is also relevant to note that vide this receipt, appellant no. 3 & 4 deposited the property tax for 2004-05 till 2009-10, despite the fact that they purchased the property only on 23.09.2009. Why they deposited the tax for the period for which they were not even the owners of the property remained unexplained.

12. In view of these facts, there are no merits in these appeals and the same are dismissed and the impugned orders are upheld. The protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available for the subject-property.

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 19.02.2026**

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