

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

**APPEAL NO. 405/ATMCD/2018**

**Smt. Nisha Sharma  
W/o Shri Ram Dev Sharma  
R/o 3, Court Lane, Civil Lines  
Delhi-110054**

..... Appellants

**Versus**

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

..... Respondent

**Date of Filing of Appeal : 12.06.2018**  
**Date of Judgment : 23.02.2026**

**JUDGMENT**

1. This is an appeal challenging the demolition order dated 08.06.2018 passed in respect of unauthorized construction at ground, first and part second floor of property No. 6465-66 Katra Bariyan, Fateh Puri, Delhi-110006.
2. The brief facts necessary for disposal of this appeal are that the appellant purchased ground floor of this property abutting main road vide sale deed dated 04.08.2010. She also purchased entire front portion of the first floor and second floor with roof rights through separate sale deed of the same date. The property was got mutated in the property tax records on 30.10.2016. The ground floor rear portion which is property number 6198 was also purchased by her which is not subject property. It is claimed in the appeal that since the property was in dilapidated condition, the appellant sought permission to repair and the same was granted vide letter dated 09.03.2017.
3. As per appellant, she thereafter repaired the property as permissible under law. The occupier of the rear portion of property No.6198 carried out additions

and alterations at the first and second floor and to cover up their violations made false complaint against the appellant and also filed civil suit No.882 of 2017 against MCD and appellant. The MCD filed written statement on 05.04.2017 in that suit stating that only permissible repairs are being carried out at ground floor without any new construction. One Local Commissioner was also appointed in that suit who in his report dated 22.03.2017 stated that construction is an old three storeyed building and only repair is being carried out at the ground floor. It is claimed for the appellant that the show cause notice dated 01.02.2018 was duly replied on 19.02.2018 along with supporting documents but the respondent/MCD did not appreciate that the construction is old and occupied existing prior to 07.02.2007 and passed the impugned demolition order dated 08.06.2018 which is to be set aside for the reason that no fresh construction was raised in the property and the construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

4. Ld. counsel for the respondent on the other hand argued that the property was booked at the time of ongoing construction in February 2018. Any status report prior to that of 2017 is of no help to the appellant. The appellant has failed to show that the construction existing in the property is same as was before 08.02.2007 and therefore the same should be demolished.
5. I have perused the record. The appellant along with her reply dated 19.02.2018 submitted with the respondent filed copy of the written statement of respondent MCD in suit No.882/17 along with report of the Local Commissioner and her title documents.
6. In this written statement filed in April 2017, the respondent took the stand that only permissible repairs are being carried out at ground floor and no new construction was found in progress. Admittedly, the property was booked on 01.02.2018 and it can be a situation that construction was raised after April 2017.
7. The report of the Local Commissioner filed in that suit dated 22.03.2017 however records that 10 newly constructed pillars were installed and roof was shown as new built-up with T-iron and stone sheet. This report clearly shows that fresh construction was raised though the appellant claims the same to be repaired. Ten newly constructed pillars cannot be called as repairs.

8. The title documents of the appellant however, are sufficient to demolish the case of the appellant that no fresh construction was raised. As per the site plan filed by the appellant along with her appeal, the ground floor consists of three godowns in the rear side and a shop with ramp on the front. There are two stairs on the ground floor, one on the front and one in the rear side. The first floor consists of a hall in front with stairs and a hall in middle. The rear portion is on property No.6198. The second floor consists of hall with stairs and an open terrace in the middle and the back portion of 6198. The site plan with sale deed of the appellant dated 04.08.2010 of the ground floor show that there was a room, a kitchen, stairs and a shop in front followed by a hall and thereafter three halls in the back portion with two stairs in the rear. The two stairs in the rear were reduced to one stair in the rear i.e. one stair on the right side was merged in the hall thereby changing the size of the hall from 26 feet 9 inch X 14 feet 2 inch to 24 feet 10 inch X 16 feet. On the front side the kitchen and the room was removed and a ramp was constructed. The size of the shop from 23 feet 6 inch X 13 feet 6 inch was changed to 16 feet 7 inch X 16 feet 6 inch.
9. Coming to the first floor. The sale deed of property No.6198 back side portion of the first floor which abuts the first floor of the subject property has site plan annexed with the sale deed which is at page No.48/C of the office record. This site plan mentions on its head that site plan of property 6465-66 and 6198. This site plan shows that at the first floor of the subject property there was a room in front followed by a small room and open space with a store and toilet and two rooms thereafter. The rear portion was of 6198. The site plan filed with the appeal show that the two rooms and open space in the front has been converted into big hall and the open space adjoining the stairs has been included in the hall. The store, toilet and two rooms in the middle have also been changed to a big hall. The appellant has raised fresh construction in the property by demolishing the existing construction and also included the open space on the first floor in the covered area.
10. She undisputedly purchased the property in August 2010 which was much after the cut of date of 08.02.2007 which is date under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for this area. She violated the status quo order by raising fresh construction and therefore

is not entitled to protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. There is no sanctioned building plan. The appeal is therefore meritless. Same is dismissed.

11. 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 23.02.2026**

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