

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

**APPEAL NO. 534/ATMCD/24**  
**APPEAL NO. 535/ATMCD/24**

**Arun Tyagi**  
**S/o Late Sh. Sukhbir Singh Tyagi,**  
**R/o Property near Pole No. HT-532-49/26,**  
**Gali No. 6, Wazirabad Village, Burai,**  
**Delhi.**

**..... Appellant**

**Vs**

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

**.....Respondent**

**Date of Filing of Appeal : 24.07.2024**  
**Date of Order : 20.04.2026**

**ORDER**

1. These are two appeals challenging the demolition order dated 28.11.2022 in appeal no. 534/24 and sealing order dated 13.12.2023 in appeal no. 535/24 passed in respect of unauthorized construction in the shape of ground, first and second floor of property near Pole No. HT-532-49/26, Gali No. 7, Main Road, Wazirabad Village, Delhi.
2. The appellant has challenged these two orders on the ground that the construction is old prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The rural area village abadi is exempted from the building regulations of MCD. The appellant has only repaired the old premises and no fresh construction has been raised. It was argued for the appellant that the respondent did not consider the

documents filed by the appellant showing construction upto second floor much prior to 01.06.2014 and therefore the impugned orders are liable to be set-aside.

3. Ld counsel for the MCD on the other hand argued that the show cause notices were duly served through pasting. The appellant has raised fresh construction as can be seen from the photographs available on record. The building bye-laws are applicable even in village abadi and under the guise of repairs the appellant has raised fresh construction and therefore the appeals are without merits.
4. I have perused the record. The property was booked for unauthorized construction in the shape of ground, first and second floor vide show cause notice dated 18.11.2022. The same was sent through speed post but returned unserved with the report incomplete address. It was thereafter served through pasting and the photograph of this pasting is available at page no. 6/C of the demolition record. The appellant did not reply and thereafter the demolition order dated 28.11.2022 was passed. It was also served through pasting and the photograph of pasting is at page no. 14/C of the office record. Service through pasting is proper service and appellant cannot claim that it was not properly served. The respondent also took partial demolition action on 29.05.2023.
5. Coming to the sealing order, the show cause notice under Section 345-A of the DMC Act dated 27.09.2023 was served through pasting and it was also replied by the appellant. The reply was duly considered during personal hearing given to the appellant and thereafter property was sealed at three points on 06.09.2024. The appellant to show that the construction is old existing prior to 01.06.2014 has relied upon the electricity bills. These bills show that the electricity was energized at ground floor on 02.01.2002, at first floor on 11.04.2005 and at second floor on 30.10.2012. However, the same does not show the extent of construction existing on these floors on the date of energization. The photograph of the subject property filed by the appellant at page no. 44 of the appeal show that the unauthorized construction has now been completed which was undergoing at the time of booking. The photographs in the office record show that the ground floor of the property had plastered walls at the time of booking whereas the walls at first floor were only brick walls without any plaster. The

construction was going on at the time of booking and as on date it is complete having three storied finished structure. The appellant has not filed any property tax return to show the extent of covered area when the electricity were installed for different floors. The photographs clearly show that it is a case of fresh construction and not minor repairs as alleged by the appellant. The appellant violated the status quo required to be maintained to claim protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appeals therefore are devoid of merits. The protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available to the property in question. Building bye-laws are now applicable even for village abadi and prior sanction is required to raise construction. The appeals are devoid of merits and are dismissed.

6. 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 20.04.2026**

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