

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

APPEAL NO. 659/ATMCD/2019

- 1. Smt. Sandhya Tayal
W/o Sh. Vikas Tayal
R/o 26/64, Shakti Nagar
New Delhi**
- 2. Smt. Nidhi Singhal
W/o Sh. Ashish Singhal
R/o D-3/1, Ganga Triveni Apartment
Sector-9, Rohini
New Delhi**
- 3. Sh. Avneet Goyal
S/o Late Sh. B.M. Goyal
R/o 19-C, Block-UA
Jawahar Nagar, Delhi**

..... Appellants

Versus

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

..... Respondent

Date of Filing of Appeal	:	06.11.2019
Date of Judgment	:	24.08.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 15.09.2016 passed against the unauthorized construction of shops at ground floor and unauthorized construction of rooms at first floor, second floor and third floor in the property no. 2618-19, Naya Bazar, Delhi –110006 (hereinafter referred as subject property).

2. The brief facts necessary for disposal of this appeal are that the appellants purchased the ground floor of this property except of two shops vide sale deed dated 26.05.2010 and purchased the first and second floor vide another sale deed of the same date. The respondent booked the unauthorized construction vide show cause notice dated 14.11.2014 in the shape of shops at ground floor and rooms at first, second and third floor. The show cause notice was duly replied on 09.12.2024 and 14.06.2016 followed by the impugned demolition order dated 15.09.2016.
3. The appellants have challenged this order primarily on the ground that it is a non-speaking order and no opportunity of personal hearing was given and the order recording that the reply is not satisfactory is sufficient ground to set aside the order. It was further argued for the appellants that the construction is old and prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The respondent in its written statement filed in Civil Suit No. 435/14 filed by the tenant against the appellants, stated that there is no unauthorized construction activity seen in the property and in view of that written statement and considering the fact that there was no on-going construction in the subject property at the time of impugned booking, the demolition order should be set aside.
4. Ld. counsel for respondent on the other hand argued that the replies of the appellants were duly considered and there was no merits in the replies which simply stated that the construction is old and occupied and as such, there are no merits in this appeal and the same should be dismissed.
5. I have perused the record. The first aspect is the question of limitation. The appellants have challenged the demolition order dated 15.09.2016 and the appeal was filed on 06.11.2019. The appellants claim that the demolition order was never served. The respondent was directed to place on record any proof of service of the demolition order which the respondent failed to show and therefore, the delay is condoned.
6. Coming to the merits of the appeal. The appellants have claimed that only some repairs were carried out in the property and on a false complaint of the tenant, the subject property was booked. The sale deed(s) through which the appellants purchased the property are sufficient to negate the story of old construction. Vide sale deed dated 26.05.2010, the appellants purchased the

ground floor except of two shops. The numbers of floors mentioned in this sale deed are three floors i.e. ground, first and second. Similarly, through the other sale deed of the even date, the appellants purchased the first and second floor with roof rights. This also show that there was no construction on the terrace of the second floor as on 26.05.2010.

7. Further, this second sale deed show that the land use of these two floors was residential i.e. there were dwelling units on these two floors as on 26.05.2010. Contrary to it, the site plan filed by the appellants show that the first and the second floor each has nine shops and a toilet. This clearly show that the dwelling units at the first and second floor were demolished and entire new construction in the shape of commercial building has been erected.
8. All this was done subsequent to 26.05.2010, which is much later to 08.02.2007, which is the cutoff date for protection qua construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and therefore there are no merits in the submissions of the appellants that the construction is prior to cut of date and is protected under this Act.
9. Coming to the argument that the impugned order is a non-speaking order as it states that the reply is not satisfactory. I have perused the replies given by the appellants to the impugned order. The reply simply states that no new construction has been raised in the property and only some repairs/renovations permitted under building bye laws were done. The appellants did not file any documents with their reply to substantiate this plea and as already discussed, the sale deeds clearly show that fresh construction has been raised by the appellants after purchasing the property without any sanction.
10. It was argued for the appellants that the respondent in the written statement filed in the civil suit stated that no on-going construction was found and therefore it's a case of repairs only. There are no merits in this argument since the written statement was filed sometime in January 2015, where as the booking by respondent is of November 2014. The construction was already complete by January 2015 when written statement was filed in civil suit.
11. In these facts the appeal is without merits and the same is dismissed and the demolition order is upheld.

12. Records 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 24.08.2026**

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