

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

APPEAL NO. 299/ATMCD/2017

**Mrs. Tejinder Kaur Hanspal
W/o Col. VPS Hanspal (Retd.)
D/o Late Major Des Singh
R/o Ground Floor, C-54
New Delhi – 110024**

..... Appellant No. 1

**Maj. Narinder Singh (Retd.)
Since Deceased
Through Legal Representatives**

- 1. Mrs. Menka Singh
W/o Late Sh. Narinder Singh
R/o 2nd Floor, C-54, Defence Colony
New Delhi-110024**

**Also At :
G-031, DLF Ultima
Sector-81, Gurugram
Haryana-122004**

- 2. Mrs. Smriti Singh
D/o Late Sh. Narinder Singh
R/o 2nd Floor, C-54, Defence Colony
New Delhi-110024**

**Also At :
G-031, DLF Ultima
Sector-81, Gurugram
Haryana-122004**

..... Appellant No. 2

Versus

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

..... Respondent

**Date of Filing of Appeal : 04.05.2017
Date of Judgment : 24.07.2026**

JUDGMENT

1. This is an appeal challenging the demolition order dated 27.02.2017 passed in respect of unauthorized construction carried out in the Property No. C-54, Defence Colony, New Delhi in the shape of excess coverage against the Sanctioned Building Plan from Ground Floor to Second Floor and unauthorized construction in the shape of rooms (part permanent and part temporary) at Third floor. The appellants are concerned only about the ground and second floor (hereinafter referred as subject-property) and are also seeking demolition of unauthorized construction at first and third floor.
2. The brief facts necessary for disposal of this appeal are that the appellant no. 1 is the owner of the ground floor of this property whereas appellant no. 2 is the owner of second floor and their brother Sh. Baljit Singh is the owner of the first floor. The appellants claim that their brother raised unauthorized construction at the third floor which is owned equally by three of them. The appellants filed civil suit against unauthorized construction raised by their brother followed by writ petition before the Hon'ble High Court and followed by contempt petition before the Hon'ble High Court and the respondent instead of taking action, only against the first and the third floor, booked the entire property and passed the impugned demolition order.
3. The appellants have challenged the demolition order primarily on the ground that the construction at the ground and the second floor is as per sanctioned building plan and otherwise is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being prior to 08.02.2007. It was argued for the appellants that admittedly there is no sanctioned building plan for the third floor and the respondent did not take any action against the unauthorized construction at first and third floor and intentionally booked even the ground and second floors of the appellants without any justification and reason and therefore, this order should be set aside against the ground and the second floor and should be enforced against the first and the third floor.

4. Ld. counsel for respondent on the other hand argued that there is excess coverage at ground, first and second floor as compared to the sanctioned building plan of 11.81 sq. meters each and unauthorized construction of 25.24 sq. meters at the third floor and this construction is in excess of the sanctioned covered area of 159.41 sq. meters each from ground to second floor and is unauthorized and the entire construction at third floor is unauthorized and the appellants have failed to show that it was raised prior to 08.02.2007 and therefore, is liable to be demolished.
5. I have perused the record. The appellants in the entire appeal as well as in the documents filed along with appeal have stressed more upon the demolition of unauthorized construction at first and third floor. They have failed to show that how the unauthorized construction at the ground and the second floor is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Though, it is claimed that this construction at ground and second floor is according to sanctioned building plan and prior to 08.02.2007 but the same has not been proved and otherwise is contrary to record.
6. As per reply received by the appellants to their RTI query, the office of respondent informed that a building plan was sanctioned on 19.04.2015 for addition at ground and the second floor. If a building plan was sanctioned on 19.04.2015 and the construction was raised thereafter, the same was after the cutoff date of protection which is 08.02.2007 under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The demolition order clearly states that there is excess coverage of 11.81 sq. meters each at ground, first and second floor which is more than the sanctioned area of 159.41 sq. meters at each floor. This construction being raised after 08.02.2007 is excess coverage against sanctioned building plan dated 19.04.2015 and is liable to be demolished.
7. The appellants have failed to show that how this excess coverage, though compoundable, is protected or is construction as per sanction plan dated 19.04.2015. They have not taken any steps to get this construction regularized. This excess coverage of 11.81 sq. meters each at ground to second floor as well as the entire construction at third floor is liable to be

demolished and therefore, this appeal is without merits and is dismissed and the demolition order is upheld.

8. 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 24.07.2026**

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