

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

APPEAL NO. 629/ATMCD/2022

**Shri Rattan Singh
S/o Late Shri Mehar Singh
R/o H.No. 14 Malikpur Village
Delhi - 110009**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal	:	14.10.2022
Date of Judgment	:	19.08.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 18.08.2022 passed in respect of unauthorized construction carried out in the property no. 14, Malikpur Village, Delhi in the shape of varandah (covered) adjoining to existing room and one toilet in projection at Fourth Floor (hereinafter referred as subject property).
2. The brief facts necessary for disposal of this appeal are that the appellant is the owner of property no. 14, village Malikpur. The respondent vide show cause notice dated 28.01.2013 booked unauthorized construction in the shape of entire ground floor to third floor and one room at fourth floor with projections on each floor in this property. The appellant filed a reply to this show cause notice and the respondent vide demolition order dated 21.03.2013 gave protection to this construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Subsequently the respondent vide fresh show cause notice dated 16.11.2018 booked the unautho-

alized construction in the shape of covered varandah and toilet in the projection at the fourth floor and passed the impugned demolition order after about four years on 18.08.2022.

3. The appellant has challenged this demolition order on the ground that the subject- property is in existence much prior to 01.06.14 and was existing even at the time of previous booking dated 28.01.2013. The respondent without inspection booked the subject property on frivolous complaint. The covered varandah and the toilet at fourth floor have not been constructed recently as claimed by the respondent and are old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appellant in support of this submission has relied upon some old photographs and video recording to show that the varandah and the toilet are in existence prior to 01.06.2014.
4. Ld. counsel for MCD on the other hand argued that at the time of previous booking on 28.01.2013, the fourth floor was having only one room which has been given protection vide demolition order dated 21.03.2013. The appellant raised fresh construction in the shape of covered varandah and the toilet in the projection at fourth floor which were constructed after 01.06.2014 and the same is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
5. I have perused the record. The appellant in support of the contention that this varandah and the toilet were existing even at the time of earlier booking, has relied upon some old photographs taken during the previous booking dated 28.01.2013. These photographs clearly show that there was a toilet in the projection area on municipal land at every floor including fourth floor as well as the covered varandah adjacent to the room at fourth floor. Existence of this room is undisputed as same has been given protection in the demolition order dated 21.03.2013.
6. The photographs filed by the appellant and the photographs taken by the respondent on 08.07.2026 show that this construction is same which was existing as on 03.04.2013 when the photographs were taken by the appellant. The pen drive filed by the appellant containing video recording show that this room and varandah are in existence prior to 01.06.2014. The property is situated in village locality and the appellant does not have any other documents

in the shape of property tax etc. to show existence of this toilet and covered varandah.

7. However, the appellant through photographs has shown that this varandah and the toilet are old and prior to 01.06.2014. The photographs taken by MCD also show that there is no additional construction at fourth floor apart from a room, toilet and covered varandah. In these facts the impugned demolition order though upheld, since there is no sanction building plan, is kept in abeyance till National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is in force. The respondent shall be at liberty to take action against the subject property, once this act ceases to be in force.
8. The appeal stand disposed of.
9. Record of the respondent, if any, be returned along with copy of this order and appeal file be consigned to record room.

**Announced in the open Court
today i.e. on 19.08.2026**

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