

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

APPEAL NO. 137/ATMCD/2025

**Sh. Nawabuddin Ansari
S/o Late Sh. Babu Khan
R/o F-86 (New) G-104 (Old)
Jagatpuri, Delhi-110051**

.....Appellant

Versus

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

..... Respondent

Date of Filing of Appeal : 07.03.2025
Date of Judgment : 30.03.2026

JUDGMENT

1. This is an appeal against the demolition order dated 18.02.2025 passed in respect of unauthorized construction in the shape of deviation / excess coverage from sanction building plan dated 27.02.2024 at Stilt to Third floor of Property No. F-86 (New) / G-104 (Old), Gali No. 11, Jagatpuri, Delhi. The brief facts necessary for disposal of this appeal are that the appellant purchased this property measuring 50 sq. yd. from his father Babu Khan through registered GPA vide GPA dated 27.08.2020. Thereafter, the appellant obtained sanction building plan under Saral Scheme on 27.02.2024 and raised construction. A civil suit no. 165/24 was filed at East District, Karkardooma court claiming unauthorized construction in the property. The Ld. Civil Court sought response from MCD regarding the construction raised in this property and in consequent thereto, the unauthorized construction in the subject-property was booked vide show cause notice dated 26.09.2024. The appellant replied to this notice on 03.10.2024. the respondent after providing personal hearing to the appellant passed the demolition order dated

26.09.2024. It was later clarified that the date mentioned on the demolition order dated 26.09.2024 was a clerical error and vide corrigendum dated 24.02.2025, this error was rectified and the correct date of demolition order is 18.02.2025.

2. The appellant in the present appeal has argued that he demolished the old structure and raised the new construction in accordance with sanction plan. The property was wrongly booked under pressure because of order passed in the Civil Suit. The respondent did not consider the reply submitted by the appellant and passed the demolition order which is not sustainable in law. It was argued for the appellant that property no. F-86 and G-104 are two different properties, though both are owned by the appellant. It was argued that the appellant has already demolished the balcony in the subject-property which was excess coverage and therefore, there exist no unauthorized construction in the property. It was argued that the sale deed in favour of the father of the appellant show that he along with his brother purchased 200 sq. yd plot in G-Block, Jagatpuri. The owner of the adjacent property gave right of way to the appellant towards property no. F-86 and therefore there exist no unauthorized construction in the property and the demolition order should be set-aside.
3. Ld. counsel for the respondent on the other hand argued that the construction existing in the property as compared with the sanction building plan will show the excess coverage in the property which is also mentioned in the status report dated 21.07.25 when the joint inspection was done in the property and therefore, the construction beyond the sanction building plan is excess coverage and is required to be demolished and therefore, the appeal is devoid of merits and should be dismissed.
4. I have perused the record. It was argued for the appellant that F-86 & G-104 are separate properties. The same however is contrary to the pleadings of the appeal as well as the title documents of the appellant. The appellant in this appeal himself has mentioned that F-86 is the new no. of property no. G-104 which was the old no. The GPA exhibited in his favour also show that his father transferred 50 sq. yd. Built-up area in his favour out of his property situated in G-Block. It shows that even as on 27.08.2020, there was only G-

Block assigned to the subject-property and F-86 is a new no. Therefore, there are no merits in the argument that F-86 and G-104 are different properties.

5. Coming to the merits of the appeal, the appellant has placed on record the sanction building plan dated 27.02.2024. He has also placed on record the copy of the site plan showing existing construction in the property. A comparison of these two plans available on record shows that not only there are deviations in the construction but there is excess coverage as well. As per sanction building plan, there has to be a bed room in the south which exist as per existing construction. After the bed room there is a toilet and open area with dwelling unit and lobby as per sanction building plan. However in the existing construction at site in place of open area, there is a kitchen. There is no toilet and further, a bathroom has been constructed in the area meant for stairs and a WC has been constructed next to bathroom. Further in place of kitchen in the North, there is a room. All this show that there are so many deviations existing in the property as compared to sanction building plan. Further, there exist excess coverage not only as per the status report dated 21.07.2025, but even as per the site plan filed by the appellant. The sanction was taken for 41.80 sq. mtr. but the covered area is 53.51 sq. mtr. The appellant has failed to explain about these deviations and excess coverage. The deviations and excess coverage are proved even as per the documents filed by appellant.
6. In these facts the appeal has no merit. The demolition order dated 18.02.2025 is upheld.
7. The appeal is dismissed.
8. 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 30.03.2026**

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