

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

APPEAL NO. 76/ATMCD/2025

**Asma Praveen
W/o Anwar
R/o I-101, Muradi Road
Batla House, Jamia Nagar
Okhla, New Delhi-110025**

..... **Appellant**

Versus

- 1. Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**
- 2. Delhi Development Authority
Through its Vice Chairman
Vikas Sadan, INA
New Delhi-110025**

..... **Respondents**

Date of Filing of Appeal : 07.02.2025
Date of Judgment : 10.06.2026

JUDGMENT

1. This is an appeal challenging the sealing order dated 27.12.2024 passed against the unauthorized construction carried out in the property bearing no. I-101, Muradi Road, Batla House, Jamia Nagar, New Delhi in the shape of ground floor at first stage and first floor, second floor & part third Floor at second stage.
2. The brief facts necessary for disposal of this appeal are that the appellant purchased this property admeasuring 66 sq. yards on 03.10.22 from her husband Mohd. Anwar who had purchased the same on 3.09.2014 from the erstwhile owner. The appellant claims that she is residing in this property since 0309.2014 when it was purchased by her husband. The property was constructed prior to year 2006 consisting of ground to second floor and partially third floor and is protected under National Capital Territory of Delhi

Laws (Special Provision) Second Amendment Act, 2011. The immediate neighbor of the appellant residing in I-102, Muradi Nagar out of personal grudge lodged multiple complaints against the property of the appellant and respondent no.1/MCD booked the same on 21.2.2017 for unauthorized construction in the shape of ground floor and passed the demolition order dated 03.03.2017 and demolition action was taken on 21.03.2017. Sealing proceedings under section 345-A DMC Act were also initiated on 28.03.2017 and sealing order dated 21.04.2017 was passed. The said neighbor Mr. S. M. Matloob also filed writ petition (civil) no. 5354/2022 on 31.03.2022 before Hon'ble High Court which was disposed of on 20.03.2023 with liberty to the appellant to seek appropriate remedy. MCD further issued another notice dated 09.07.2022 under section 343/344 of DMC Act and passed the demolition order dated 08.08.2022. It was followed by another notice dated 17.08.2022 under section 345-A of the DMC Act which was replied by the appellant and the sealing order dated 14.09.2022 was passed.

3. The appellant in pursuance to order dated 20.03.23 passed by Hon'ble High Court in writ petition civil no. 5354/2022, preferred an appeal bearing no. 624/22 against the demolition order dated 08.08.2022 which was dismissed in default on 04.10.2023. The neighbor Mr. S.M. Matloob filed contempt petition in his writ petition which was disposed of on 12.11.2024 as the property was already demolished. The wife of Mr. Matloob also filed contempt petition before Hon'ble Supreme Court in W.P.C. No. 4677/1985 titled as M.C. Mehta Vs. Union of India and the Hon'ble Supreme Court vide orders dated 14.12.2022 and 06.02.2023 called the report from Monitoring committee with regard to the property of the appellant. The Hon'ble Supreme Court on 01.08.2023 directed the SDM concerned to carry out demarcation of the land acquired by DDA but no demarcation was carried out. The appellant thereafter filed a writ petition (C) no. 8628/2024 before Hon'ble High Court which was disposed of on 07.08.2024 and the appellant came to know about the proceedings before Hon'ble Supreme Court in that writ petition.
4. The appellant filed an Intervention Application before Hon'ble Supreme Court in that contempt petition and the Hon'ble Supreme Court directed the appellant vide order dated 06.09.2024 to file a common reply to all the show cause notices issued by respondent no. 1/MCD with direction to MCD to pass

speaking order after giving personal hearing to the appellant. The MCD passed an order dated 21.10.2024 which was set-aside by the Hon'ble Supreme Court on 11.11.2024 with directions to pass a fresh order and in compliance of that order, the respondent passed the impugned order dated 27.12.24.

