

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

APPEAL NO. 349/ATMCD/2020
APPEAL NO. 386/ATMCD/2022

V. Annapurani
W/o Late Sh. K.V. Venkateshwaran
R/o C-4/6, Front Portion, Model Town-III
Delhi-110009.

..... Appellant

Versus

1. North Delhi Municipal Corporation
A-1 Block, Zone Building,
Kshav Puram Zone, Delhi-110035.

And also at:

North Delhi Municipal Corporation
Service be kindly effected through Commissioner
Dr. S.P.M. Civic Centre, J.L.N. Marg,
Near Minto Bridge Delhi.

2. Sunil Kumar, Assistant Engineer
North Delhi Municipal Corporation
A-1 Block, Zone Building,
Kshav Puram Zone, Delhi-110035.

3. Arvinder Singh
R/o C-4/6, Second Floor Back Portion,
Model Town-III, Delhi-110009.

4. Harvinder Kaur W/o Arvinder singh
R/o C-4/6, Second Floor Back Portion,
Model Town-III, Delhi-110009.

5. Neelam Anand
R/o C-4/6, First Floor Back Portion,
Model Town-III, Delhi-110009.

..... Respondents

Date of Filing of Appeal : **27.11.2020 &
10.12.2020**
Date of Judgment : **25.02.2026**

JUDGMENT

1. These are two appeals challenging the revocation order dated 13.08.2020 in appeal No 349/2020 passed under Section 338 of the DMC Act vide which the sanctioned building plan obtained under 'Saral Scheme' for construction of residential building in the front portion of property No.C-4/6, Model Town-III, Delhi (subject property) was revoked and challenging the demolition order dated 09.11.2020 in appeal No.386/2020 passed in respect of the subject property.
2. The brief facts necessary for disposal of these two appeals are that the appellant is the owner of subject property and obtained sanctioned building plan in respect of the subject property under Saral Scheme on 31.01.2020. That sanctioned building plan was challenged by the residents of the rear portion of subject property in appeal No.102/2020 titled as Arvinder Singh Vs North DMC. The respondent thereafter scrutinize the documents of the appellant filed with her online application under 'Saral Scheme' and found that the appellant has misrepresented certain facts and issued show cause notice dated 15.5.2020 u/s 338 of the DMC Act. The same was replied by the appellant and thereafter the revocation order dated 13.08.2020 was passed. Further, since the sanctioned building plan was revoked, the notice u/s 343 of the DMC Act dated 17.08.2020 was issued claiming unauthorized construction in the shape of stilt to third floor in the subject property. It was also duly replied and thereafter the demolition order dated 09.11.2020 was passed recording that once the sanctioned building plan has been revoked, the entire construction is unauthorized.
3. The appellant has challenged these two orders on the ground that the private respondents 3 to 5 who are the residents of the rear portion of the subject property have raised unauthorized construction in their portion and they raised construction

without any sanction from the respondent/MCD for which she made several complaints with MCD but no action was taken on her complaint. The private respondents in connivance with MCD started harassing the appellant and got her property booked. The subject property was punctured at several places and the alleged unauthorized construction was also demolished but no action was taken against the property of respondent 3 to 5 who are residing in the rear portion despite the fact that their property was also booked vide show cause notice dated 20.08.2020. It was argued that the Architect of the appellant committed bonafide mistake while obtaining the sanctioned building plan by claiming FAR of 300%. She is ready to apply for revised sanctioned building plan for pro-rata FAR. It was argued that the respondent MCD has been biased against the appellant who is a senior citizen lady. Despite booking the property of the appellant and the private respondents simultaneously, action was taken only against the subject property by adopting pick and choose method and no action was taken against the unauthorized construction by respondent 3 to 5.

4. Ld. counsel for the respondent on the other hand argued that appellant herself admitted that she wrongly claimed the FAR of 300 under Saral Scheme instead of pro-rata FAR and therefore she misrepresented the facts and her sanctioned building plan under Saral Scheme was rightly revoked and as such the entire construction is unauthorized and was rightly booked and demolition action was taken subsequently and therefore the appeals should be dismissed.
5. I have perused the record. Admittedly the appellant obtained sanctioned building plan under Saral Scheme and applied for FAR of 300 without showing that the front portion has been carved out from a bigger plot measuring 476 sq. yds. She was required to obtain FAR as permissible for the plots falling in the category between 250 to 750 sq. mtrs which is 225% with permissible ground coverage of 75%. She however, obtained sanction for the plot under the category of 100-250 sq. mtrs which can have FAR of 300%. She admitted in her reply to the show cause notice under section 338 of the DMC Act that she applied for FAR 300% on the basis of advice given by her Architect and is ready to apply for revised FAR of 225%. This is sufficient to revoke

the sanctioned building plan for the reason that it was obtained on misrepresentation of facts. Whether it was done on the advice of her Architect or by herself is immaterial since misrepresentation was made for obtaining sanctioned building plan.

6. In these facts there are no merits in the appeal challenging the revocation of sanctioned building plan and the same is dismissed.
7. Coming to the demolition appeal, once the sanctioned building plan was revoked the entire construction in the subject property becomes unauthorized till the same is regularized or compounded. The appellant till date has not applied for revised sanctioned building plan as suggested by her in her reply to the notice u/s 338 of the DMC Act. The respondent therefore was justified in booking the property for unauthorized construction and passing the demolition order. The arguments that selective action was taken against the property of the appellant and that no action was taken against the unauthorized construction by respondents 3 to 5 has no bearings on the merits of the appeal. The appellant has separate remedy for that grievance. The construction of the subject property is unauthorized and is not protected under any law including National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011
8. In these facts the demolition appeal is also dismissed.
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 25.02.2026**

**(AMIT KUMAR)
Addl. District & Sessions Judge
PO: Appellate Tribunal, MCD, Delhi**