

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

**APPEAL NO. 886/ATMCD/2024**

**Mohd. Shahvez  
S/o Mr. Jalis Ahmed  
R/o H.No. 13, Gali No. 21  
Zakir Nagar, Okhla  
New Delhi-110025 ..... Appellant**

**Versus**

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

**..... Respondent**

**Date of Filing of Appeal : 04.10.2024  
Date of Judgment : 27.02.2026**

**JUDGMENT**

1. This is the appeal challenging the sealing order dated 19.06.2024 passed in respect of Property No. 23, House No. 335, Main Road, Near Power House, Zakir Nagar, Jamia Nagar, New Delhi. The brief facts necessary for disposal of this appeal are that the appellant is the owner in possession of Shop no. 22/7 (New No. 3) at ground floor of property no. 335 situated at Joga Bai, Zakir Nagar, Okhla.
2. As per appellant he was tenant in this shop (subject-property) since 1988 and purchased the shop from its owner on 29.04.2015. This shop was reconstructed way back in 2012. On 26.08.2023 SHO, PS-Jamia Nagar took the appellant to the police station and after detaining him for the whole night produced the appellant before SEM from where he was sent to judicial custody. Appellant was released on bail on 30.08.2023. He moved an application before SEM seeking reasons of his detention and he was provided copy of Kalandra under Section 107/151 CRPC. The appellant filed Criminal Writ Petition No. 2839/23 on 27.09.2023 before Hon'ble High Court and the Hon'ble High Court directed the State to provide the orders of SEM to the

appellant. Thereafter orders dated 27.08.2023 and 30.08.2023 passed by SEM were supplied to the appellant and from those orders appellant realized that he has been falsely implicated by the police in connivance with the MCD. The appellant filed complaint dated 06.07.2023 addressed to Director, Vigilance Department. He was also shocked to know that the subject-property has been sealed during his unlawful detention and keys were handed over to the son of the appellant. Later, police admitted that the appellant was in possession of the subject-property on 26.08.2023 when the officials of MCD attempted to seal the subject-property. Later, proceedings under Section 107/151 CRPC were dropped against the appellant on 29.01.2024. The appellant thereafter filed Civil Writ Petition No. 5208 of 2024 before the Hon'ble High Court and the Hon'ble High Court vide order dated 09.04.2024 directed MCD to consider the representation dated 05.03.2024 of the appellant and pass speaking order. In compliance to the directions of the Hon'ble High Court, the respondent passed the impugned order dated 19.06.2024.

3. This order has been challenged on the ground that the appellant is in possession of the subject-property since 1988 and the property was sealed when the appellant was in unlawful detention without any reason. The property is old and occupied and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore, the impugned sealing order should be set-aside.
4. Ld. counsel for the respondent on the other hand argued that the property was booked for unauthorized construction in the shape of ground floor and columns on the first floor in July 2015 and as on date, the property is constructed from ground to fourth floor which clearly show that the unauthorized construction has been raised in the entire property no. 335 and not only in the subject-property and since this construction has been raised after 01.06.2014 which is the cut-off date for claiming protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, the appellant is not entitled to protection under this Act and the appeal should be dismissed.
5. I have perused the record. The appellant has filed documents in the form of telephone bills and electricity bills to show that his shop is existing prior to

01.06.2014. The appellant further states that property was reconstructed in the year 2012. It means that the construction as existing since 1998 was demolished and the property was reconstructed, allegedly in 2012. However, the office record of the respondent show that the unauthorized construction was booked on 03.07.2015 in the form of unauthorized construction of ground floor and raising of columns at first floor. The show cause notice dated 03.07.2015 was issued in the name of appellant and Mr. Aamir. It was not replied and therefore, the demolition order dated 13.07.2015 was passed for the unauthorized construction at ground and first floor. The demolition order was issued in the name of appellant and Mr. Aamir. Since the demolition action could not be taken because of inadequate police force, the MCD issued show cause notice under Section 345A of DMC Act followed by sealing order under Section 345A dated 11.08.2015.

6. The appellant challenged that order before the Hon'ble High Court in Writ Petition No. 5208/2024 and the Hon'ble High Court vide order dated 09.04.2024 directed the respondent to pass fresh speaking order after considering the representation dated 05.03.2024 and after giving personal hearing to the appellant. Thereafter, the impugned order dated 19.06.2024 was passed. The initial sealing order dated 11.08.2015 and this order dated 19.06.2024 have been assailed in this appeal.
7. The appellant along with the appeal has filed the photograph of the entire property no. 335 where the subject-property is at ground floor which is a shop in L-shape. This photograph clearly shows that the property is now constructed at ground, first, second, third and fourth floor i.e. five floors. When the property was booked for unauthorized construction on 03.07.2015 and when the demolition order dated 13.07.2015 was passed, the property was constructed only up to ground floor with columns at first floor. Despite this booking and demolition order in July 2015, the unauthorized construction continued and the property was constructed up to five floors. Thus the status-quo qua construction as required to be maintained as on the cut-off date of 01.06.2014 was violated and therefore, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 ceases to be available.

8. Further, this clearly shows that as on 01.06.2014, the property was still under construction or that the construction was not even raised as the booking is of July 2015, when only ground floor was in existence and further construction on the first floor and upwards was in progress. In any case, since the status-quo was violated after 01.06.2014, by raising construction up to five storey, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available. The plea of the appellant that the subject-property is old and occupied since 1988 is of no aid to him as there is sufficient material in the office record to show that this construction was raised after 01.06.2014 and not in 2012 as alleged by the appellant. It is also relevant that demolition order has not been challenged till date.
9. Admittedly there is no sanction building plan and the construction is unauthorized. The protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available.
10. In these facts the appeal is devoid of merits and is dismissed and the impugned order is upheld.
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 27.02.2026**

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