

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

1. **APPEAL NO. 555/ATMCD/2013**
Rajiv Sawhney Vs. MCD
2. **APPEAL NO. 558/ATMCD/2013**
Yakesh Anand Vs. MCD
3. **APPEAL NO. 563/ATMCD/2013**
Rohini Sawhney Vs. MCD
4. **APPEAL NO. 565/ATMCD/2013**
M/s Deep Shikha Associates Vs.MCD
5. **APPEAL NO. 566/ATMCD/2013**
Sanjeev Anand Vs. MCD

Date of Judgment : 02.04.2026

JUDGMENT

1. These are five appeals challenging the sealing action dated 08.11.2006 taken in pursuance to directions of the Monitoring Committee appointed by Hon'ble Supreme Court of India. All the appeals are taken up together as they relate to different properties situated in Thapar Chamber-II, Ring Road, Village Kilokri at plot no. 6B, Khasra No. 716, Abadi Deh, Village Kilokri, New Delhi and the grounds of challenge are same.
2. The appeal no. 558/13 is for flats no. 125 and 126 at the first floor. Appeal no. 555/13 is for flats no. 30 to 33 at third floor, appeal no. 563/13 is for flats no. 26 to 29 at third floor, appeal no. 565/13 is for flat no. 128 at first floor and the appeal no.566/13 is of flat no. 132 at first floor of Thapar Chamber-II.
3. These appeals were preferred in pursuance to the orders passed by the Hon'ble Supreme Court of India dated 30.04.2013 on the interim applications preferred by the appellants in Writ Petition No. 4677/1985 titled as "**M.C. Mehta Vs. UOI & Ors**". The sealing action was taken when the Monitoring Committee inspected the premises and found that entire building is being used as a commercial complex without any permission or registration in violation of building bye-laws and MPD-2021. The Monitoring Committee found there exists compoundable and non-compoundable deviations in the

properties which are to be totally demolished or compounded as per clause 4.4.3 of MPD-2021.

4. The appellants have challenged this sealing action on the ground that these flats are part of commercial building being Thapar Chamber-II constructed around 1984-1986. The appellants have been paying property tax of their respective flats at commercial rates for commercial purposes. The construction in the property is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being existing much prior to 08.02.2007. It was argued that this Court had asked the respondent to file status report of the construction vide order dated 21.10.2013 and as per status report dated 16.01.2014 the property abuts on non-notified road in urban village Kilokri. Subsequently vide status report dated 17.10.2016 the respondent stated that as per approved layout plan the land use of the site is work centre, as no commercial activities can be carried out. Later respondent filed another status report on 13.03.2019 stating that it is for DDA to clarify the land use. However the respondent subsequently changed stand by stating that as per MPD-2021 there is no category or permitted use of work centre and as such the use of the property can only be for residential purpose. It was argued that respondent had been charging house tax as per commercial rates and now are estopped from raising the plea that it is for residential use only. It was argued that as per layout plan available at the website of DDA the proposed land use of the property is as work centre where commercial activities are permitted. The appellants have already deposited the misuser charges in terms of order dated 15.07.2022 and therefore the appeal should be allowed and the properties should be desealed.
5. Ld counsels for the respondent on other hand argued that the appellants admittedly purchased flats as per flat buyer agreement. The layout plan relied by the appellants on the website of the DDA is only a proposed layout plan. The DDA has clarified vide its letter dated 12.04.2019 written to AE(B) that the land use of the site is residential as per MPD-2021 and in view thereof, the subject properties cannot be used for any purpose other than residential and can be desealed only on the undertakings to be given by the appellants that

they shall not use the property for any purpose other than that permitted under MPD-2021 which is residential.

6. I have perused the record. Though it is correct that the MCD in earlier status report dated 17.10.2016 stated that the land use is work centre but later it was clarified that opinion in this regard has to be obtained from DDA. The DDA later vide its letter dated 12.04.2019 has clarified that the land use of site under reference is residential as per MPD-2021. Further, the plan relied by the appellants is only purposed development plan of Village Kilokri and not a final layout plan of Village Kilokri. It is also relevant to note that the appellants themselves have stated that plot bearing no. 6B Khasra. No. 716, Village Kilokri where the building known as Thapar Chamber-II has been built is an abadi deh land of Village Kilokri. The word abadi deh refers to inhabited residential area of a village. It is to be used primarily for houses. Therefore, the use of land cannot be commercial unless otherwise permitted in MPD-2021.
7. Considering the stand of DDA in its letter dated 12.04.2019 that the land use of site is residential as per MPD-2021, this property cannot be used for any purpose other than residential as the same will violate the land use permissible under MPD-2021. The property can be desealed only on the undertaking of the appellants that same shall not be used for any other purpose except residential. It cannot be used for commercial purposes as claimed by appellants.
8. In these facts, the present appeals are dismissed and the properties cannot be desealed to be used for commercial purposes. The respondent however shall deseal the property only when the appellants shall furnish their undertakings to not to use the same for any other purpose except residential and only after verifying that the misuser charges have been paid by the appellants as per status report dated 17.04.2017.
9. In view of the above discussions, the appeals are dismissed.
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 02.04.2026**

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