

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

APPEAL NO. 340/ATMCD/24

Geeta Kashyap
W/o Sh. Amit Kumar Kashyap,
R/o B-163/164, New No. B-75-A,
Gali No. 1, West Vinod Nagar, Mandawali,
Fazalpur, East Delhi, Delhi-110092. Appellant

Vs

Municipal Corporation of Delhi.
Through its Commissioner,
17th Floor, Dr. S.P.M. Civic Centre,
Minto Road, New Delhi.Respondent

Date of Filing of Appeal : 10.05.2024
Date of Order : 14.09.2026

ORDER

1. This is an appeal challenging the demolition order dated 01.06.2015 passed in respect of unauthorized construction in the shape of shops and rooms, kitchen, toilet etc. at ground floor and rooms, kitchen, toilet etc at first to fifth floor in property no. B-75A, Gali No. 1, West Vinod Nagar, Delhi. The appellant is concerned only about a flat on the fourth floor of this property.
2. The appellant has challenged this order on the ground that the construction is old and occupied existing prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for which the appellant has placed reliance upon an electricity bill in respect of the flat at fifth floor showing date of energization as 18.05.2013. On the aspect of the limitation it was stated that the appellant was never served with the copy of

impugned order and came to know when the respondent partially demolished the flat of the appellant on 03.04.2024 and this appeal was filed on 10.05.2024 and therefore the delay should be condoned.

3. Ld counsel for the respondent/MCD on the other hand argued that admittedly appellant purchased the property on 15.07.2023 and therefore there was no reason for MCD to serve the show cause notice dated 19.05.2015 and the demolition order dated 01.06.2015 upon the appellant. Further, the demolition action was taken in the property on 29.09.2015 and the previous owner reconstructed the demolished portion and sold the same to the appellant and therefore this appeal is without merits and further the reconstruction being done after 01.06.2014 is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
4. I have perused the record. The delay in filing this appeal is inordinate and unexplained. As per appeal, the appellant for the first time came in possession of the property on 28.09.2018 through a security agreement executed between the erstwhile owner Late Mr. Raj Kumar and the husband of the appellant. The respondent had already booked the unauthorized construction on 19.05.2015 followed by the impugned order dated 01.06.2015. The appellant was not even in the property at that time and there was no reason with respondent to serve the appellant. The demolition action was taken on 29.09.2015 and therefore the same was well in the knowledge of erstwhile owner Late Mr. Raj Kumar. The appellant only stepped into his shoes and cannot have a right better than the erstwhile owner. The erstwhile owner reconstructed the demolished portion and sold the same to the appellant on 15.07.2023. The appellant cannot be permitted to seek condonation of delay only because she purchased the property on 15.07.2023 or came to know about the demolition order only on 03.04.2024. There are no grounds to condone the delay and the application thereof seeking condonation is dismissed. Reliance in this regard can be placed on the judgment of the Hon'ble Supreme Court of India passed in **P.K. Ramchandran Vs. State of Kerala & Ors. 1997 (7) SCC 556.**

5. Even otherwise there are no merits in the submission that the construction being prior to 01.06.2014 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The MCD partially demolished the property on 29.09.2015 and thereafter the demolished portion was reconstructed which admittedly was subsequent to 01.06.2014 and cannot be protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. Admittedly, there is no sanctioned building plan and unauthorizedly five floors other than ground floor have been raised in the property which cannot be protected.
6. In view of the above facts, the appeal is dismissed, the impugned demolition order upheld.
7. 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 14.09.2026**

**(AMIT KUMAR)
District Judge-cum-P.O.
Appellate Tribunal : MCD Delhi**