

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

**APPEAL NO. 891/ATMCD/2018**

**Rekha Sharma  
W/o Ashok Kumar Sharma  
R/o KD-245, Pitampura  
New Delhi-110034**

..... **Appellant**

**Versus**

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

..... **Respondent**

**Date of Filing of Appeal : 06.12.2018**  
**Date of Judgment : 30.04.2026**

**JUDGMENT**

1. This is an appeal challenging the demolition order dated 02.11.2018 in respect of Property/Flat No. 246, First Floor, DDA Flat, KD-Block, Pitampura, Delhi-110034 for having carried out unauthorized construction in the shape of deviation / excess coverage by covering front and rear courtyard against standard building plan of DDA along with projection on municipal land. (here in after referred as subject-property).
2. The brief facts necessary for disposal of this appeal are that the appellant purchased the subject-property on 20.10.2011 by virtue of registered sale deed. Thereafter, she applied for regularization of the existing construction in 2013 and also deposited the requisite amount of Rs. 26589/- which was duly acknowledged. In the year 2016, the appellant filed a Civil Suit for permanent and mandatory injunction against the occupants of upper floor no. KD-247, during which the respondent issued show cause notice dated 24.10.2017 to

the appellant which was duly replied, yet the demolition order dated 02.11.2018 was passed.

3. The appellant has challenged this order primarily on the ground that the construction is old and occupied and is prior to 08.02.2007 and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and also on the ground that the same was regularized in 2013 and yet the respondent booked the property unlawfully. It was argued for the appellant that the respondent MCD did not consider the property tax record produced by the appellant showing that the construction is old nor it considered the aspect of regularization and since the construction is already regularized and otherwise protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appeal should be allowed and the demolition order should be set aside.
4. Ld. counsel for the MCD on the other hand argued that the subject-property was never regularized in 2013 as claimed by the appellant because of discrepancy of the covered area in the documents filed by the appellant. It was further stated that the property tax record show covered area of 104 sq. mtr. against existing area of 118.27 sq. mtr. apart from projection on municipal land and therefore, even the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available and as such, there are no merits in this appeal.
5. I have perused the record. The appellant has first raised the ground of regularization of the existing structure in 2013. The regularization file record was submitted by the respondent which show that the respondent asked the appellant to deposit R. 26589/- toward regularization fees which was duly deposited but the regularization was not accorded because of difference of covered area in the documents submitted by the registered engineer appointed by the appellant. The said engineer calculated the regularization charges at page no. 27/C of this record for an excess area of 39.61 sq. mtr. over and above the sanction area of 60 mtr., thereby showing the covered area as 99.61 sq. mtr. The regularization charges were calculated as per this calculation only for 39.61 sq. mtr. Against it, the existing plan submitted, of the residential building of the subject-property reflected the covered area with balcony as 118.27 sq. mtr. There was a difference of almost 20 sq. mtr. of the

covered area in the calculation sheet and in the submitted existing plan and therefore, the regularization was not accorded despite deposit of regularization expenses. Therefore, the argument that the property was regularized in 2013 is factually incorrect.

6. The second argument of the appellant was that the construction is old and occupied and prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 This argument is also baseless since the property tax record of the subject property show the covered area of 104 sq. mtr. even as on today. Contrary to it, the appellant herself submitted in the regularization application in the year 2013 that the existing covered area is 118.27 sq. mtr. There is a difference of more than 14 sq. mtr. in the covered area as mentioned in the property tax record, if compared with the site map submitted with the regularization application.
7. The appellant thus made additional construction of at least of 14 sq. mtr. more as compared to property tax record. It was for the appellant to show as to when this additional construction was raised and why it is not reflected in the property tax return. The appellant thus violated the status-quo required to be maintained to claim protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Therefore, this argument of old construction and protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is without any merits.
8. In view of above discussion, there are no merits in this appeal, the appeal is dismissed and the demolition order is upheld.
9. 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 30.04.2026**

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