

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

APPEAL NO. 105/ATMCD/2026

**Pradeep Rai
At: Flat No. 7E And 7F
White House
10, Bhagwan Dass Road
New Delhi - 110001**

..... Appellant

Versus

**New Delhi Municipal Council,
Through its Chairperson,
Palika Kendra, Parliament Street
New Delhi – 110001**

..... Respondent

Date of Filing of Appeal	:	09.02.2026
Date of Judgment	:	09.07.2026

JUDGMENT

1. This is an appeal challenging the sealing order dated 03.02.2026 passed in respect of unauthorized construction carried out in the building known as “White House”, 10, Bhagwan Dass Road, New Delhi in the shape of unauthorized construction carried out at terrace above Flat No. 7C&D, 7A&B and 7E&F of the White House (hereinafter referred as subject property).
2. The brief facts necessary for disposal of this appeal as per appeal are that the appellant is the owner of Flats no. 7E and 7F, 10, Bhagwan Dass Road, New Delhi. He further claims to be the owner of the terrace of the entire building i.e. the terrace of flats no. 7A, 7B, 7C, 7D, 7E and 7F after purchasing the same from the builder Mr. Raja Deepak Madan, proprietor of M/s Taj World Fame Builders. As per appellant, there already existed construction at the terrace in the form of rooms, existing way before 2006. The appellant had been making renovations to the said rooms from time to time and had also approached the respondent seeking available FAR as per MPD-2021. The

respondent vide letter dated 23.02.23 also gave permission to the appellant to install solar power panels on the roof of flat no. 7E and F which still exists. The appellant duly informed the respondent vide letter dated 15.01.2025 about necessary repairs to be on the roof top area above flats no. 7C and 7D. The respondent under pressure of the other residents of this property White House issued a work stop notice dated 07.02.2025 which was replied by the appellant on 11.02.2025. The White House Owners Association filed W.P. (C) No. 1626/25 against NDMC and appellant. The appellant also filed W.P.(C) No. 3426/25 seeking available FAR as per MPD-2021. Mr. Raja Deepak Madan also filed a W.P.(C) No. 14043/25 seeking sanction of additional FAR of property no. 10, Bhagwan Dass Road which was disposed on 11.09.2025. The Hon'ble High Court gave directions to NDMC in the writ petition no. 14043/25 to decide the representation of the petitioner after granting personal hearing. The appellant received the impugned order dated 03.02.2026 holding that the subject property is liable to be sealed.

3. This order has been challenged by the appellant primarily on two grounds. The first being that the respondent did not decide the issue of FAR as directed by Hon'ble High Court vide order dated 11.09.2025, yet passed the sealing order and secondly on the ground that the construction at the terrace of the 7th floor is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Ld. Sr. counsel appearing for the appellant argued that the Hon'ble High Court vide order dated 11.09.2025 passed in the writ petition no. 3426/25 directed NDMC to decide the issue of FAR in the building in question as per law after hearing the petitioner. The NDMC did not decide this issue of FAR and passed the sealing order which is in violations of directions passed by Hon'ble High Court. It was argued for the appellant that after MPD-2021, the appellant is entitled to additional FAR as permissible under MPD-2021 and the respondent is required to pass orders regarding the plea of additional FAR as raised by the appellant. It was further argued that the construction on the terrace of the 7th floor in the building known as White House is old and occupied and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and no coercive action can be taken till this protection is available.

