

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

APPEAL NO. 641/ATMCD/2024

APPEAL NO. 509/ATMCD/2026

**Shri Devesh Bhardwaj
S/o Sh. Ishwar Dutt Sharma
R/o A-53 & A-54, Panchsheel Vihar
New Delhi - 110017**

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeal	:	12.08.2024 & 05.06.2026
Date of Judgment	:	14.09.2026

JUDGMENT

1. These are the two appeals challenging the demolition order dated 16.05.2024 in appeal no. 641/24 and the sealing order dated 14.08.2024 in appeal no. 509/26 passed in respect of unauthorized construction carried out in the Properties bearing no. A-53/D-A-54, Panchsheel Vihar, New Delhi (hereinafter referred as subject property) in the shape of Basement, Ground Floor to Fifth Floor.
2. The brief facts necessary for disposal of these appeals are that the appellant purchased plot bearing no. A-53 measuring 185 sq. yards through GPA, Agreement to sell etc. dated 15.03.2001 and thereafter purchased the adjoining property no. A-54 on 25.6.2013 through GPA etc. The respondent booked the unauthorized construction in the shape of basement, ground to

fifth floor vide show cause notice dated 07.05.2024 under section 344/343 DMC Act followed by the demolition order dated 16.05.2024. The respondent further issued show cause notice dated 26.06.2024 under section 345-A of the DMC Act followed by the sealing order dated 14.08.2024 which was partially executed on 18.09.2024 and 14.10.2024.

3. The appellant has challenged these two orders on the ground that the correct address of the properties is A-53 and A-54, Panchsheel Vihar whereas the impugned orders are in respect of property no. A-53/D & A-54, Panchsheel Vihar and are liable to be set aside on this ground alone as no valid show cause notice was issued nor served upon the appellant. No genuine effort to serve the same was made by the MCD and it was allegedly pasted. The photographs of pasting bear no geo-tagging to show that it was pasted on the properties of the appellant and further the impugned orders and show cause notices were not issued in the name of the appellant as were issued in the name of owner/occupier which is not legally sustainable. No opportunity of hearing was ever afforded to the appellant and the final orders were passed without service of show cause notice, without hearing and without considering that the construction is old and occupied and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 being raised prior to 01.06.2014.
4. Ld. counsel for the appellant argued that the impugned orders have been passed on pre-printed performa in violation of the judgment of Hon'ble Supreme Court given in writ petition (civil) no. 295/22 dated 13.11.2024 titled as In Re: Directions in the matter of demolition of structures and therefore are liable to be set aside.
5. Ld. counsels for MCD on the other hand argued that there is inordinate delay in challenging the sealing order in appeal no. 509/26 which cannot be condoned. Further, the documents filed by the appellant show that the properties were constructed by amalgamating two properties and the entire construction is in sink and show that it was raised from bottom to top at one time and not in pieces as claimed by the appellant. There are no details of construction existing in the documents of property no. A-54 and even as per the case of the appellant, the other property no. A-53 was constructed by him only up to second floor. The appellant demolished the existing structure and

unauthorizedly raised fresh construction after amalgamating the two properties. The fourth and the fifth floor have already been demolished and the other floors are required to be demolished. The site plan filed by the appellant show that after amalgamating, the two properties, four flats each have been constructed from ground to fourth floor apart from basement and stilt and this massive unauthorized construction being raised after 01.06.2014 cannot be protected even under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.

6. I have perused the record. The respondent has raised the issue of limitation in filing the appeal no. 509/26 which is in respect of sealing order dated 14.08.2024. This appeal was filed on 05.06.2026 after a delay of around 22 months.
7. As per the application seeking condonation of delay, the sealing order was executed on 01.06.2026 and the appellant for the first time came to know about the sealing order on 01.06.2026 and as such, there is no delay. MCD record shows that the property was sealing at four points at fifth floor and three points at fourth floor on 18.09.2024. Thereafter, sealing action was taken at third floor on 14.10.2024 at two points by sealing the entrance of flat no. 303 and 305 and lastly the basement was sealed on 01.06.2026. The photographs in respect of sealing action taken on 14.10.2024 at third floor are available in the office record and further the sealing action dated 18.09.2024 was duly witnessed by the police official from Police Station Malviya Nagar. The appellant has malafidely shown ignorance about these sealing actions, taken in September and October 2024 and has falsely claimed that the sealing action was taken only on 01.06.2026. The appellant did not bother to file the appeal against the sealing order since the first sealing action on 18.09.2024 and the delay is inordinate and unexplained and the sealing appeal is liable to be dismissed on this ground alone.
8. Coming to the merits of both the appeals. The appellant has not filed even a single document to show that the construction after amalgamating the two properties is prior to 01.06.2014. The appellant purchased plot bearing no. A-53 on 15.03.2001 and raised construction only up to second floor in this property as per his own case as mentioned in para 7F of the appeal. He claims that he purchased built-up property no. A-54 in 2013 and thereafter,

redeveloped and renovated both the properties. As per Para 7H of the appeal, the appellant redeveloped and renovated and construction work was carried out in the joint area of these two properties and further constructed third and the fourth floor.

9. Admittedly, these properties were never joint as the appellant purchased plot A-53 in 2001 and property A-54 in 2013 and as per his own case, A-54 was already built-up when he purchased whereas A-53 was constructed by him up to second floor in 2001 itself. When the properties were constructed separately by different persons, how can there be joint area in the two properties. The photographs of the property filed by the appellant clearly show that fresh construction has been raised synchronous from basement to top floor by amalgamating the two properties and it is not a case where third and fourth floor were raised sometime after 25.06.2013 when the appellant purchased the built-up property A-54.
10. Not even a single document has been filed by the appellant to show that the construction is prior to 01.06.2014 except of a electricity bill showing second floor in A-53 only prior to the cutoff date of 01.06.2014. There is another bill for ground floor of A-54 showing date of energization as 18.01.2014 but the connection is non-domestic in respect of the ground floor of A-53 and A-54 whereas as on today, there is stilt floor and upper ground floor having four flats. These bills are of no help to the appellant as earlier there were shops at ground floor and now there is stilt.
11. Coming to the aspect of non-service of the show cause notices. The show cause notice under 344/343 of DMC Act dated 07.05.2024 was duly served through pasting and the photograph of pasting are available in the office record. Pasting is approved mode of service under section 444 of DMC Act for which reliance can be placed:

1)Paramjeet Kaur V/s MCD 1994 (56) DLT 720.

2) Narender Prasad Dube V/s. Union of India 1999 (81) DLT 378.

3) Hari Dutt Vashistha V/s. MCD 1978 (2) ILR (Delhi) 28.

4) Usha Devi Sharma V/s. MCD 2020 (271) DLT 76.

12. Similarly the show cause notice under 345A of DMC Act dated 26.06.2024 was served through pasting on 26.06.2024 and 08.08.2024 with geo coordinates with the property being reflected in the photograph and therefore, the appellant cannot claim that show cause notices were not served.
13. As far as the property number is concerned, the respondent mentioned the address of the properties as A-53/D-A-54, Panchsheel Vihar, New Delhi. There is no dispute regarding the identity of the properties and only the letter D was mentioned between A-53 and A-54. The same did not cause any prejudice to the appellant as he was properly served through pasting and the identity of the properties were never in dispute.
14. There are no merits in any of the appeal and both the appeals are dismissed.
15. Records 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 14.09.2026**

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