

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

**APPEAL NO. 874/ATMCD/2016**

**Shri Alok Kumar Agarwal  
Flat No. 52, 1st Floor, HIG SFS  
Ashok Vihar, Phase-IV  
New Delhi-110052**

**.....Appellant**

**Versus**

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

**..... Respondent**

**Date of Filing of Appeals : 22.09.2016  
Date of Judgment : 07.04.2026**

**APPEAL NO. 875/ATMCD/2016**

**Swift Impex Private Limited  
Flat No. 48 Ground Floor, HIG SFS,  
Ashok Vihar, Phase-IV  
New Delhi-110052**

**.....Appellant**

**Also at:**

**3, Laxmi Bai Nagar Market  
New Delhi-110023**

**Versus**

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

**..... Respondent**

**Date of Filing of Appeals : 22.09.2016  
Date of Judgment : 07.04.2026**

## JUDGMENT

1. These are the two appeals against the two demolition orders dated 07.08.2015 passed in respect of unauthorized construction carried out in the shape of covering of open space at First Floor at Flat No. 52, SFS Flat, Ashok Vihar, Phase-IV, New Delhi in appeal no. 874/16 and the demolition order dated 07.08.2015 in respect of unauthorized construction carried out in the shape of addition/alteration at Ground Floor by way of covering of open space, toilet and brick walls in Flat No. 48, SFS Flat, Ashok Vihar, Phase-IV, New Delhi.
2. Both the appeals are taken up together since the appellant Mr. Alok Aggarwal (appeal no.874/2016) is the owner/occupier of Flat no. 52 at First Floor and is lessee/occupier of Flat No. 48 at Ground Floor. The brief facts necessary for disposal of these two appeals are that the appellant Mr. Alok Kumar purchased the first floor flat in September 1997 and as per paragraph 7.7 of his appeal no. 874/16, he decided to construct a temporary structure to cover open space in front of the said premises and during construction, the same was booked vide notice dated 28.07.2015.
3. In the other appeal no. 875/16, the appellant company purchased the ground floor flat through sale deed dated 08.05.2015 and as per paragraph 7.4 of the appeal, the same was leased out to Mr. Alok Aggarwal and his wife for residential purposes. The wife of the appellant also purchased the second floor flat no.56 sometime in 1999 and as such Mr. Alok Kumar, his wife with family are occupying ground, first and second floor flats in the same vertical stack.
4. The appellants in both these appeals have challenged the demolition orders on the ground that demolition orders were never served upon the appellants, yet demolition action was taken on 26.09.2016. It was argued for the appellants that since the demolition orders stood executed, nothing survive in these appeals, yet the respondent without issuing any fresh demolition order intends to demolish the subject properties. The proposed demolition is against the principles of natural justice and cannot be done without giving opportunity of being heard to the appellants. The regularization application of the appellants were rejected without reasons and the entire action is

motivated because of complaint filed by one Mr. I. J. Gupta before Public Grievance Commission, Delhi. Ld. counsel for the appellants has further relied upon the judgment of Hon'ble High Court passed in case titled as Atul Sharma Vs. MCD 2025 SCC online Delhi 8937 in which the Hon'ble High Court has relied upon the judgment of Hon'ble Supreme Court of India passed in the case of In Re: Directions in the matter of demolition of structures (2025) 5 SCC 1 and it was argued that since the direction of Hon'ble Supreme Court of India were not complied with by the respondent, the demolition order should be set-aside. It was further stated that since unauthorized construction(s) stood already demolished, the appeals should be allowed and the demolition order should be held to be satisfied.

