

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

**APPEAL NO. 307/ATMCD/2025**

**APPEAL NO. 308/ATMCD/2025**

- 1. Smt. Renu Batra,  
w/o Sh. Gulshan Batra  
R/o 1219, The Magnolias,  
DLF Golf Links, DLF City,  
Phase-5, Gurugram-122009.**
- 2. Sh. Vishal Kapoor,  
S/o Sh. Vipin Kapoor,  
R/o F-7, F-Block, Model Town-II,  
North West Delhi, Delhi-110009.**
- 3. Sh. Vikas Kapoor,  
S/o Sh. Vipin Kapoor,  
R/o F-7, F-Block, Model Town-II,  
North West Delhi, Delhi-110009.**
- 4. Smt. Madhu Jain,  
w/o Sh. Rajeev Jain,  
R/o A-25/2, Swaran Sinjgh Road,  
Adarsh Nagar, North West Delhi  
Delhi-110033.**
- 5. Sh. Rajeev Jain,  
S/o Late Sh. Ajit Prakash Jain,  
R/o A-25/2, Swaran Sinjgh Road,  
Adarsh Nagar, North West Delhi  
Delhi-110033.**
- 6. Sh. Karan Jain,  
S/o Sh. Rajeev Jain,  
R/o A-25/2, Swaran Sinjgh Road,**

**Adarsh Nagar, North West Delhi  
Delhi-110033.**

**..... Appellants**

**Vs**

**Municipal Corporation of Delhi  
Through its Commissioner  
Civic Center, Delhi.**

**..... Respondent**

**Date of Filing : 14.05.2025**

**Date of Order : 12.05.2026**

1. These are two appeals challenging the demolition order dated 25.03.2025 in appeal No.308/25 and the sealing order dated 04.06.2025 in appeal No.307/25 in respect of property number B-2, Model Town New Delhi. The brief facts necessary for disposal of these two appeals are that the six appellants are the owners of ground floor shops of property No. B-2, Model Town, New Delhi and have challenged these two orders only in respect of ground floor shops.
2. This property bearing No. B-2, Model Town, New Delhi was initially booked vide show cause notice dated 22.06.2020 in respect of unauthorized construction in the shape of addition/alteration at second floor (part) and construction of a room at third floor followed by the demolition order dated 06.07.2020. Thereafter, the property was again booked vide show cause notice dated 29.10.2020 in respect of unauthorized construction at ground and first floor against the sanctioned building plan followed by the demolition order dated 09.12.2020. Partial demolition action was also taken at roof of a shop at ground floor.
3. The appellants preferred appeal against this demolition order bearing appeal No.03/22 which was allowed on 24.01.2020 and the matter was remanded back for fresh adjudication. The respondent again passed a demolition order dated 14.07.2022 and the same was challenged in appeal No.565/22 which was allowed and matter was remanded back and thereafter, a fresh demolition order dated 31.03.2023 was passed vide which the protection

under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 was accorded to the construction at ground and first floor as mentioned in the sale deeds in favour of the appellants and the partition deed. The intervener Ms. Anjali Gupta filed a writ petition(c) 3581/24 challenging the protection granted to the ground and first floor vide order dated 31.03.2023. The respondent/MCD filed status report in that writ petition stating that protection vide order dated 31.03.2023 has been withdrawn sought liberty to proceed as per law. That writ petition was disposed of on 12.09.2024 and thereafter a fresh show cause notice dated 01.10.2024 was issued to the appellants and one Mr. Amarjeet Singh to appear for personal hearing for the unauthorized construction booked already on 29.10.2020 and 22.06.2020. In pursuance thereto the respondent passed the impugned demolition order dated 25.03.2025 and the sealing order dated 04.06.2025 which have been challenged to these appeals.

4. The appellants have challenged these orders on the ground that the Quasi Judicial Authority had no power to review its order dated 31.03.2023 vide which the protection was granted. The Hon'ble High Court never directed the MCD to recall or review the order dated 31.03.2023. Further, no opportunity of being heard was provided to the appellants before recalling the order dated 31.03.2023 and it was a unilateral decision without hearing the appellants and further that protection to the ground floor cannot be withdrawn because of violation of status quo qua construction, which was raised at the second and third floor by third person(s) and therefore the impugned orders should be set aside.
5. Ld. counsel for the MCD on the other hand argued that the appellants have raised construction at the ground floor even after 08.02.2007 and are not entitled to protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for violating the status quo qua construction. They also restored the demolished portion without any permission from MCD or from any other court and thus cannot claim

protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

6. Ld. counsel for the intervener on the hand argued that because of unauthorized construction at ground and first floor with encroachment on public land, the MCD has refused to pass sanctioned building plan of the second and third floor of the portion owned by the intervener and further the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available for violation of status quo and for encroachment on public land and the entire property should be demolished including the property of the intervener and appeals should be dismissed.
7. I have perused the record. It is admitted fact that the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 was given to the ground and the first floor vide order dated 31.03.2023. The intervener challenged that protection in W.P.(C) No.3581/24 where the MCD filed status report stating that protection is to be withdrawn by passing fresh order. The protection granted on 31.03.2023 was withdrawn unilaterally without providing any opportunity of being heard to the appellants. The Hon'ble High Court never directed in this Writ Petition to withdraw the order dated 31.03.2023. The order dated 25.03.2025 is liable to be set aside on this ground alone.
8. Further the impugned order dated 25.03.2025 states that the appellants have violated the status quo qua construction in respect of the ground and the first floor but there are no details of such violations. If any construction has been raised by a third person at the second and third floor, the appellants cannot be penalized for the same. If this reasoning of the respondent, that protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 will cease to exist for entire property, if status quo qua construction is violated by construction at any floor, is considered to be correct then any third person shall purchase the upper floor/roof of any property protected under National Capital Territory of Delhi Laws (Special

Provision) Second Amendment Act, 2011 and will get it demolished by simply raising some construction on the upper floors/roof with which the owners of the floors below have no concerned. Once the respondent came to the conclusion that the construction at ground floor is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, there was no reason to withdrawn the same only because of some construction at second and third floor by third person(s) which is not related to the appellants.

9. Coming to the aspect of reconstructing the demolished portion, the same does not amount to violation of status quo qua construction for two reasons. The first is that the demolition order dated 09.12.2020 was set aside by this Tribunal and any demolition action taken in pursuant to that order was unlawful. Secondly, by reconstructing the demolished portion, the status quo as on 07.02.2007 was not violated but was restored to its original shape. There is no merit in the argument of the respondent that the status quo was violated by reconstructing the unlawfully demolished portion which actually was nothing more than puncture of the roof of a shop of ground floor. No permission from MCD or any court is required to do that.
10. As far as the aspect of encroachment over the government land is concerned, the same was not a part of show cause notice and the appellants were not made aware about any such encroachment which for the first time was referred in the impugned order dated 25.03.2025 without giving the details of the said encroachment.
11. In these facts, the construction at the ground floor being old and prior to 08.02.2007 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 till the act is in force. Therefore, the demolition order dated 25.03.2025 and the sealing order dated 04.06.2025 are kept in abeyance for the ground floor of property No. B-2, Model Town, New Delhi. The respondent/MCD shall be at liberty to take action once the Act ceases to be in force. Both the appeals stands disposed of.

12. Record(s) of the respondent, if any, be returned along with copy of this order and appeals file be consigned to record room.

**Announced in the Open Court  
Today i.e. on 12.05.2026**

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