

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

APPEAL NO. 536/ATMCD/2018

APPEAL NO. 803/ATMCD/2018

Mrs. Krishna Kumari (Dead)
Through LRs.

- 1. Sh. Jagannath**
S/o (Late) Sri Parmanand
R/o N-32, Majnu Ka tilla
Aruna Nagar, Civil Lines
North Delhi
Delhi – 110054
- 2. Sh. Rajesh Kumar**
S/o Sh. Jagannath
R/o N-32, Majnu Ka tilla
Aruna Nagar, Civil Lines
North Delhi
Delhi – 110054
- 3. Sh. Govind Kumar**
S/o Sh. Jagannath
R/o N-32, Majnu Ka tilla
Aruna Nagar, Civil Lines
North Delhi
Delhi – 110054
- 4. Master Karan Batra**
S/o Late Sh. Harish Kumar
Grand Son of Sh. Jagannath
Through Legal Guardian Sh. Jagannath
R/o N-32, Majnu Ka tilla
Aruna Nagar, Civil Lines
North Delhi
Delhi – 110054
- 5. Ms.Chanchal**
(Physically disabled and unmarried)
D/o Sh. Jagannath
R/o N-32, Majnu Ka tilla
Aruna Nagar, Civil Lines
North Delhi
Delhi – 110054

6. **Ms. Chandani**
W/o Maninder Singh
D/o Sh. Jagannath
R/o N-35, Majnu Ka tilla
Aruna Nagar, Civil Lines
North Delhi
Delhi – 110054
7. **Poonam**
W/o Santosh Kapoor
D/o Sh. Jagannath
R/o K-6, New Govindpura
Chandernagar (Mandawali)
Delhi – 110051
8. **Seema**
W/o Umesh Dua
D/o Sh. Jagannath
R/o Hapur Collectorate
Hapur, U.P.
9. **Babita**
W/o Madan Lal
D/o Jagannath
R/o Madiahu, Lucknow
U.P.

..... Appellants

Versus

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

..... Respondent

Date of Filing of Appeal : 30.07.2018, 23.10.2018
Date of Judgment : 13.07.2026

JUDGMENT

1. These are the two appeals challenging the demolition order dated 25.06.2018 in appeal no. 536/18 and the sealing order dated 11.10.2018 in appeal no. 803/18 passed in respect of unauthorized construction carried out in the property No. D-29, Majnu Ka Tila, Civil Lines, Delhi-110054 in the shape of Third & Fourth Floor with mumty (hereinafter referred as subject property).

2. The brief facts necessary for disposal of these appeals are that the deceased appellant Late Smt. Krishna Kumari purchased the built up property no. D-29, Majnu Ka Tila from erstwhile owner Smt. Babita Rani on 25.08.2014. Prior to that Smt. Babita Rani was in litigation against one Mr. Naimuddin and his father Mr. Mirazuddin who were in possession of entire second floor and a room on the first floor. The property was got vacated through judgment dated 18.04.2013 of Ld. Civil Court which was upheld in appeal filed by Hon'ble High Court vide order dated 23.10.13 passed in RFA No. 270/13. The possession of the property was taken through bailiff by Smt. Babita Rani on 16.11.2013.
3. The respondent earlier booked the unauthorized construction in the shape of ground, first and second floor and passed the demolition order dated 17.11.2014 and sealing order dated 11.12.2014. The appellant preferred two appeals before this Tribunal bearing no. 964/14 and 216/15 against these two orders. This tribunal vide order dated 20.05.16 allowed these two appeals and remanded the matter back with directions to the respondent to consider the reply of the deceased appellant and pass fresh speaking order after providing personal hearing. Pursuant to that the Quasi Judicial Authority passed an order dated 18.01.2018 holding that the construction up to second floor was in existence prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Subsequent to that, the respondent booked the unauthorized construction of the third and fourth floor and passed the impugned order in respect of these two floors.
4. The appellant has challenged these two orders on the ground that the construction of the third and fourth floor is also old and prior to 01.06.2014. The appellant constructed the third and the fourth floor after taking the physical possession on 16.11.2013 and before 01.06.2014 and as such the, same is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was argued that Mr. Mirazuddin filed Writ Petition (Civil) No. 7342/14 dated 27.10.2014 before Hon'ble High Court claiming that the appellant has constructed ground to third floor which clearly show that the third floor was in existence even before 01.06.14 and therefore, the same is protected under National Capital Territory of Delhi Laws

(Special Provision) Second Amendment Act, 2011. It was further argued even the pleadings of suit no. 07/15 filed by Mirazuddin show that the third floor was in existence prior to 01.06.14 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

5. Ld. counsel for the appellant also placed reliance on the judgment of Hon'ble High Court dated 13.08.2025 passed in Writ Petition No. 12173/25 titled as Sushil Kr. Chauhan Vs. MCD.
6. Ld. counsels for MCD on the other hand argued that the order dated 18.01.2018 passed by the Quasi Judicial Authority after the matter was remanded back in the two appeals no. 964/14 and 216/15 clearly show that there was no third and fourth floor in the property at the time of first booking of 31.10.2014. The appellant constructed the third and the fourth floor after purchasing the property as in the appeal itself it is mentioned that the appellant purchased built-up property consisting of ground, first and second floor on 25.08.2014 and as such raised construction of the third and fourth floor thereafter and as such the third and the fourth floors are not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the appeal should be dismissed.
7. I have perused the record. The appellant in the appeal in statement of facts in para 7(ii) mentioned that she purchased the property on 25.08.2014 consisting of ground, first and second floor. This admission by the appellant is sufficient to disbelieve her story that the property was constructed up to fourth floor prior to 01.06.2014. When the appellant became the owner on 25.08.2014, the question of her constructing the third and the fourth floor prior to 01.06.2014 does not arise.
8. Further, neither in the Writ Petition (Civil) No. 7342/14 filed by Mirazuddin on 27.10.2014 nor in the civil suit no. 07/15, Mr. Mirazuddin stated that the third and the fourth floor have been constructed prior to 01.06.2014. On the other hand in the earlier two appeals no. 964/14 and 216/15, the booking was of the ground, first and second floor. The appellant in those two appeals, mentioned that she purchased the property constructed up to second floor on 25.08.2014. The booking of the unauthorized construction in the shape of ground to second floor dated 31.10.2014 was set-aside by this Tribunal on

20.05.2016 and the matters were remanded back for fresh adjudication. The respondent thereafter passed the order dated 18.01.2018 and protected the ground, first and second floor under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

9. This clearly show that at the time of first booking dated 31.10.2014, there was no third and fourth floor in the property. As per the case of the appellant, put forth during arguments, the appellant constructed third and the fourth floor after 16.11.2013, when the possession was taken through bailiff by the erstwhile owner Babita Rani and before 01.06.2014 which is the cut off date. There is no material on the record to show that the appellant came in possession on 16.11.2013. Even as per the title documents relied by the appellant, the first part payment towards the consideration was made by her through Demand Draft dated 22.08.2014, apart from Rs. Two lacs given in cash. If this payment was made on 22.08.2014, the question of the appellant constructing third and the fourth floor before 01.06.2014 does not arise.
10. There is no material on record to show that the third and the fourth floor are in existence prior to 01.06.2014 or are protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appeals are without merits and are dismissed. The two impugned orders are upheld.
11. 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 13.07.2026**

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