

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

APPEAL NO. 1/ATMCD/2025

- 1. Smt. Paramjit Kaur**
W/o Late Sh. Gurbachan Singh
R/o 2747/1, Second floor
Ranjit Nagar, South Patel Nagar
Delhi - 110008

- 2. Mr. Gurmeet Singh**
Late Sh. Gurbachan Singh
Office - 2747/1, Second floor
Ranjit Nagar, South Patel Nagar
Delhi - 110008

..... Appellants

Versus

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

..... Respondent

Date of Filing of Appeal	:	03.01.2025
Date of Judgment	:	10.07.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 11.12.2024 passed in respect of unauthorized construction carried out in the Property No. 2747/1, Ranjeet Nagar, New Delhi in the shape of deviation / excess coverage / additional dwelling units against the Sanctioned Building Plan at Basement, First Floor, Second Floor and Third Floor and projections on municipal land at back lane at these floors.
2. The brief facts necessary for disposal of this appeal are that the appellants are the joint owners of the basement, stilt as well as second floor of this property. The respondent vide show cause notice dated 21.08.2024, booked the unauthorized construction in the shape of deviation/excess coverage and

additional dwelling units at all floors against the sanctioned building plan dated 16.01.2012 at basement, stilt, ground, first and second floor and third floor and further unauthorized construction in the shape of RCC slab/panel over the UN-excavated earth area in basement. Further, unauthorized construction in the shape of rooms, toilets and kitchen at stilt floor and projections on municipal land at back lane at all the floors.

3. The show cause notice was duly replied by the appellants as well as the owners of the other floors of this property i.e. Smt. Lalita Sharma for the ground floor, Sh. Rajesh sharma for the first floor, Sh. Rajvansh and Hansa Parikh for the third floor rear side and Mr. Surinder Bhandari for the third floor front side. The respondent provided personal hearing to these persons who appeared before the Quasi Judicial Authority except of Smt. Lalita Sharma(ground floor) who chose not to appear after giving her reply.
4. The respondent after concluding the personal hearing, passed the impugned demolition order in respect of basement, first floor, second floor and the third floor and no order was passed in respect of the stilt and ground floor. It was held in this order that the property falls in unauthorized regularized colony known as Ranjit Nagar and the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is available to the unauthorized construction raised prior to 08.02.2007 and since the unauthorized construction was raised after obtaining the sanctioned building plan in 2012, the protection under this Act is not available.
5. The appellants who are the owners of basement, stilt and second floor have challenged this order on the ground that the property falls in khasra no. 835/446, Village Khampur Raya for which notification under section 507 of the DMC Act was issued on 28.05.1966 and therefore, the subject property is in village abadi of village Khampur Raya and the cut of date for protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for the unauthorized construction shall be 01.06.2014 and not 08.02.2007. It was argued for the appellants that all these Statutory Authorities like SDM, DDA and others have confirmed that the subject property falls in layout plan of village Khampur Raya. It was also argued that the demolition order is discriminatory and unsustainable as it selectively excluded the ground floor without any reasons. The respondent cannot seek

opinion from Chief Town Planner, HQ after passing the impugned order regarding the status of the subject property. Any post-facto opinion is not relevant and reliance in this regard has been placed on the judgment of Hon'ble Supreme Court given in Mohinder Singh Gill Vs. Chief Election Commissioner (1978) 1 SCC 405.

6. It was also argued for the appellant that there cannot be any estoppel against statute and even if the erstwhile owners described the property as situated in Ranjit Nagar while obtaining the sanctioned building plan, the same will not defeat the statutory protection available to the property situated in village abadi under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The MCD failed to specifically deny that the property falls in village Khampur Raya. The MCD failed to produce the notification under section 507 of the DMC Act and the layout plan of village Khampur Raya and took a contradictory stand of non-availability of notification. The appeal should be allowed.
7. Ld. counsel for the respondent on the other hand argued that the property is situated in unauthorized regularized Colony Ranjit Nagar and not in village abadi of village Khampur Raya. It was argued that initially the entire Delhi has been carved out from certain villages and once the layout plan is sanctioned for a particular colony like Ranjit Nagar, then it cannot be said that the property falls in village abadi. The erstwhile owner themselves applied for sanction building plan by submitting the layout plan of Ranjit Nagar along with their application and now the appellants, who have stepped into the shoes of the erstwhile owner, cannot claim that the subject property falls in village abadi.
8. It was argued by the Ld. Counsel for the respondent that the MCD has always stated that the subject property falls in unauthorized regularized colony and has never changed its stand in this regard. The cut of date for protection of unauthorized construction for the subject property is 08.02.2007 and not 01.06.2014 as available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The construction admittedly was raised unauthorizedly against sanctioned building plan after January 2012 and therefore, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available

and the appeal should be dismissed. It was also stated that the ground floor was inadvertently left out to be included in the demolition order and separate demolition order shall be passed in respect of the ground floor.