5. Ld. counsels for the respondent on the other hand argued that the show cause notices and the demolition orders were duly served upon the appellants. The appellants after the demolition action have reconstructed the demolished structure and therefore the appeals should be dismissed on this ground alone.
6. I have perused the record. The show cause notice dated 28.07.2015 in respect of unauthorized construction by covering open space at first floor of flat no. 52 was replied by the appellant through reply dated 07.08.2015 which was submitted with the respondent on 13.08.2015. Same has been filed as annexure A-4 in appeal no. 874/16. The appellant did not reply the show cause notice dated 28.07.2015 in time as apparently the reply was submitted after 15 days. Therefore it cannot be said that show cause notice was not in his knowledge. Further, the demolition order in respect of flat no. 52 dated 07.08.2015 was served by way of pasting at the property and photograph of the same were taken as available in the office record at page 15/C. Service through pasting is permitted mode of service under section 444 of DMC Act and has also been approved by Hon'ble High Court in several judgments including :

- 1) Paramjeet Kaur V/s. MCD 1994 (56) DLT 720.
- 2) Narender Prasad Dube V/s. Union of India 1999 (81) DLT 378.
- 3) Hari Dutt Vashistha V/s. MCD 1978 (2) ILR (Delhi) 28.
- 4) Usha Devi Sharma V/s. MCD 2020 (271) DLT 76.

7. Therefore the contention of the appellant that show cause notice and demolition order were never served is meritless.
8. Coming to appeal no. 875/16. In this appeal, the show cause notice was sent by speed post and was also served by pasting which as already discussed is approved mode of service. Similarly the demolition order was also served through pasting and the photograph of the same is available at page 13/C of the office record. Therefore, even in this appeal, the show cause notice and the demolition order were duly served on the occupier/lessee Mr. Alok Aggarwal.
9. Coming to the merits of both the appeals, as per the pleadings of the appeals, the appellant in para 7.7 of appeal no. 874/16 admitted that sometime in May 2015, when the ground floor flat no. 48 was leased out to him, he decided to construct a temporary structure to cover certain open space in front of the said premises. As per the other appellant in appeal no. 875/16, the ground floor flat was purchased by the company on 08.05.2015 and was leased out to Mr. Alok Aggarwal and his wife. This ex-facie show that this unauthorized construction was raised around May 2015 and is not protected under NCTL, where the cut-off is 08.02.2007 for protection of unauthorized construction.
10. The respondent admittedly demolished this unauthorized structure vide demolition action taken on 29.09.2015 and 01.03.2016. The photographs of the said demolition action are available on record at page no. 4/C and 3/C of the office record of appeal no. 875/16. The appellants however have reconstructed this demolished portion unauthorizedly as can be seen through the status report dated 06.07.2023 and the photographs annexed therewith. The appellants raised the height of the wall at ground floor at the same level of around 10-12 feet and thereafter, covered the portion above the wall with the help of aluminum panels and aluminum roof which earlier was though in the shape of concrete pillars and RCC roof. It means that the demolished portion has been reconstructed and that is the only reason of arguing that since the unauthorized construction has been demolished, the demolition orders stood executed.
11. The appellants are trying to take benefit of their unlawful act of reconstructing the demolished portion by submitting that the appeals are now in fructuous. The argument on the face of it appears malafide and is unsustainable. The

appellants cannot be permitted to get these appeals disposed-off by recording that the demolition orders stood executed and satisfied.

12. As far as the directions passed by the Hon'ble Supreme Court of India in that case of In Re: Directions in the matter of demolition of structures (2025) 5 SCC 1 are concerned, the present appeals relate to 2016 and these directions have been laid down by the Hon'ble Supreme Court of India in 2025. Otherwise also the show cause notices and the demolition orders were duly served upon the appellants and they cannot claim that opportunity of being heard was not provided. It is also relevant to note that the appellants reconstructed the demolished portion and cannot seek equity from the Court.
13. In view of this discussion and considering the unlawful act of the appellants of reconstructing the demolished portion again, both the appeals are meritless and are dismissed. The demolition orders are upheld.
14. Record of the respondent, if any, be returned along with copy of this order and appeal files be consigned to record room.

**Announced in the open Court  
today i.e. on 07.04.2026**

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