

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

APPEAL NO. 289/ATMCD/2025

- 1. Anita Jain
W/o Sudesh Jain**
- 2. Sudesh Kumar Jain
S/o Late Nem Chand Jain**

**Both R/o Khasra No. 123/16
Gali No. 17B, Block-B
Near Khandelwal Bag House
Sant Nagar Main Market
Burari, Delhi-110084**

..... Appellants

Versus

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

..... Respondent

**Date of Filing of Appeal : 05.05.2025
Date of Judgment : 13.03.2026**

JUDGMENT

1. This is the appeal challenging the demolition order dated 09.04.2025 passed in respect of unauthorized construction carried out in the Property No. Khasra No. 123/16, Gali No. 17-B, B-Block, Sant Nagar, Delhi-110084 in the shape of entire First Floor with projection on municipal land. The brief facts necessary for disposal of this appeal are that the appellants are husband and wife and purchased the subject-property in two parts on 22.04.1994 and 06.03.1998. As per appellants they constructed the property somewhere in

the year 2000 and since then they are residing therein with the family members and no fresh construction has been raised.

2. It was argued for the appellants that the construction of the subject-property being raised prior to 01.06.2014 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the respondent did not appreciate the documents filed by the appellants which establishes the extent of construction prior to 01.06.2014 and therefore, the demolition order should be set-aside.
3. Lt. counsel for the respondent on the other hand argued that the appellant no. 1 herself wrote a letter dated 16.05.2024 to the respondent admitting that she constructed the property in 2018 and therefore the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available and the appeal should be dismissed.
4. This letter was disputed by the appellant being fabricated document.
5. I have perused the record. The property was booked for unauthorized construction at ground and first floor with projection on municipal land vide show cause notice dated 19.04.2024 followed by the demolition order dated 03.05.2024. This order was challenged in appeal no. 335/24 and vide order dated 06.11.2024, the matter was remanded back for passing speaking order and thereafter the impugned order dated 09.04.25 was passed which protected the ground floor under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being constructed prior to 1.06.2014 and first floor was directed to be demolished.
6. The documents filed by the appellant show that the electricity connections were installed in the premises way back in 2005 & 2006. There were two electricity connections in the name of both the appellants regularly consuming the electricity. Application for regularization of this unauthorized colony named B-Block, Sant nagar, Burari also sent to Urban Development Department on 28.12.2004 along with the details of the property owners and the subject-property is mentioned at Serial No. 590 of this list. These documents duly reflect existence of the subject-property much prior to 01.06.2014.
7. The FIR and the show cause notice dated 19.04.2024 show that the property was booked on complaint and no fresh construction was going on in the

property. The show cause notice and the demolition order are silent in respect of the date of the unauthorized construction. The respondent failed to show when this unauthorized construction was raised. The documents of the appellants on the other hand show that the property was constructed much prior to 01.06.2014.

8. Coming to the letter dated 16.05.2024 at page no. 45/C of the office record alleged to be written by the appellant stating that the construction was raised in 2018. This document on the face of it seems to be fabricated. The appellant prior to this alleged letter dated 16.05.2024, submitted her reply on 06.05.24 to the show cause notice dated 19.04.2024. The same can be seen from the order dated 06.11.2024 passed in appeal no. 335/24. This reply dated 06.05.2024 submitted by the appellant no. 1 states that no construction was done in the property after 2007 and the construction was completed somewhere in the year 2000. When the appellant on 06.05.2024 stated that entire construction was completed in 2000, why she will claim within 10 days on 16.05.2024 that the construction was raised in 2018. Further, the signatures on letter dated 16.05.2024 of appellant no. 1 do not tally with her admitted signatures in the appeal and affidavit. A bare perusal of the disputed and admitted signatures will show that same were not done by one person. In these facts, the letter dated 16.05.2024 cannot be relied by the respondent to claim an admission of the appellants that the construction was raised in 2018.
9. In these facts, the construction in the property raised much prior to 01.06.2014 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appeal is allowed and the demolition order is therefore kept in abeyance till the Act is in force.
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 13.03.2026**

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