

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

**APPEAL NO. 917/ATMCD/24**

**Sh. Rajiv Madan  
Through its Attorney  
Sh. Raj Kumar  
S/o Sh. Ram Saran Dass,  
Shop No. 19, Old Lajpat Rai Market,  
Chandini Chowk, Delhi-110006**

**..... Appellant**

**Vs**

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

**.....Respondent**

**Date of Filing of Appeal : 15.10.2024**  
**Date of Order : 17.04.2026**

**ORDER**

1. This is an appeal challenging the sealing order dated 06.09.2024 passed in respect of unauthorized construction in the shape of one room at second floor of property shop no. 19, Old Lajpat Rai Market, Chandini Chowk, Delhi-110006.
2. The appellant has challenged this order on the ground that the alleged unauthorized construction in the property is prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was argued that a writ petition was filed before Hon'ble High Court titled as M/s Ellar Traders Vs. Govt. of NCT of Delhi and Ors. bearing W.P.(C) No. 3332/98 wherein in pursuant to order dated 15.05.2006 a survey was conducted regarding existing construction in the area of Old Lajpat Rai Market and the respondent/MCD in that survey gave measurement of the

covered area of this shop. It was argued that since that survey which was conducted prior 08.02.2007, no fresh construction has been raised in the property and the construction existing is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was argued that earlier a sealing order dated 31.12.2021 was passed against this shop which was challenged in appeal no. 26/2022 and the matter was remanded back vide order dated 10.11.2023 with directions to the respondent to consider the survey report filed before the Hon'ble High Court in the above mentioned writ petition yet the respondent did not consider this survey report and passed the impugned order. It was argued that protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 has been given to several other shops in this market yet the respondent did not give that protection to the shop of the appellant. It was argued that since the booking was only of a room at second floor, the appellant had no reason to give explanation about the covered area of the other floors. It was therefore prayed that the impugned order should be set-aside.

3. Ld counsel for the respondent on the other hand argued that this sealing order was passed in pursuant to booking unauthorized construction under section 344 (1) read with 343 DMC Act and the demolition order dated 07.08.2015 has attained finality since the appeal against the demolition order no. 312/21 was withdrawn on 11.04.2022. It was argued that there is encroachment on all the floors of the subject shop. The appellant did not demolish the unauthorized construction above 300 FAR permitted by the Hon'ble High Court in the writ petition of Ellar Traders and now cannot claim protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was also argued that apart from this survey report there is no documents filed by the appellant like property tax returns, electricity bills to establish the construction existing prior to 08.02.2007 and therefore the appeal should be dismissed.
4. I have perused the record. As per survey conducted by the respondent in pursuance to the direction given by the Hon'ble High Court in the case of Ellar Traders vide order dated 15.05.2006, the allotted area of this shop is 292 sq. ft.

whereas the construction from basement to second floor is 363.28 sq ft. on each floor. The area as per 300 FAR permitted by Hon'ble High Court in this writ comes to 876 sq ft. and the excess area is 213.84 sq. ft. The Hon'ble High Court vide order dated 20.08.2014 while disposing this writ petition directed in para 22 of this order that any unauthorized construction which is beyond the FAR of 300 at least be removed forthwith.

5. The appellant is trying to take benefit of the survey conducted by the respondent in pursuant to order dated 15.05.2006 passed in this writ by showing that the construction is prior 08.02.2007 and is protected but on the other hand is not following the directions to demolish the extra construction beyond 300 FAR. The Hon'ble High Court categorically stated that a survey be conducted to indicate whether FAR of 300 had been taken from initial allotment and further directed to demolish the unauthorized construction beyond FAR of 300.
6. The survey show excess coverage beyond 300 FAR of 213.84 sq ft. which the appellant did not demolish. The appellant cannot be permitted to take benefit of the survey report without complying the directions of the Hon'ble High Court passed in the same writ petition. Apart from this survey report, there is no other documents to show the extent of construction existing in the property as on 08.02.2007.
7. The appeal therefore is devoid of merits and same 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 17.04.2026**

**(AMIT KUMAR)  
District Judge-cum-P.O.  
Appellate Tribunal : MCD Delhi**