

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

APPEAL NO. 360/ATMCD/2025

Murari Lal Bansal (Deceased)
Through LRs.

- A. Sh. Ram Kishore**
S/o Late Sh. Murari Lal Bansal
R/o 51, Okhla Village
Jamia Nagar, New Delhi-110025
- B. Ms. Santosh**
D/o Late Sh. Murari Lal Bansal
R/o 51, Okhla Village
Jamia Nagar, New Delhi-110025
- C. Ms. Sunita**
D/o Late Sh. Murari Lal Bansal
R/o 51, Okhla Village
Jamia Nagar, New Delhi-110025
- D. Smt. Rekha**
D/o Late Sh. Murari Lal Bansal
W/o Sarvan
R/o Flat No. 678, First Floor
Block-C, Pkt-11, DDA Janta Flat
Jasola, Jamia Nagar
New Delhi-110025
- E. Smt. Raj Bala**
D/o Late Sh. Murari Lal Bansal
W/o Jai Kishan
R/o 32/44, Gali No. 9, Bhikam Singh Colony
Vishwas Nagar, Shahdara, East Delhi
Delhi - 110032

..... Appellants

Versus

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

**2. Smt. Geeta Devi
D/o Sh. Murari Lal
R/o 51, Okhla Village
Jamia Nagar, New Delhi-110025**

..... Respondents

**Date of Filing of Appeal : 29.05.2025
Date of Judgment : 03.07.2026**

JUDGMENT

1. This is an appeal challenging the demolition order dated 11.04.2025 passed in respect of unauthorized construction in the shape of Ground Floor to Third Floor carried out in the Property No. 51, Chappar Wali Masjid, Okhla Village, New Delhi .
2. The brief facts necessary for disposal of this appeal are that Late Sh. Murari Lal who was the initial appellant was the owner of the property after inheriting the same from his father late Sh. Shyam Lal. The intervener Smt. Geeta Devi is the daughter of late Sh. Murari Lal and is residing at the second floor of this property. She filed a civil suit bearing CS SCJ No. 1530/2022 against her father(since deceased) and others seeking permanent and mandatory injunction directing the defendants therein to not to raise any construction in the outer part of this property and further directing them to demolish the alleged illegal unauthorized construction raised in the outer part of the property.
3. The Id. Civil Court in that suit sought status report from the MCD where it was reported that neither any construction activity nor any building material was found at site and the owner has encroached upon the adjoining street for which action has been taken up with Maintenance dept. of MCD and further, it was stated that the owner / occupier has carried out only renovation work in the property. The Id. Trial Court dismissed the interim injunction application of the intervener filed under order XXXIX rule 1 & 2 CPC, but restrained the appellant herein from placing any lock on the iron door installed by the appellant till further orders.
4. The intervener after dismissal of her interim injunction application on 11.12.2023, filed a Writ Petition(C) before Hon'ble High Court bearing W.P.

(C) No. 11756/2024 wherein the MCD informed the Hon'ble High Court that show cause notice dated 13.09.2024 has already been issued to the appellant and in view of that status report that writ petition was disposed of on 23.10.2024.

5. In the meantime the respondent MCD informed the Ld. Civil court in the civil suit on 11.12.2023 that the gali (street) where the intervener/plaintiff therein has claimed encroachment is a private gali and thus no encroachment exist on public property. The trial court dismissed the interim injunction application on that day and thereafter framed issues on 02.09.2024. The civil suit is still pending.
6. The intervener in the meantime filed Contempt Case(C) no. 236/25 before Hon'ble High Court claiming non-compliance of the order dated 23.10.2024 passed in her writ petition and the Hon'ble High Court disposed of that contempt petition on 17.02.2025 with liberty to the intervener to revive the contempt application, if no further action is carried out by MCD. The MCD in the mean time passed the impugned demolition order. She thereafter filed restoration application of her contempt case wherein the Hon'ble High Court vide order dated 11.05.2026 directed this Court to dispose of this appeal within two months from 11.05.2026.
7. The appellant Murari Lal who was the father of the intervener had challenged the demolition order on the ground that the respondent failed to consider that no unauthorized construction has been carried out in the property after 01.06.2014. The demolition order itself records that the construction is old and occupied. The entire action has been taken at the instance of intervener who wants a share in the property. The MCD did not consider the house tax record, electricity bill and its own status report and other documents which show that no fresh construction has been raised in the property and the old construction is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore, the demolition order should be set aside.
8. Ld. counsel for the intervener on the other hand argued that the appellants have made encroachment upon the public road which is the only road connecting the residence of the intervener to the main road. Fresh unauthorized construction has been raised by the appellants and only partial

demolition action was taken by MCD on 25.03.2026 and the appellants are trying to pressurize the intervener to vacate the property. The MCD considered all the documents filed by the appellants and found that fresh unauthorized construction has been raised in the property which is liable to be demolished and therefore, the appeal should be dismissed.

9. Ld. counsel for MCD had also argued on similar lines as argued for the intervener.
10. I have perused the record. The show cause notice dated 13.09.2024 records unauthorized construction in the shape of entire structure at ground to third floor and also mentions that the same is old and occupied. No fresh construction was going on at the time of booking on 13.09.2024. The intervener filed her civil suit in October 2022 alleging unauthorized construction raised in the property in August 2020. The intervener waited for more than two years for filing a suit for permanent and mandatory injunction in respect of alleged unauthorized construction. Her interim injunction application was rejected on 11.12.2023 since MCD filed status report that no construction activity was seen at site. The same is sufficient to not to believe the intervener that any fresh construction was raised in the outer part of the property. The appellant got an interim order only to the extent that the iron door installed by the appellant shall not be locked. The intervener thereafter approached the Hon'ble High Court by filing Writ Petition(C) no. 11576/2024 when she did not get any relief from the Ld. Civil Court. The intervener despite the fact that her interim injunction application was rejected by the Id. Civil Court, approached the Hon'ble High Court. This is nothing but only forum hunting.
11. Further, when the MCD filed status report before the Civil Court that there is no encroachment on the public property and the gali is a private gali, the intervener approached the Hon'ble High Court through contempt application alleging encroachment on public land has not been protected by this tribunal in interim order. This clearly show the conduct of the intervener whose aim was to get the property demolished by one way or the other.
12. Be that as it may, coming to the merits of this appeal. The intervener herself is residing at the second floor of the property as per pleadings of her civil suit. The disputed area in the civil suit has been shown in red in the site plan filed

in that suit which is an area on the ground floor having three toilets and an iron gate and common passage. The intervener has not shown as to when these three toilets have been constructed. The appellant on the other hand has filed electricity bills, house tax receipt to show that the construction is old as was also mentioned in the show cause notice. The burden is on MCD to show as to when and to what extent the fresh unauthorized construction has been raised. The MCD record does not contain any such detail.

13. The appellant has also filed copy of rent agreement dated 05.01.2005 vide which the third floor of the property was let out to one Mr. Ashok Kumar who was an employee in Jamia Millia Islamia University. This rent agreement show that the third floor was existing in 2005 and much prior to cut of date of protection of 01.06.2014 available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appellant as such has shown that no new construction has been raised and the construction in the property is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
14. The construction however is without any sanctioned building plan though is protected under this Special Act. In these facts the demolition order dated 11.04.2025 is upheld but kept in abeyance till National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force. The MCD shall be at liberty to take action once this Act ceases to be in force. With this observation this appeal is disposed of.
15. 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 03.07.2026**

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