9. I have perused the record. The basic contention between the parties is whether the subject property falls in village abadi for which the cut of date of protection is 01.06.2014 or whether it falls in unauthorized regularized colony for which the cut of date is 08.02.2007. There is no doubt that the unauthorized regularized colony Ranjit Nagar was carved out from the land of village Khampur Raya. This Village was urbanized vide notification issued under section 507 of the DMC Act dated 28.05.1966. Whether this notification was filed on record by the appellants or MCD is not relevant as it is a gazetted document and judicial notice of the same can always be taken. The argument of Sr. counsel for the appellants that the MCD deliberately concealed this notification is meritless.
10. Coming to this notification, the entire remaining area of the revenue estate of village Khampur which was not so far being urbanized, was urbanized vide this notification. It means that from the date of this notification, entire village Khampur Raya was urbanized. The unauthorized regularized colony now known as Ranjit Nagar was carved out from the land of this village. The appellant himself has filed documents at running page 99 of the appeal which show that one Kuldeep Singh applied for regularization of the then unauthorized colony named Ranjit Nagar on 31.01.2005 in pursuance to the public notice seeking regularization of the unauthorized colony. The acknowledgment of this application seeking regularization was issued by Urban Development Department (Unauthorized Colony Cell). The acknowledgment records that the application for regularization along with site plan and details of the property owners has been received.
11. In pursuance to this application, the Urban Development Department issued eligibility slip for issuance of provisional regularization certificate in 2008 filed by the appellants at running page 101 of the appeal. As per this slip, the unauthorized colony Ranjit Nagar was found eligible for issuance of provisional certificate for regularization. This clearly show that the colony known as Ranjit Nagar which was carved out of the land of village Khampur Raya was considered eligible for regularization and provisional regularization

certificate was issued. Once it was provisionally regularized, the colony Ranjit Nagar cannot be said to be a village abadi of Khampur Raya. This argument of the appellant that it still remains to be a village abadi of village Khampur Raya is meritless

12. Further, the erstwhile owner of this property obtained sanctioned building plan vide their application dated 24.10.2011 and not only that they stated the subject property to be situated in Ranjit Nagar, they also filed the layout plan of the Ranjit Nagar along with their application seeking sanction building plan of this property. This document demolishes the case of the appellant that the subject property falls in village abadi of village Khampur Raya.
13. It was also argued for the appellant that after passing the demolition order, the respondent sought clarification from Chief Town Planner about the status of this property and as such, the MCD itself was not sure whether the property is situated in unauthorized colony or village abadi. I do not find any merit in this argument as it was only an opinion sought by the building department of MCD from the Chief Town Planner and does not mean that the Building Dept. was not aware about the status of the property. The Chief Town Planner in their response confirmed that the property falls in unauthorized regularized colony. The Building Department was sure since beginning that the property falls in unauthorized regularized colony.
14. In these facts, the cutoff date for the protection of unauthorized construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for the subject property shall be 08.02.2007 and not 01.06.2014.
15. Admittedly, the construction in violation of the sanctioned building plan dated 16.01.2012 was raised after obtaining the sanctioned building plan which was after 08.02.2007 and the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available to the appellants.
16. It is however relevant to note that vide show cause notice dated 21.08.2024, the respondent booked unauthorized construction on all floors from basement to third including the ground floor. The ground floor owner also replied to the show cause notice available at page 285/C of the office record and she also annexed her sale deed and other documents with her reply. The ground floor

owner however choose not to appear before the Quasi Judicial Authority in personal hearings, yet no order in respect of the ground floor and the stilt was passed.

17. The respondent being a statutory authority cannot be permitted to discriminate and arbitrarily passed orders without explanations. Though it was stated during arguments on 03.06.2026 by Id. Counsel for the respondent that the ground floor was inadvertently left out in the demolition order and separate demolition order for ground floor shall be soon passed but till date after more than a month, it has not been informed to this court that any demolition order for the ground floor has been passed. The respondent cannot be permitted to pick and choose and protect the ground floor without any justification. The impugned demolition order excludes the ground floor without any reasons and justification.
18. In these facts the demolition order dated 11.12.2024 is liable to be set aside as respondents cannot act arbitrarily without reason. The demolition order is therefore set aside with liberty to the respondent to pass fresh demolition order which shall include the ground floor as well or shall specify as to why the demolition order against ground floor has not been passed.
19. In these facts the appeal stand disposed of.
20. 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 10.07.2026**

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