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

APPEAL NO. 174/ATMCD/2023

Dal Chand
S/o Late Sh. Roop Ram
R/o 6451, Gali No. 2, Block No. 8
Dev Nagar, Karol Bagh
Delhi – 110005

……….. Appellant

Versus

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

……… Respondent

Date of Filing of Appeal	**:**	**29.03.2023**
Date of Judgment	**:**	**30.07.2026**

JUDGMENT

1. This is an appeal challenging the demolition order dated 21.03.2023 passed in respect of the unauthorized construction carried out in the Property No. 6451, Gali No. 2, Block No. 8, Dev Nagar, Karol Bagh, New Delhi in the shape of entire First Floor, Second Floor, Third Floor and one room at Fourth Floor with projections on municipal land (hereinafter referred as subject-property).
2. The brief facts necessary for disposal of this appeal are that the appellant purchased this half undivided property measuring 41 sq. yds. vide registered Sale Deed dated 15.01.1999. There was a sanctioned building plan of this property dated 20.06.1973. As per appellant, no fresh construction has been raised by him since 1999 when the property was purchased. There was unauthorized construction in the adjoining property no. 6450 which was objected by the appellant and civil suit no. 2788/21 was filed by the appellant seeking injunction from raising unauthorized construction in that property.

The MCD also admitted in that suit that unauthorized construction has been carried out in property no. 6450. The respondent however did not take any action against that property and instead issued show cause notice dated 02.06.2022 in respect of the subject-property claiming unauthorized construction from ground to third floor and a room at fourth floor with projections on municipal land.

3. This notice was duly replied by the appellant and thereafter, the respondent passed the demolition order dated 13.06.2022. This demolition order was challenged by the appellant in appeal no. 368/22 and this Tribunal vide judgment dated 12.12.2022 allowed that appeal and remanded the matter back with directions to the respondent to give personal hearing to the appellant and pass fresh speaking order. In pursuance to this direction the respondent passed the impugned order giving protection to the ground floor under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being constructed prior to 08.02.2007 and directed demolition of entire first, second and third floor and the room on the fourth floor and the projections on municipal land.
4. The appellant has challenged this order on the ground that admittedly there is sanctioned building plan of the property as mentioned in the letter dated 25.01.1974 seeking release of 480 cement bags for raising construction and the respondent did not bother to pursue that sanctioned plan and without any reason booked the property of the appellant. It was argued that even after the matter was remanded back, the respondent did not consider the property tax returns filed by the appellant which show that the entire property was constructed prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The respondent gave protection only to the ground floor, though the entire property was constructed from ground to fourth floor before the appellant purchased the same and therefore, the same is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the impugned order should be set-aside.
5. Ld. counsel for MCD on the other hand argued that as per the sale deed in favour of the appellant, he purchased half undivided share measuring 41 sq. yards out of 82 sq. yards and therefore, his reliance on sanctioned building

plan dated 20.06.1973 is without merits. The erstwhile owner obtained the sanctioned building plan in 1973 and raised construction on the entire plot measuring 82 sq. yards. The appellant purchased only half of the property measuring 41sq. yards which was constructed subsequently without any sanction building plan after division of the property. As per the Sale Deed dated 15.01.1999, the vendors were the owner of 82 sq. yards built-up property and sold half of the land/built-up property to the appellant. This clearly show that the construction was raised by the appellant in half portion. The property tax record shows that the third and the fourth floor were constructed in 2021 and 2022 respectively and therefore, same are 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. From the letter dated 25.01.1974, filed by the appellant as annexure C to the appeal, it can be seen that there was a sanctioned building plan dated 20.06.1973 in respect of this property bearing plot no. 85 measuring 82 sq. yards. It was referred as plot no. 85, Block 8, H.No. 6451 in this letter. The then owner after taking 480 cement bags, constructed the property in and around January 1974. The appellant purchased 41 sq. yards i.e. half of the property on 15.01.1999 being half undivided share in the land and built-up structure. The photographs filed by the appellant clearly show that the half 41 sq. yards purchased by him, was reconstructed as the construction in this portion is totally different from the construction in the remaining half portion. The other half portion of the property is having different construction.

7. Further, the property tax self assessment forms filed by the appellant for the year 2004-05 to 2007-08 show that there existed only ground, first and second floor in this property with covered area of 34.30 sq. meter at ground floor and 41.30 sq. meter each at first and second floor. The subsequent property tax self assessment form of 2021-22 show that the third floor with covered area 41.30 sq. meter was added in 2021 and fourth floor with covered area of 11.15 sq. meter was added in 2022. The appellant has not filed any documents to show that the third and the fourth floor existed prior to 08.02.2007 which is the relevant cutoff date for protection in respect of

unauthorized construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

8. The electricity bill do not support the case of the appellant as the date of energization is after 08.02.2007.
9. However, in these facts, not only the ground floor, but even the first and the second floor are protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 keeping in view the property tax return from 2004-05 showing existence of first and second floor before 08.02.2007.
10. In view of the same, the demolition order is upheld but kept in abeyance for the first and the second floor as well like ground floor, under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 till this act is in force. The respondent shall be at liberty to take action against the first and second floor once this Act ceases to be in force. The third and the fourth floor however are not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
11. In view of this discussion, the appeal stand disposed of.
12. 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 30.07.2026

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