

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

APPEAL NO. 328/ATMCD/14

**Sh. Sarvesh Chand Gupta
S/o Late Sh. Tara Chand Gupta,
R/o G-143, Ground Floor,
Preet Vihar, New Delhi-110092.**

..... Appellant

Vs

**New Delhi Municipal Council
Through its Chair Person
Palika Kendra, Parliament Street,
New Delhi-110001.**

.....Respondent

**Date of Filing of Appeal : 15.04.2014
Date of Order : 19.05.2026**

ORDER

1. This is an appeal challenging the order dated 24.03.2024 communicated to the appellant on 25.03.2024 rejecting regularization application in respect of shop No.18-19, out of plot No.3, Bengali Market, New Delhi.
2. The appellant being the owner has challenged this order on the ground that the respondent failed to comply with the directions of this Tribunal dated 06.02.2014 given in earlier appeal No.1204/13. The respondent did not consider the appellant as owner and wrongly concluded that the complete ownership documents have not been submitted. The respondent did not consider the order dated 24.05.1985 passed by the Hon'ble High Court in Suit No.565/75 and the partition deed dated 09.06.2000, which show beyond doubt that the appellant is the owner of plot No.3, Bengali Market. The respondent wrongly concluded that Bengal Market has been re-entered by the lessor/L&DO on 19.07.1968. The appellant is not required to seek regularization of the entire plot number 3 and this impugned order should be set aside.

3. Ld. counsel for the respondent on the other hand has argued that the regularization was rightly rejected as per law. The appellant failed to comply with requirements of the Invalid Notice and has sought regularization of only two shops out of plot No.3, Bengali Market which is not permissible and the appeal should be dismissed.
4. I have perused the record. The appellant earlier filed an appeal No.1204/13 wherein directions were given to the appellant to apply for regularization of the construction of condonable items within seven days and the respondent was directed to consider the status of the appellant qua the subject property within the meaning and purview of definition of the owner given in the NDMC Act.
5. The appellant thereafter applied for regularization of shop No.18 and 19 out of plot No.3, Bengali Market. The same was rejected vide impugned order dated 25.03.2014 on 11 grounds including that the proposal for regularization has been submitted only in respect of shop No.18 and 19 and quarter No.61 whereas plot No.3, Bengali Market consist of shop Nos. 14 to 26 and residential quarter and detail areas of which have not been taken in to area calculation and existing ground coverage and FAR cannot be calculated as the drawings submitted by the appellant is only for two shops instead of entire plot No.3.
6. Admittedly, the FAR available to these two shops has to be assessed only after considering the entire area of plot No.3. Only two shops of this bigger plot which has in all 13 shops and residential quarter cannot be regularized without entire area being taken into consideration. The appellant is required to submit plan for entire plot being the owner of plot number 3 and cannot seek regularization only of a part of the plot. The FAR has to be calculated after taking into consideration the area of whole plot.
7. Further, the regularization was rejected as the appellant failed to demolish unauthorized construction existing in these two shops. Whether this unauthorized construction is protected under any Act is a different aspect which cannot be a reason to regularize the unauthorized construction. The protection and regularization are separate aspects. The regularization application was rightly rejected for the reasons noted here in above. There is no infirmity in the

impugned rejection dated 25.03.2014. The appeal is devoid of merits. Same is dismissed. The appellant is at liberty to apply afresh for regularization as per law.

8. 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 19.05.2026**

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