

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

APPEAL NO. 785/ATMCD/2022

- 1. Smt. Seema Garg
W/o Shri Alok Garg**
- 2. Shri Alok Garg
S/o Shri Ramesh Chand Garg**

**Both resident of:
DDA Flat No. 189-B, Block QU
Pitam Pura, Delhi – 110034.**

..... Appellants

Versus

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

..... Respondent

**Date of Filing of Appeal : 22.12.2022
Date of Judgment : 16.07.2026**

JUDGMENT

1. This is an appeal challenging the demolition order dated 09.12.2022 passed in respect of unauthorized construction carried out in the First Floor DDA flat no. 189-B, QU Block, Pitampura, Delhi -110034 in the shape of deviation and excess coverage against the standard DDA Plan. (hereinafter referred as subject property).
2. The brief facts necessary for disposal of this appeal are that the appellants who are husband and wife are the owners of the subject property by virtue of GPA, Agreement to Sell etc. dated 14.01.2003. The respondent issued a show cause notice dated 20.07.2022 booking the unauthorized construction in the subject property in the shape of deviation and excess coverage. The same was duly replied by the appellants on 29.07.2022 stating that the construction is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The respondent

after providing personal hearings to the appellants and after considering their reply and documents, passed the impugned demolition order dated 09.12.2022.

3. The appellants have challenged this order primarily on the ground that the construction is old, occupied and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appellants only carried out certain renovations after purchasing the property on 14.01.2003 and before occupying the same on 25.04.2003 and since then, no fresh construction has been raised in the subject property and the same being in existence prior to 08.02.2007 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
4. Ld. counsel for the appellants has referred to the property tax returns, one valuation report of the property dated 27.11.2007 which was got prepared by appellants for taking some loan against this property, certain photographs and one invitation card dated 25.04.2003 when some religious rituals were performed before occupying the property. It was argued that the respondent booked the property on frivolous complaint lodged by the father of appellant no. 2 Mr. Ramesh Chand Garg. Almost all the flats in the vicinity have similar structures and the appellants have been single doubt on the complaint without physical inspection of the property. It was submitted that the impugned demolition order should be set aside.
5. Ld. counsel for MCD on the other hand argued that the documents of the appellants clearly show that they purchased first floor flat which as per the valuation report dated 27.11.2007 relied by the appellants had a covered area of only 650 sq. feet. Contrary to it, the status report dated 21.04.2023 clearly show that the covered area as on today is 932 sq. feet equivalent to 86.60 sq. meters and as such unauthorized construction has been raised after this valuation report dated 27.11.2007, which admittedly was after 08.02.2007 and is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the appeal is liable to be dismissed.
6. I have perused the record. The basic plea of the appellants is that the construction existing in the subject property is prior to 08.02.2007 and therefore is protected under National Capital Territory of Delhi Laws (Special

Provision) Second Amendment Act, 2011. The valuation report dated 27.11.2017 filed and relied by the appellants specifically mentions that the covered area in the property is 650 sq. feet and on the basis of that covered area, the cost of construction has been calculated and the market value to obtain a loan.

7. The status report dated 21.04.2023 which was filed in compliance to the orders of this Court dated 22.02.2023 vide which the respondent was directed to physically inspect the property, shows that the covered area of the property is 86.60 sq. meters equivalent to 932.15 sq. feet. This status report has not been disputed by the appellant and clearly proves that additional fresh unauthorized construction has been raised by the appellants after 27.11.2007 when the valuation report was prepared. The same is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, wherein the cutoff date for protection is 08.02.2007 for unauthorized construction.
8. Coming to the photographs and the invitation card relied by the appellants, the same do not show the extent of covered area of the subject property. The appellants have also relied upon the Property Tax Return (PTR) of the year 2005-06 to show that the covered area at the first floor is 83.5 sq. meters. This document cannot be relied upon since the same is contrary to the valuation report of the appellants dated 27.11.2007 as well as the PTRs for the years 2011-12. the valuation report mentions that the covered area is 650 sq. feet which is equivalent to 60 sq. meters and the PTR for 2011-12 which show the covered area at the first floor is only 55.10 sq. meters. These two documents are contrary and subsequent to the PTR of 2005-06 and therefore the covered area mentioned at the first floor in the PTR of 2005-06 cannot be relied upon.
9. The appellants raised unauthorized construction after 08.02.2007 and increased the covered area from 650 sq. feet as existing on 27.11.2007 to 932 sq. feet as found during inspection conducted after 22.02.2023 order of this Tribunal and thus violated the status quo qua construction required to be maintained for seeking protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

10. As far as the plea of the appellants that only they have been singled out in the locality, it is sufficient to note that other properties have also been booked and further same cannot be a ground to set aside the impugned demolition order as two wrong does make one right.
11. In these facts, there are no merits in this appeal and the same is dismissed. The impugned demolition order is upheld.
12. The records 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 16.07.2026**

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