

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

**APPEAL NO. 53//2017/ATMCD - Dr. Ahmad Kamaal Vs. MCD**  
**APPEAL NO. 473/2017/ATMCD - Dr. Ahmed Kamaal Vs. MCD**  
**APPEAL NO. 795/2017/ ATMCD - Dr. Ahmed Kamaal Vs. MCD**  
**APPEAL NO. 891/2017/ATMCD - Dr. Ahmed Kamaal Vs. MCD**  
**APPEAL NO. 987/2017/ATMCD - Arun Kar And Anr. Vs. MCD**  
**APPEAL NO. 988/2017/ATMCD - Arun Kar And Anr. Vs. MCD**

**JUDGMENT**

1. These are the six appeals challenging the following orders:

1. Demolition order dated 07.10.2016 in appeal no. 891/17 in respect of unauthorized construction of 07 rooms and a toilet.
2. Demolition order dated 02.02.2017 in appeal no. 795/17 in respect of unauthorized construction of 10 rooms and one toilet, passed in respect of Property No. F-107, Gali No. 06, Wazirabad, Delhi (here in after referred as subject property)
3. Sealing order dated 20.03.2017 in appeals no. 473/17 and 988/17.
4. Sealing order dated 21.12.2016 in appeals no. 987/17 and 53/17.

2. The appeals no. 987/17 and 988/17 have been filed by one Mr. Arun Kar and his wife Smt. Amrita Kar whereas other four appeals have been filed by Dr. Ahmed Kamaal.

3. The brief facts necessary for disposal of these appeals are that the appellants of appeal no. 987/17 and 988/17 (Mr. & Mrs. Kar) claim themselves to be the owner of subject-property which was purchased by them through two registered sale deeds. They executed GPA, Agreement to Sell etc. in favour of the appellant of the other four appeals

(Dr. Ahmed Kamaal) on 31.03.2004 and later executed a cancellation deed dated 13.03.2013 and cancelled the documents executed in favour of Dr. Ahmed Kamaal. The respondent MCD booked the unauthorized construction in the subject property of seven rooms and a toilet by virtue of show cause notice dated 03.09.2015 followed by the demolition order dated 30.09.2015. The appellant Dr. Ahmed Kamaal challenged the demolition order dated 30.09.2015 in appeal no. 1137/15 and this Tribunal vide order dated 01.06.2016 allowed this appeal and the matter was remanded back to the respondent with direction to provide opportunity of hearing to the appellant and pass fresh speaking order. The respondent/MCD thereafter complied with the directions of order dated 01.06.2016 and passed fresh speaking order dated 07.10.2016 which has been challenged in appeal no. 891/17. In the meantime fresh show cause notice dated 18.01.2017 was also issued under section 344(1) read with 343 of the DMC Act in respect of unauthorized construction of another 10 rooms and toilet in the subject property and second demolition order dated 2.2.2017 was passed which has been challenged in appeal no. 795/17. The respondent similarly passed two sealing orders dated 21.12.2016 for seven rooms and one toilet and dated 20.03.2017 for ten rooms and one toilet which have been challenged in other four appeals.

4. The appellant Dr. Ahmed Kamaal has challenged these two demolition and two sealing orders on the premise that the construction of 17 rooms and toilets is old and occupied much prior to year 2000 and is protected under. He was only repairing the already existing construction which has been unlawfully booked twice by the respondent and therefore, his appeals should be allowed. Reliance in this regard was placed on the site plan filed by him in his earlier appeal no. 1137/15 where he has shown 17 rooms and four toilets existing in the property as on the date of that appeal.

5. Ld. counsel for the other two appellants Mr. & Mrs. Kar has argued that Dr. Ahmad Kamaal has no locus to file his four appeals. Mr. & Mrs. Kar are the actual owners having legal title in the subject property by virtue of registered sale deeds. Unauthorized construction in their property has been raised by Dr. Ahmed Kamaal and by his father Iftikar Hasan and they are ready to demolish the unauthorized construction in the property if the same is de-sealed and therefore, their appeals should be allowed and the property should be de-sealed to enable these appellants to demolish the unauthorized construction.
6. I have perused the record. The title dispute between the two set of appellants is sub-judice before the Civil Court. Further, this Tribunal is not competent to decide the title dispute between the two set of appellants. This Tribunal has to see whether the impugned orders are liable to be set-aside or to be upheld.
7. The basic ground on which the appellant Dr. Ahmed Kamaal is assailing the four orders is the construction being old and existing prior to 01.06.2014 which is the cut of date for protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, for the subject-property. The documents relied upon by him to show that the construction is prior to 01.06.2014 are GPA, Agreement to sell etc. dated 31.03.2004 executed by Mr. & Mrs. Kar. These documents note that the subject-property is built-up property but does not specify the extent of construction in the subject property. These documents therefore are not helpful to establish existence of 17 rooms and four toilets in the property prior to 1.06.2014.
8. Apart from these documents, the other document is a property tax receipt dated 11.11.2016 vide which Dr. Ahmed Kamaal deposited property tax from the year 2004-05 to 2015-2016. This receipt is dated 11.11.2016 which was much after the first booking of unauthorized construction on

03.09.2015 and after the demolition order dated 30.09.2015 and obviously was a document created/procured after the booking and cannot be relied upon. Through this document, the property tax of 12 years was deposited and that too after the booking of the property and therefore, cannot be considered. Apart from these two documents, there are no other document filed by the appellant Dr. Ahmed Kamaal to show that there were 17 rooms and four toilets in the property.

9. It is also relevant to note that the property tax of the subject property which was earlier mutated in the name of appellant Dr. Ahmed Kamaal has now been revoked and it no longer is mutated in his name. Further, this appellant in his appeals did not specify the extent of construction existing in the property. The appellant did not mention about the number of rooms and toilets existing in the property when the documents dated 31.03.2004 were executed in his name.
10. He has further relied upon the site plan filed in appeal no. 1137/15 to show 17 rooms and four toilets existing in the property as on the date of that appeal which is 11.12.2015. The same does not show that the rooms were constructed prior to 01.06.2014. Further, the status report dated 30.11.2017 filed by respondent in appeal no. 795/17 show that there are 17 rooms and six toilets/bathrooms in the property. This status report has not been challenged and therefore, the number of toilets existing in the subject-property have increased. The appellant as such also violated the status-quo order by constructing two more toilets.
11. These discussions clearly show that the appellant Dr. Kamaal has failed to prove that the existing construction was raised prior to 01.06.2014 and further, the status-quo was also violated which is required to be maintained to claim protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Therefore, there

are no merits in the four appeals filed by Dr. Ahmed Kamaal and are dismissed.

12. Coming to the other two appeals filed by Mr. & Mrs. Kar. They have claimed that the property should be de-sealed to allow them to demolish the unauthorized construction which means that they admit the correctness of two sealing orders. They are at liberty to approach the Dy. Commissioner concerned to get the property temporarily de-sealed to carry out demolition as per law. The appeals challenging the sealing orders on merits are not maintainable and sealing orders are upheld. Their appeals are also dismissed.

13. In view of the same all the six appeals are dismissed. 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 29.04.2026**

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