

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

**APPEAL NO. 99/ATMCD/2018**  
**APPEAL NO. 100/ATMCD/2018**  
**APPEAL NO. 101/ATMCD/2018**

**M/s Ganga Cargo Carriers Pvt. Ltd.**  
**L-10A, Ganga Tower, Mahipalpur Chowk,**  
**Mahipalpur, New Delhi**  
**Through its Director**

..... Appellant

**Versus**

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

..... Respondent

**Date of Filing of Appeals** : **02.02.2018**  
**Date of Judgment** : **02.06.2026**

**JUDGMENT**

1. These are the three appeals challenging the demolition order dated 12.08.2016 in appeal no. 99/18 and the sealing order dated 31.05.2017 in appeal no. 101/18 passed in respect of unauthorized construction carried out at part third floor (rear side) and fourth floor on garage block (Basement to second floor and up to third floor on garage block is old & occupied) in Property No. A-13, Kailash Colony, New Delhi (hereinafter referred as subject property) and the rejection order dated 24.07.2017

rejecting the application seeking regularization of third floor in the subject property in appeal no.100/18.

2. The brief facts necessary for disposal of these appeals are that the appellant is the owner of third floor of property no. A-13, Kailash Colony by virtue of sale deed dated 02.09.2005 and the rectification deed dated 28.12.12. As per appeal, the appellant purchased entire third floor comprising of three bedrooms, one kitchen, bath, shed with asbestos sheet with proportionate right in the land. The respondent booked the unauthorized construction raised at rear side part of the third floor and fourth floor on the garage block through show cause notice dated 8.8.2016 followed by the demolition order dated 12.08.2016. Thereafter the sealing show cause notice under section 345A DMC Act dated 23.05.2017 was issued and the sealing order dated 31.05.2017 was passed. The appellant applied for regularization of the construction at third floor on 27.06.2017 which was rejected on 24.07.17 since the policy for floor wise regularization was in abeyance.
3. The appellant has challenged these three orders in these appeals on the ground that the construction existing at the third floor is within compoundable limits as per FAR available under Master Plan Delhi-2021 (MPD-2021) but the regularization application was rejected only because the floor wise regularization policy was in abeyance. It has been argued that since the MCD now has floor wise regularization policy, therefore the impugned order rejecting the regularization application is liable to be set aside and the property should be regularized. It was argued that even at the time of rejection of regularization application on 24.07.2017, there were catena of judgments of the Hon'ble High Court directing the respondent not to reject the regularization application because of no floor wise policy and therefore, the existing construction at the third floor should be regularized and all the appeals should be allowed.

4. Ld. counsel for MCD on the other hand argued that admittedly the construction at the third floor and garage block at fourth floor was raised without sanctioned building plan and is unauthorized construction. The regularization application was rejected as there was no floor wise policy at that time. The appellant is at liberty to apply afresh for regularization under the floor wise policy now applicable and the appeals should be dismissed.
5. I have perused the record. The sole ground for rejection of the regularization application of the existing structure at the third floor of the subject property was that the floor wise policy was kept in abeyance. The MCD admittedly now has a floor wise regularization policy.
6. The construction at third floor is within the permissible limits as per status report dated 25.03.2019. As per this status report, the permissible area as per MPD-2021 at the third floor is 592.25 sq. meter whereas the existing area is 347.61 sq. meters. The construction at the third floor is well within the permissible limit. The construction at the fourth floor of about 68.21 sq. meters is non-compoundable but the appellant never sought regularization of the construction at fourth floor. As per this status report, the roof slab of fourth floor constructed above garage block is lying demolished.
7. The respondent wrongly rejected the regularization application of the appellant because of abeyance of floor wise regularization policy ignoring the law settled by Hon'ble High Court in the case of "*MCD Vs. Smt. Usha Devi Sharma 127 (2006) DLT 275*" and "*Anita Vashisht Vs. North DMC in LPA No.689 /15 dated 07.10.2015*". The respondent should have considered the regularization application of the appellant considering the law laid down by Hon'ble High Court in these judgments. The floor wise regularization can be done and now MCD itself has issued circular that floor wise regularization is permissible.

8. In view of the same, the respondent is directed to reopen and consider the regularization application of the appellant as per its floor wise regularization policy and grant regularization of the construction at third floor, if it is otherwise compoundable and fulfil all other conditions as required for regularization. The respondent shall pass speaking order in this regard within two months from today. The appeal number 100/2018 is allowed.
9. As far as the sealing and demolition orders are concerned, the same are bound to be upheld since the construction at third floor was raised by the appellant without sanctioned building plan. The appellant raised this construction unauthorizedly. There is no ground raised in these appeals to set aside these two orders except that the existing construction can be regularized being compoundable. Yet, the respondent shall not carry out demolition and sealing action as per these two orders till the regularization application is decided afresh by the respondent, as directed here in above. In case the same is rejected, the respondent shall not take action for four weeks in pursuance to the impugned demolition and sealing orders and shall be at liberty to take action after expiry of four weeks. The appellant shall not carry out any addition, alteration or construction in the property till that time. All the three appeals are disposed of accordingly.
10. 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 02.06.2026**

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