4. Ld. counsel for the respondent NDMC on the other hand argued that admittedly the construction at the terrace is unauthorized. The appellant being a senior advocate took law in his hands and raised unauthorized construction on the terrace of the 7th floor and even did not permit the officials of NDMC to inspect the property after 07.02.2025 and the inspection could be carried out only after directions of Hon'ble High Court on 21.03.2025. The appellant continued to raise unauthorized construction even after the work stop notice dated 07.02.2025 and thereafter, intentionally filed Writ Petition no. 3426/25 seeking directions against NDMC to grant him additional FAR. The appellant does not have any document to show that the construction at the terrace is prior to 07.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore, the appeal should be dismissed.
5. Ld. counsel for the intervener on the other hand argued that no construction at the terrace of the 7th floor is permitted and the Hon'ble Supreme Court had already passed such order in civil appeal no. 3694/97 titled as Manju Bhatia and Ors. Vs. NDMC and Ors. dated 06.05.1997. Further, the Hon'ble High Court in CS (OS) No. 1430/2009 titled as Smt. Tara Devi Vs. White House Flat Owners Association and Others vide order dated 05.07.2010 dismissed the suit filed by Tara Devi seeking additional FAR in pursuance to MPD-2021. That order is binding and operates as res judicata. It was further argued that the appellant has no locus to seek FAR at the terrace of the 7th floor since he is neither the owner of the terrace nor has a right to seek FAR of the building which is a residential group housing building and therefore, the appeal should be dismissed.
6. I have perused the record. The appellant's first ground raised against the impugned order is that the issue of FAR as sought by the appellant in his writ petition no. 3426/25 and directed by Hon'ble High Court vide order dated 11.09.25 in that writ was not adjudicated by NDMC. A perusal of the impugned order shows that the respondent examined the issue of grant of additional FAR and it is mentioned in the impugned order that the present ownership of land could not be established which needs to be verified from L&DO. Further, there exists some contradiction between documents submitted and prevailing norms regarding applicability of Lutyens Bungalow Zone (LBZ)

guidelines which is to be verified from L&DO. The premises is involved in multiple litigation and clarifications for ownership has been sought from statutory bodies.

7. The respondent/NDMC in this order did not give any findings on the entitlement of FAR to the appellant and passed the sealing order on the ground that no application has been submitted seeking permission to construct at 7th floor under UBBL-2016 and MPD-2021 and therefore, directed the unauthorized construction at the terrace of the 7th floor to be sealed.
8. Ld. counsel for the appellant submitted that in a query raised before Lok Sabha, the NDMC has already mentioned that this property does not fall in LBZ and therefore, there was no contradiction regarding applicability of LBZ guidelines and LBZ Map. There is no ownership dispute as sanctioned building plan was issued in 1984 and therefore, all these averments mentioned in the impugned order are wrong.
9. Though it is correct that the NDMC has already taken this stand that the plot does not fall in LBZ, yet the same does not give any benefit to the appellant. The appellant has claimed ownership of the entire terrace above the 7th Floor and for that has relied upon agreement to sell dated 09.06.2008 filed with the appeal and another agreement to sell dated 19.04.2007 filed in the morning today. Both these agreement to sell are unregistered and executed on stamp paper of Rs. 100/- only. The agreement to sell that too unregistered cannot create any right of ownership and title in favour of the appellant. These two agreements only entitle the appellant to file a suit for specific performance.
10. Further, the agreement to sell are silent in respect of the sale considerations. Both these agreement say that the appellant had already paid the considerations and remaining two lacs are paid in cash. When the appellant cannot become the owner of the terrace of the 7th floor by these documents, he cannot claim any additional FAR for which he filed the writ petition no. 3426/25 which now has been withdrawn on 12.02.2016. The respondent therefore rightly observed in the impugned order that the present ownership could not be established and further the premises is involved in multiple litigation regarding the ownership. No title can be conferred by these agreements.

