

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

APPEAL NO. 1046/ATMCD/24

**1, Smt. Madhu Bala Pawar
W/o Sh. Satinder Kumar Pawar,
R/o H.No. A-21, Ground Floor,
East Uttam Nagar, Uttam Nagar,
New Delhi-110059.**

**2. Sh. Durga Dass Khanna,
S/o Sh. Bhagwan Dass Khanna,
R/o H.No. A-21, Upper Ground Floor,
East Uttam Nagar, Uttam Nagar,
New Delhi-110059.**

**3. Smt. Sushma Sachdeva
W/o Sh. Subhash Sachdeva
R/o H.No. A-21, First Floor,
East Uttam Nagar, Uttam Nagar,
New Delhi-110059.**

**4. Sh. Rubal Pupneja
S/o Sh. Harish Kumar Pupneja**

**5. Smt. Swati Pupneja
W/o Sh. Rubal Pupneja**

**Both R/o H.No. A-21, Second Floor (with roof rights)
East Uttam Nagar, Uttam Nagar,
New Delhi-110059.**

..... Appellants

Vs

**Municipal Corporation of Delhi
Through its Commissioner
17th Floor, Civic Central, Minto Road,
New Delhi.**

.....Respondent

Date of Filing of Appeal : **02.12.2024**
Date of Order : **01.06.2026**

ORDER

1. This is an appeal challenging the demolition order dated 29.10.2024 passed in respect of unauthorized construction in the shape of ground to third floor of property no. A-21, East Uttam Nagar, Janak Puri West, New Delhi.
2. The brief facts necessary for disposal of this appeal are that appellant no. 1 is the owner of a portion of the ground floor vide sale deed dated 16.01.2012. Appellant no. 2 is the owner of upper ground floor/first floor vide sale deed dated 10.10.2011. Appellant no. 3 is the owner of second floor mentioned as first floor in the sale deed dated 27.05.2013 and appellants no. 4 & 5 are joint owners of third floor mentioned as second floor in the sale deed dated 15.02.2022. The respondent booked the entire property for unauthorized construction in the shape of ground to third floor with projections on municipal land vide show cause notice dated 25.07.2024 and thereafter the impugned demolition order dated 29.10.2024 was passed.
3. This order has been challenged by the appellants on the ground that the show cause notice was issued only in the name of appellant no. 2, Durga Dass Khanna who is the owner of only upper ground floor and no opportunity of being heard was provided to the appellants. It is further claimed that the construction is old and was booked on the false complaint without verifying the true facts. It was argued for the appellants that show cause notice was not served upon the appellants nor was issued in their names except of appellant no. 2. The remaining appellants did not authorize appellant no. 2 to appear for them before Quasi Judicial Authority and therefore the impugned order should be set-aside.
4. Ld counsel for the respondent/MCD on the other hand argued that a joint reply was given by all the appellants to the show cause notice and therefore no prejudice was caused to them by issuing the show cause notice only in the name of appellant no. 2. All appellants were well aware about the show cause notice and personal hearing was provided to all of them but only appellant no. 2

appeared on behalf of all the appellants and thereafter the speaking order was passed. The property has been constructed without any sanctioned building plan and is new construction even as per the reply filed by the appellants before Quasi Judicial Authority and is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore the appeal should be dismissed.

5. I have perused the record. The show cause notice was served through pasting at the ground floor of the property and was issued only in the name of appellant no. 2. Though, all the appellants gave a joint reply on 29.07.2024 to this show cause notice but certainly the opportunity of personal hearing was not provided to the appellants except for appellant no. 2. The impugned order therefore is liable to be set-aside against appellant no. 1, 3, 4 & 5. The appeal therefore is allowed for ground floor, second and third floor belonging to appellant's no. 1, 3, 4 & 5 with directions to the respondent to pass a speaking order after considering the reply dated 29.07.2024 already submitted and documents to be submitted by these appellants and after giving personal hearing to the appellants. The appellants shall appear before the Quasi Judicial Authority on 22.06.2026 at 2.00 pm and the speaking order be passed within 6 weeks of conclusion of the hearing.
6. Coming to the appellant no. 2 who is the owner of upper ground floor (first floor) of the property. He was given personal hearing and his joint reply and documents were duly considered. In the reply in para 3, it was mentioned that the building was constructed in the year 2009-2010 which admittedly is after the cutoff date 08.02.2007 which is the relevant date for protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for the subject property. Any construction raised after 08.02.2007 without sanctioned building plan is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The impugned demolition order therefore is upheld in respect of the first floor mentioned as upper ground floor in the sale deed, owned by appellant no. 2, Durga Dass Khanna.

7. The appeal is disposed of.

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 01.06.2026**

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