

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

APPEAL NO. 153/ATMCD/2021

1. Sh. Hakimuddin (since deceased)
S/o Sh. Salamuddin
R/o H.No. 141, Gali No. 15
Masjid Wali Gali, Khureji Khas
Delhi – 110094

2. Sh. Jahiduddin
S/o Sh. Hakimuddin
R/o H.No. 141, Gali No. 15
Masjid Wali Gali, Khureji Khas
Delhi – 110094

..... Appellants

Versus

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

..... Respondent

Date of Filing of Appeal	:	30.03.2021
Date of Judgment	:	29.07.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 22.03.2021 passed in respect of the unauthorized construction carried out in the Property No. 141, Masjid Wali Gali, Khureji Khas, Delhi in the shape of ground Floor and raising of wall at first Floor (hereinafter referred as subject-property).
2. The brief facts necessary for disposal of this appeal as per appeal are that the deceased appellant no. 1 who is father of appellant no. 2, claimed himself to be the owner of the property on the basis of one Khasra Girdawari of the year 2017-18. It is further stated in the appeal that the construction in the property is old and almost 65 years old, yet the respondent booked the property

without any material and passed the impugned order only because of a civil suit filed by one Mohd. Babar alleging unauthorized construction in the property. The property consist of part ground floor and there is no construction at the first floor and despite that without giving any opportunity of being heard, the impugned order was passed.

3. It was argued by Id. Counsel for the appellants that the impugned order records that no reply has been given by the appellants to the show cause notice whereas the show cause notice was never served. The appellants were not given any opportunity of reply and personal hearing and therefore, the impugned order is liable to be set-aside. The construction is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
4. Id. counsel for MCD on the other hand argued that the show cause notice was duly served wherein it has been specifically shown that the unauthorized construction was raised in the shape of a room at ground floor which was also specified in the status report dated 23.09.2024. The appellants choose not to file any reply to the show cause notice and thereafter, the demolition order was passed. This construction was raised after the cutoff date of protection i.e. 01.06.2014 available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and is not protected and the appeal is without merits.
5. I have perused the record. The show cause notice dated 03.03.2021 was sent through speed post and as per track consignment report was duly delivered to the appellants on 15.03.2021. Similarly the demolition order dated 22.03.2021 was delivered through speed post on 25.03.2021. The appellants did not file any reply to the show cause notice and cannot claim that no opportunity of being heard was provided.
6. The appellants have claimed that the construction is almost 65 years old but have not filed any document to support this contention. On the other hand, the photographs filed by the respondent along with status report clearly show that fresh construction has been raised in the property in the shape of a big room at the ground floor with parapet walls at the first floor, which is fresh construction. The height of the wall at the first floor is around 1.46 meters at some place and around 0.96 meter at other corners. The appellant has failed

to show that this room exists since last 65 years and from the photographs it can be clearly made out that it is a fresh construction raised in 2021 when one Mohd. Babar filed the CS No. 98/21 challenging this unauthorized construction.

7. The construction of this room and parapet wall at first floor is unauthorized and not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being raised after 01.06.2014 and is not protected. Therefore, the 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 29.07.2026**

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