11. Further, even as per the case of the appellant, the plot, where white house has been constructed is a group housing premises. This residential group housing premises has stilt plus seven floors and the additional FAR, if any now available under MPD-2021 can be availed in respect of the entire plot and not by the owner of the terrace of the 7th floor. The appellant however has failed to establish his ownership of the terrace.
12. Further, Hon'ble High Court in CS (OS) 1430/2009 vide order dated 05.07.2010 filed by Smt. Tara Devi seeking additional FAR under MPD-2021 to construct flat at the 8th floor, rejected that suit while relying upon the orders passed by Hon'ble Supreme Court in civil appeal no. 3694/97 titled as Manju Bhatia and ors. vs. NDMC and ors. dated 06.05.1997. Hon'ble Supreme Court vide this order upheld the orders passed by Hon'ble High Court who upheld the demolition order passed by NDMC in respect of additional four floors raised unauthorizedly over the terrace of the 7th floor since the same were beyond the sanctioned building plan which permitted the construction only of two levels basement, stilt and seven floors. The construction of 8th to 12 floors being unauthorized was not protected.
13. In view of this discussion, I do not find any merits in the submissions of the appellant that the issue of FAR was not adjudicated by NDMC. The appellant being owner of only two flats at 7th floor has no locus to seek FAR at the terrace of 7th floor in a group housing plot.
14. Coming to the second contention that the construction is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, the two agreement to sell relied by the appellant are sufficient to hold that the construction is not old or prior to 07.02.2007. The agreement to sell dated 09.06.2008 vide which the appellant agreed to purchase the roof rights above 7th floor show that as on that day there were only two rooms at the roof. Similarly, as per the other agreement to sell dated 19.04.2007 vide which the appellant agreed to purchase 3600 sq. ft. area above flat no. 7C and 7D show that there was no construction above these two flats on the roof top. These two agreements reflect that there were only two rooms on the roof of the 7th floor as on 09.06.2008. Contrary to it, the construction existing at the roof of the 7th floor as noticed during the inspection on 21.03.2025 is as under:

A) Above Flat No. 7C and 7D.

- i) room 3.21 meter x 5.61 meter
- ii) toilet 3.12 meter x 3.12 meter
- iii) lounge 4.34 meter x 8.12 meter
- iv) kitchen 4.46 meter x 4.03 meter
- v) bed room 4.80 meter x 3.16 meter
- vi) toilet 2.95 meter x 1.80 meter
- vii) toilet 1.80 meter x 1.5 meter

B) Above Flat No. 7A and 7B

- i) two solar panel 4.66 x 4.20 meter each
- ii) shed 3.65 meter x 9.80 meter

C) Above Flat No. 7E and 7F

- i) lounge 11.42 meter x 8.53 meter
- ii) bed room 2.40 meter x 3.20 meter
- iii) room 2.23 meter x 3.83 meter
- iv) toilet 1.10 meter x 2.64 meter
- v) bed room 4.60 meter x 3.31 meter
- vi) toilet 2.04 meter x 3.42 meter

15. The entire covered area on the terrace of the third floor as on date is about 384 sq. meters excluding the solar panels. This clearly shows that against the two rooms existing on 09.06.2008, the appellant has raised massive unauthorized construction of 384 sq. meters and now has claimed that the same is old and occupied.

16. The appellant today filed some property tax assessment orders and payment receipts in respect of the construction existing at the terrace of the second floor but these documents cannot be of any help to the appellant as all these documents are subsequent to the work stoppage notice dated 07.02.2025 and have been created by the appellant who is an advocate by profession to support his case.

17. It will be relevant to note that as on 07.02.2025 when the property was inspected by the respondent, there was construction of only a shed measuring 13 x 13.7 meters and construction of room with brick wall measuring 6 x 3.6 meters, 3.3 x 3.6 meters, 4.3 x 4.7 meters and 5.6 x 4 meters. The appellant did not stop this unauthorized construction after this work stoppage order and further did not permit the officials of NDMC to inspect the property on 17.03.2025 and on 19.03.2025 and the inspection was carried out only after

the orders of the Hon'ble High Court dated 21.03.2025. The appellant in between 07.02.2025 to 21.03.2025, raised massive unauthorized construction as mentioned herein above and sought equity before Hon'ble High Court by filing writ petition no. 3426/25.

18. Though it is correct that the appellant did not raise any construction after 21.03.2025 but his act of raising unauthorized construction even after work stop notice dated 07.02.2025 till 21.03.2025 and not permitting an inspection is sufficient to dismiss this appeal since the appellant took law in his hands.
19. Be that as it may, the appellant has failed to show that the construction is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 whereas the NDMC in the reply filed in writ petition no. 3426/25 specifically stated that there is on-going unauthorized construction work on the terrace of the 7th floor and no objection was filed to that status report / reply by the appellant. There is sufficient material to hold that the appellant raised construction in the property much after 07.02.2007, which is the cut of date for protection in respect of construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and specifically in February and March 2025 and therefore, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available.
20. In these facts the appeal is meritless and is dismissed and the impugned sealing order is upheld.
21. 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 09.07.2026**

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