

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

APPEAL NO. 205/ATMCD/2021

- 1. Smt. Savitri Devi
W/o Shri Kailash Chand Bansal**
- 2. Shri Kailash Chand Bansal
S/o Late Sh. Gheesa Ram Bansal**

**Both R/o H.No. 31-32, Block 8
Trilok Puri, Delhi-110091**

..... Appellants

Versus

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

..... Respondent

Date of Filing of Appeal : 07.07.2021
Date of Judgment : 25.02.2026

APPEAL NO. 259/ATMCD/2021

- 1. Smt. Savitri Devi
W/o Shri Kailash Chand Bansal**
- 2. Shri Kailash Chand Bansal
S/o Late Sh. Gheesa Ram Bansal**

**Both R/o H.No. 31-32, Block 8
Trilok Puri, Delhi-110091**

..... Appellants

Versus

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

..... Respondent

Date of Filing of Appeal : 18.08.2021
Date of Judgment : 25.02.2026

JUDGMENT

1. These are the two appeals challenging the demolition order dated 19.04.2021 in appeal no. 205/21 and the sealing order dated 02.08.2021 in appeal no. 259/21 passed in respect of unauthorized construction carried out in Property No. 8/31-32, Trilok Puri, Delhi-91 in the shape of Ground Floor, First Floor, Second Floor and Third Floor with Projection on Municipal Land. The brief facts necessary for disposal of these appeals as mentioned in the appeals are that the appellants purchased two properties on 14.09.1981 bearing House No. 31 & 32, Block – 08, Trilok Puri, Delhi from one Sh. Karan Singh who was allotted these two plots in lieu of Possession Slip issued in his name by the DDA.
2. As per appellants the property was four storey when it was purchased and because of passage of time, the construction dilapidated and the appellants reconstructed the property in 2008 in the same structure as existing earlier. However, the respondent in March 2021 visited the property to seal and demolish and thereafter the appellants came to know that a demolition order has been passed. It has been claimed in appeal number 205/2021 that neither show cause notice nor any demolition order was served upon the appellants and therefore, the principles of natural justice were violated. The respondent failed to consider that the construction is old and occupied and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was argued for the appellants that these appeals are to be allowed only for the reason that neither show cause notice nor the demolition order was served. No speaking order mentioning the alleged deviation in the property was passed. The respondent took action on the basis of a complaint whereas the construction is old and occupied and therefore, these appeals should be allowed.
3. Ld. counsel for the respondent argued that both the show cause notices and the orders were sent by speed post and were duly delivered upon the appellants. The tracking report of the show cause notice and sealing order under Section 345A of the DMC Act is available and there is presumption of service of the show cause notice and the demolition order issued under Section 344 (1) read with Section 343 of the DMC Act. On merits, it was

stated that the appellants have admitted that they reconstructed the property in 2008 i.e. after the cut-off date of 08.02.2007 which is the relevant date for protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore, the appeals are meritless.

4. I have perused the record. As far as the show cause notice and the sealing order passed under Section 345A of the DMC Act are concerned, they were sent through speed post in the name of appellant no. 2 who is husband of appellant no. 1. The office record contains the track consignment report which shows that both the articles were duly delivered to the appellants. Therefore, there was proper service of the show cause notice and the sealing order upon the appellants.
5. Coming to the service of show cause notice and the demolition order issued under Section 344 (1) read with Section 343 of the DMC Act, they were sent by speed post at the correct address in the name of appellant no. 2 as was done in respect of the sealing action. Once the articles were sent at the correct address, there is presumption of service under General Clauses Act. Otherwise also there is no reason to believe that though the show cause notice and the sealing order sent at the same address were duly served but the show cause notice and the demolition order sent at the same address by the same mode were not served. The presumption is in favour of service and the appellants therefore were duly served.
6. Coming to the merits of the case, it has been claimed by the appellants that they purchased the property on 14.09.1981 and it was a four storey structure at that time. The same is contrary to transfer documents executed by Sh. Karan Singh in favour of the appellants. The Agreement to sell dated 14.09.1981 show that Sh. Karan Singh transferred plot in favour of appellant no. 1 and not the built-up property. Further, these documents are only of plot no. 8/31 and there is no document to show that how the appellants became owner or came in possession of other plot no. 8/32. Admittedly, the building exist on two plots no. 8/31 and 8/32 and there is no document in respect of plot no. 8/32 in favour of the appellants.
7. Further, the appellants in para 7 (D) have stated that they reconstructed the said property in the year 2008 as the earlier construction became dangerous for living. It shows that property was reconstructed in 2008 after the cut-off

date of 08.02.2007 which is the relevant date for availing protection of the existing construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 in this plotted development area.

8. It is also relevant to note that these plots no. 31 & 32 in Block-8 of Trilok Puri were allotted by the DDA in lieu of Jhuggi unauthorizedly built up by the allottees on the govt. land. As per DDA policy relating to these plots, construction can be raised only on the ground and first floor. Further, the allotted plots are only on lease in favour of the original allottees and are non-transferable. The construction over and above the first floor is in itself unauthorized. Though it is correct that even unauthorized constructions are protected till National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force but for the plotted development, the protection date is 08.02.2007 and the construction at the subject-property was raised in 2008.
9. In these facts, the appeals are devoid of any merits and they are dismissed and the impugned orders are upheld.
10. 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-cum-P.O.
Appellate Tribunal, MCD, Delhi