

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

**APPEAL NO. 251/ATMCD/2024**

**Chunnu Khan  
Son of Shri Abdul Razaak  
R/o K-433, Gali No. 4  
Gautam Vihar  
Delhi - 110053**

**..... Appellant**

**Versus**

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

**..... Respondent**

|                                 |          |                   |
|---------------------------------|----------|-------------------|
| <b>Date of Filing of Appeal</b> | <b>:</b> | <b>05.04.2024</b> |
| <b>Date of Judgment</b>         | <b>:</b> | <b>24.09.2026</b> |

**JUDGMENT**

1. This is an appeal challenging the sealing order dated 26.03.2024 passed in respect of the unauthorized construction carried out in the Property No. K-433, Gali No. 4, Gautam Vihar, Shahdara, Delhi-110053 in the shape of Ground Floor, First Floor, Second Floor and Third Floor with projection on Municipal Lane (here in after referred as subject property).
2. The brief facts necessary for disposal of this appeal are that the appellant purchased one plot measuring 100 sq yards from Smt. Kailashwati vide registered GPA and Will dated 19.06.1998 bearing property no K-433, Gautam Vihar, Shahdara, Delhi. He also purchased another plot measuring 100 sq yards on the same date from Sh. Baldev Raj son of Smt. Kailashwati bearing same property no. K-433, Gautam Vihar, Shahdara, Delhi. The appellant in the appeal has mentioned that he is the owner of property no. K-433, measuring 200 sq yards. Out of this 200 sq yards, he sold 40 sq yards

to Mr. Firoz and claims that the rest of the property was constructed up to third floor.

3. The respondent booked the unauthorized construction vide show cause notice dated 30.07.2020, in the shape of ground to third floor with projections on the municipal land followed by demolition order dated 26.08.2020. This demolition order has not been challenged till date. Subsequently, the respondent also passed the sealing order dated 11.11.2020. The appellant challenged this sealing order alone in appeal no. 139/2021 which was disposed of on 04.11.2022 with directions to the Quasi Judicial Authority to decide afresh after giving personal hearing to the appellant. The Quasi Judicial Authority thereafter provided personal hearings to the appellant and passed the impugned sealing order dated 26.03.2024.
4. The appellant has challenged this sealing order on the ground that the reply and documents filed by the appellant were not considered by the Quasi Judicial Authority. The property is old and existing prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. It was argued for the appellant that the respondent booked the unauthorized construction on the basis of false complaint lodged by the brother-in-law of the appellant Mr. Karimuddin against whom the appellant secured a decree for possession and he out of revenge, filed frivolous cases and complaints against the appellant. The appellant has produced electricity bills, water bills, court orders and the affidavit of his tenant to show that the construction is old and prior to 08.02.2007, but the respondent did not consider these documents and passed the impugned order which is liable to be set aside.
5. Ld. counsel for MCD on the other hand argued that the Civil Suit(s) between the appellant and Mr. Karimuddin are in respect of the other portion property having same number. The subject property is that portion of 200 sq yards, out of which 40 sq yards was sold to Mr. Feroz. The appellant is trying to mislead this Court. The MCD booked remaining 60 sq yards where fresh unauthorized construction was raised by the appellant and the appellant is relying upon the documents of other 100 sq yards portion to show that the construction is old which cannot be relied upon. It was further argued that the challenge to sealing order is not sustainable since the appellant has not filed

any appeal against the demolition order. The sealing order is a consequence of demolition order and without challenging this demolition order, the appeal against the sealing order is not maintainable.

6. I have perused the record. The appellant purchased two plots measuring 100 sq yards each from Smt. Kailashwati and her son on 19.06.1998 through registered GPA(s) and registered Will(s). The description of the two plots mentioned in these two GPA(s) show that they are two separate plots, having same number K-433. The boundaries were referred as property of others towards East & South and gali towards West & North in the GPA executed by the son. In the other GPA, executed by the mother, the boundaries were referred as property of others in East & North and gali towards West & South. From the description of the property, it is clear that the plot purchased from son was in the north of the plot purchased from the mother. The boundaries clearly show that the remaining portion of plot was referred as Other's property and not as remaining portion of the plot.
7. The site plan filed by the appellant along with the appeal at running page 244 shows that even in this site plan, he has concealed the other portion of plot, which was sold to Mr. Firoz. The appellant has filed site plan only of 100 sq yards and not of 160 sq yards owned by him. The respondent has not booked this 100 sq yards shown in the site plan but has booked the unauthorized construction raised in the 60 sq yards which is remaining portion of other 100 sq yards. None of the documents filed by the appellant show that any construction was existing in this 60 sq yards portion of the plot, out of which 40 sq yards was sold to Mr. Feroz.
8. The appellant has concealed the documents relating to 40 sq yards sold to Mr. Feroz which would have reflected that the extent of construction in this 100 sq yards portion of K-433.
9. It is also relevant to note that as per Agreement to Sell dated 27.02.1998 executed in favour of the appellant by Smt. Kailashwati and her son, the plot no. K-433 measuring 200 sq yards was consisting of two hall rooms, latrine, bathroom with electricity and tap water, but as per separate GPA(s) executed by them on 19.06.1998, it was only a piece of land measuring 100 sq yards each.

10. The impugned sealing order passed after the matter was remanded back, clearly records that all the documents produced by the appellant are in respect of 100 sq yards piece of land and the appellant did not furnish any document in respect of the 60 sq yards area where the unauthorized construction was raised.
11. I have perused the documents relied by the appellant and they all bear property no. K-433. The electricity bill of the ground floor of this 60 sq yards area show the date of energization as 04.12.2015. The other documents in the shape of electricity bill etc. relates to another 100 sq yards wherein the construction is old and has not been booked.
12. Further, as per the site plan filed by the appellant, there is only ground floor in 100 sq yards shown therein, consisting of four shops, three rooms, toilet bath etc. The respondent has booked unauthorized construction in the shape of ground to third floor with projections on municipal land which obviously exist in the remaining 60 sq yards which has been booked by the respondent. The appellant deliberately did not file the site plan and affidavit in respect of remaining 60 sq yards of the existing construction, which is the subject matter of the present appeal.
13. It is also relevant to note that the order under section 345-A DMC Act, is a consequence of the demolition order passed in respect of unauthorized construction. The appellant till date has not challenged the demolition order dated 26.08.2020 and challenged to the sealing order alone is not sustainable.
14. The appellant has failed to show that the unauthorized construction in 60 sq yards of the plot is prior to the cutoff date of protection i.e. 08.02.2007, as available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. He rather tried to mislead the Court. There are no merits in this appeal and the same is dismissed and the sealing order is upheld.

15. 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 24.09.2026**

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