

**2IN THE COURT OF SH. AMIT KUMAR :**  
**ADDL. DISTRICT & SESSIONS JUDGE-CUM-PRESIDING OFFICER,**  
**APPELLATE TRIBUNAL, M.C.D., DELHI.**

**APPEAL NO. 137/ATMCD/2019 -Afroz Begum Vs. MCD**  
**APPEAL NO. 138/ATMCD/2019 -Humera Saeed Vs. MCD**  
**APPEAL NO. 140/ATMCD/2019 -Humera Saeed Vs. MCD**  
**APPEAL NO. 141/ATMCD/2019 -Afroz Begum Vs. MCD**

**JUDGMENT**

1. These are the four appeals challenging the demolition order dated 15.01.2019 in appeals no. 137/19 & 138/19 passed in respect of unauthorized construction at ground to fourth floor in the Property No. 817, Chatta Sheikh Mangloo, Delhi-110006 (here in after referred as subject property) and the sealing orders dated 17.02.2017 in appeals no. 140/19 & 141/19 in respect of the above-said unauthorized construction. The appeals no. 137/19 & 141/19 are in respect of third floor being filed by Mst. Afroz Begum whereas the appeals no. 138/19 & 140/19 are in respect of fourth floor filed by one Mst. Humera Saeed.
2. The brief facts necessary for disposal of these appeals are that the unauthorized construction in the shape of ground, first and second floor in the subject property was booked vide show cause notice dated 06.01.2016 and since the unauthorized construction continued despite this booking, demolition order dated 12.01.2016 was passed. The unauthorized construction still continued and the fourth floor was booked and another demolition order for the fourth floor dated 06.04.2017 was passed. Both these demolition orders were challenged by the appellants in appeals no. 169/18 & 170/18 and vide order dated 09.08.2018 passed in these two appeals, the matter was remanded back with direction to the respondent to provide opportunity of reply and personal hearing to the appellants and pass speaking orders. In pursuance to that speaking order dated 15.01.2019 challenged in appeals no. 137/19 & 138/19 was passed. The sealing order dated 17.02.2017 which was not challenged earlier is under challenge in the other two appeals.

3. The appellants have challenged these orders on the ground that pendency of their application for regularization of the subject property was not considered by the respondent and the impugned demolition order was passed in haste. It was argued that the appellants are the bonafide purchasers and purchased the property which was already constructed. The entire construction is within the parameters of law and compoundable. The fourth floor of the property has already been demolished and the appellants are entitled and ready to get the construction regularized, yet the respondent is bent upon to demolish the property which should be the last resort. It was argued that proper hearing after remand back in earlier appeals was not provided to the appellants. The respondent did not inform about the compoundable deviations which are mandatory and therefore, the impugned orders should be set aside.
4. Ld. counsel for the respondent on the other hand argued that the regularization application has already been rejected to the knowledge of the appellants for which the status report was also filed on 26.02.2021. Further, the documents of the appellants show that the construction at third and fourth floor which are the concerned of the appellants, were raised without sanction building plan and after the cutoff date of protection i.e. 08.02.2007 and therefore, there is no infirmity in the impugned orders and the appeals should be dismissed.
5. I have perused the record. These appeals are second round of litigation after the matter was remanded back on 09.08.2018 in appeals no. 169/18 and 170/18 filed by the appellants. The perusal of these appeals show that the appellant Afroz Begum purchased the third floor of the property from one Mohd. Moin on 20.08.2017. Mohd. Moin purchased the second floor with roof rights on 19.12.2012 from the earlier owner. Similarly, the appellant Humera Saeed purchased the fourth floor on 20.08.2017 from Mohd. Moin. The documents and the pleadings of the appeal clearly prove that as on 19.12.2012, when Mohd. Moin purchased the second floor with roof rights, there was no construction on the roof of second floor i.e. the third floor and upwards. The third and fourth floor as such were constructed by Mohd. Moin after 19.12.2012 and before 20.08.2017, when he sold the third and fourth floor to the appellants.

6. The third and fourth floor therefore were constructed admittedly after the cut off date of protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 which is 08.02.2007 for the subject property. Admittedly, there is no sanction building plan and the regularization application has already been rejected on 06.06.2018. It was to the knowledge of the appellants that the regularization application has been rejected and they never challenged the rejection of their regularization application. It was also brought on record by the respondent through status report dated 26.02.2021 that the regularization application has been rejected and even since that date, the rejection of regularization has not been challenged.
7. In the present case, proper opportunity of being heard was provided to the appellants, after the matter was remanded back in earlier appeals on 09.08.2018. The construction is unauthorized and protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available as the status quo required to be maintained was violated in respect of the subject property. The protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 ceases to exist once the status quo qua construction is violated, which was done in these appeals. The regularization application has already been rejected.
8. I find no merits in these appeals and the same are dismissed. The impugned demolition order and sealing order are 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 05.05.2026**

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