

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

**APPEAL NO. 336/ATMCD/2022**

**Shri Naresh Kumar  
S/o Late Sh. Roshan Lal  
R/o B-2/6-A, Ground Floor  
Model Town-II  
New Delhi-110009**

**..... Appellant**

**Versus**

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

**..... Respondent**

**Date of Filing of Appeal : 20.06.2022  
Date of Judgment : 12.05.2026**

**JUDGMENT**

1. This is an appeal challenging the demolition order dated 25.05.2022 passed in respect of unauthorized construction carried out in the Property No. B-2/6 A, Model Town New Delhi (hereinafter referred as subject property) in the shape of Ground Floor, First Floor, partially Second Floor and partially Third Floor.
2. The brief facts necessary for disposal of this appeal are that this property bearing no. B-2/6, Model Town measuring 883 sq. yds. was owned by one Nasir Chand & Others. A portion of it measuring 446 sq. yards was purchased by Sh. Maharaj Krishna Malhotra and remaining 417 sq. yards by Sh. Tilak Raj Malhotra. Later Sh. Maharaj Krishna Malhotra purchased the portion measuring 417 sq. yards as well. The area measuring 466 sq. yards was purchased by one Mr. Ram Niwas and the father of the appellant Mr. Roshan Lal. There was a partition deed on 12.03.1987 between Mr. Roshan Lal and Mr. Ram Niwas and the entire ground floor came to the share of appellant and his brother Mr. Shubhash Chand whereas the first floor came to the share of Mr. Ram Niwas. The front lawn measuring 24 ft. 9 inch x 40 ft. was to remain open without any temporary or permanent construction. One Mr. Aditya Gupta

purchased the first floor and then filed a Civil Suit C.S. DJ no. 512/2021 at Rohini District Courts wherein the MCD filed written statement on 18.05.2022 from which the appellant came to know that the property has been booked vide a show cause notice and a demolition order dated 25.05.2022 has been passed.

3. This order has been challenged on the ground that neither show cause notice nor demolition order were served in accordance to law and no opportunity of being heard was provided and further, the construction at ground floor is old and occupied prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was argued for the appellant that opportunity of being heard was not provided to the appellant as show cause notice was never served and therefore the impugned order should be set aside.
4. Ld. counsel for MCD on the other hand has argued that unauthorized construction was raised at the ground floor by covering the veranda and status-quo qua construction was violated and therefore, protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available and appeal should be dismissed.
5. I have perused the record. The show cause notice dated 18.05.2022 records unauthorized construction in the shape of ground floor, first floor, partially second and partially third floor (old & occupied). The property was booked on complaint on court case and no construction was going on at the time of booking. The show cause notice was served through pasting like the demolition order and the photographs of the said pasting are there in the office record.
6. Section 444 of the DMC Act provides pasting as one of the modes of service and service through pasting is approved under law. Reliance for this can be placed on the following judgments:
  - 1) Paramjeet Kaur V/s. MCD 1994 (56) DLT 720.
  - 2) Narender Prasad Dube V/s. Union of India 1999 (81) DLT 378.
  - 3) Hari Dutt Vashistha V/s. MCD 1978 (2) ILR (Delhi) 28.
  - 4) Usha Devi Sharma V/s. MCD 2020 (271) DLT 76.
7. Pasting is approved mode of service under Section 444 of DMC Act and the argument of the appellant that there was no service of the show cause notice

or the demolition order is factually incorrect. The appellant as such was duly served. The appellant after service did not reply the show cause notice and demolition order was passed.

8. Coming to the merits of the case, there is no document on record to show that any fresh construction has been raised in the property by the appellant at the ground floor. No on-going construction was found at the time of booking and further, the demolition does not specify the unauthorized construction / deviation stated to be against the building bye laws. The site plan annexed with the partition deed dated 12.03.1987 show the same construction existing at the ground floor which exist as on today except a kitchen and store in the veranda on the right side of the property. It was for the MCD to spell out the date of alleged unauthorized construction which details are not there in the impugned demolition order. In these facts the construction at ground floor appears to be old and prior to 08.02.2007. Even the booking states that the construction is old and occupied.
9. There is no material on record to establish that any fresh construction has been raised at ground floor after 08.02.2007 and status quo has been violated. The protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is available to the ground floor.
10. In these facts the demolition order dated 25.05.2022 is upheld as there is no sanction building plan but kept in abeyance till the National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force. The respondent shall be at liberty to take action once the protection under this Act ceases to exist.
11. The appeal stand disposed of.
12. 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 12.05.2026**

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