5. The appellant in this appeal has challenged this order dated 27.12.2024 as per liberty granted by Hon'ble Supreme Court vide its order dated 06.01.2025. The appellant has challenged this order on the ground that the same is unreasoned non- speaking order and does not mention as to why the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available. The construction in the property is much prior to cut of date of 01.06.2014 which is the date of protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The property of the appellant is already registered under PM Uday Scheme and there is no encroachment on the govt. land. The property of the appellant falls in remaining portion of khasra no. 279 min of village Okhla and physical possession of this portion was never taken by LAC due to heavy built-up area. The property is out of purview of MCD and therefore, the impugned order should be set-aside.
6. Ld. counsels for respondents on the other hand have argued that admittedly the construction was raised without sanctioned building plan. The documents of the appellant were duly considered by the Quasi Judicial authority and none of the documents show that the construction of ground to second and part third floor was in existence prior to 01.06.2014 and therefore, there are no merits in this appeal.
7. I have perused the record. The Hon'ble Supreme Court permitted the appellant to file common reply to all the show cause notices which was filed by the appellant along with documents. Personal hearing was provided to the appellant and thereafter, the impugned order was passed. As such, the appellant cannot have a grievance that opportunity of being heard was not provided to the appellant.
8. Coming to the merits of the matter. The appellant has claimed that the construction from ground to second and part third floor was raised much prior to 01.06.2014 and protected under National Capital Territory of Delhi Laws

(Special Provision) Second Amendment Act, 2011. The Quasi Judicial Authority considered all the documents of the appellant and came to the conclusion that there is no document to substantiate the plea of the appellant that the property was constructed prior to 01.06.2014. Let these documents be examined afresh.

9. As per the first titled document filed and relied by the appellant, this property was sold by Mst. Shehnaz alias Ruksana to Smt. Qadira Bano on 04.12.2002. The construction at that time was only of one room with boundary wall. Smt. Qadira Bano on 02.02.2006 sold the property to Anwar Khan and at that time it was only a plot without any structure as mentioned in these documents. Thereafter, Mr. Anwar Khan sold the property to Azmat Ali on 24.04.2010 with description of the property as a plot. There was no structure at that time. Mr. Azmat Ali sold this property to Mr. Mohd. Zubair on 05.03.2012 and even in these documents, there is no description of the property and it is mentioned as property bearing no. 101. Thereafter on 03.09.2014, the property was transferred to the husband of the appellant mentioning the details as property/plot bearing no. I-101 and lastly the husband of the appellant transferred this property to appellant on 03.10.2022 recording the description as property/plot bearing no. I-101.
10. Not only that all these documents are unregistered GPA, agreement to sell etc., but also that these documents do not support the case of the appellant that the construction was raised prior to 01.06.2014. The other documents relied by the appellant are electricity bills, water bills, Aadhar card, PM Uday Registration etc. do not describe the extent of construction in the property. Contrary to it, the electricity bill mentioning the address of the subject property show the date of energization as 24.03.2017 even for the ground floor. Even if it is presumed that there was only one electricity meter feeding supply to all the floors, this meter was installed on 24.03.2017, much after the cut of date of 01.06.2014. The appellant has failed to file any document to show that the construction is old and prior to 08.02.2007.
11. Further, the record shows that unauthorized construction was raised much after 01.06.2014. The property was initially booked on 21.02.2017 for unauthorized construction in the shape of ground floor and the demolition order was passed on 03.03.2017 for the ground floor. It was in the name of

the husband of the appellant. It was followed by another show cause notice dated 19.07.2022 booking unauthorized construction in the shape of first, second and part third floor in continuation of the previous booking dated 21.02.2017 and another demolition order dated 08.08.2022 was passed. This clearly show that unauthorized construction in the shape of ground floor was raised in and around February 2017 and despite this booking, further unauthorized construction of first, second and part third floor was raised in and around July 2022. The construction therefore was raised much after 01.06.2014.

12. The appellant has failed to show that the property was constructed prior to 01.06.2014. Admittedly there is no sanctioned building plan of the subject property. In view of the above, I do not find any infirmity in the impugned sealing order dated 27.12.2024. There are no merits in this appeal and the same is dismissed.
13. 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 10.06.2026**

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