

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

APPEAL NO. 609/ATMCD/2025

- 1. Sh. Parveen Kumar Bansal
S/o Sh. Murari Lal Bansal
R/o WZ-11, Manohar Park
East Punjabi Bagh
New Delhi – 110026**
- 2. Smt. Kiran Bansal
W/o Sh. Parveen Kumar Bansal
R/o WZ-11, Manohar Park
East Punjabi Bagh
New Delhi – 110026**

..... Appellants

Versus

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

..... Respondent

Date of Filing of Appeal	:	02.09.2025
Date of Judgment	:	25.09.2026

JUDGMENT

1. This is an appeal challenging the demolition order dated 19.08.25 passed in respect of unauthorized construction in the shape of projections in front and back from ground to second floor and projections in the front side at third floor along with an area measuring 27.30 sq meters at first floor and area measuring 128.18 sq meters on the third floor in property number WZ-11, Manohar Park, East Punjabi Bagh, New Delhi. (here in after referred as subject property).

2. The brief facts necessary for disposal of this appeal are that the father of appellant no. 1, namely Sh. Murari Lal Bansal filed WP (C) No. 275/24 before the Hon'ble High Court alleging unauthorized construction in property no. WZ-21, Manohar Park by one Mr. Rohit Jain. The private respondent in that writ Mr. Rohit Jain against whose property that writ was filed, stated before the Hon'ble High Court in that writ that action may also be taken against the properties of the petitioner there in as well. The Hon'ble High Court vide order dated 07.08.2024 passed in that writ gave liberty to Mr. Rohit Jain to file complaint against the illegal construction, if any, raised by the petitioner therein. Thereafter, Mr. Rohit Jain filed Writ Petition No. 611/25 for taking action against the unauthorized construction in the properties owned by the appellants and the father of appellant no. 1 bearing properties no. WZ-22A, WZ-11 and WZ-10, Manohar Park.
3. The respondent vide show cause notice dated 22.11.2024 booked the unauthorized construction in the subject property in the shape of entire basement to third floor. The appellants filed their reply and documents in response to this show cause notice and after providing opportunities of personal hearings, the impugned demolition order was passed only in respect of projections in front and back from ground to second floor and projections in the front side at third floor as well as an area measuring 27.30 sq meters at first floor and 128.18 sq meters at the third floor. Protection was given to the remaining portion i.e. entire basement, ground, second floor and part first floor under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011, being in existence prior to 08.02.2007.
4. The appellants who are the owners of this property have challenged the demolition order on the ground that the construction of the entire property is old and occupied and is prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The Monitoring Committee appointed by Hon'ble Supreme Court, earlier sealed the shops at ground floor in 2018 and thereafter the same were desealed vide order dated 07.09.2022. In those proceedings, the then AE(B) filed status report stating that the property consist of basement to third floor with projections on govt. land and it was stated that the building is old and covered under National Capital Territory of Delhi Laws (Special Provision)

Second Amendment Act, 2011 and in view of the same, the impugned demolition order is liable to be set aside. It was further stated that the appellants deposited an amount of Rs. 91,101/- towards the compounding charges of the unauthorized construction in the shape of projections. The Quasi Judicial Authority did not consider these documents and the appeal should be allowed and impugned order should be set aside.

5. Ld. counsel for MCD on the other hand argued that there is no sanction building plan of the subject property and the entire structure is unauthorized. The Quasi Judicial Authority examined all the documents including the property tax returns and the assessment order and found extra coverage on each floor as compared to the covered area mentioned in the property tax return and thereafter passed the impugned order which does not suffer from any infirmity. The proceedings before the Monitoring Committee cannot be relied since those were in respect of misuser of ground floor and not of unauthorized construction. The appeal has no merits and should be dismissed.
6. I have perused the record. Admittedly the property was booked in pursuance to the liberty given to Mr. Rohit Jain on 07.08.2024 in W.P.(C) No. 275/24 filed by father of appellant no. 1 alleging unauthorized construction raised by Mr. Rohit Jain in his property no. WZ-21, Manohar Park. It appears that the respondent while issuing the show cause notice dated 22.12.2024 did not bother to inspect the property and booked the entire property from basement to third floor though mentioned that it is old and occupied. The FIR clearly show that no fresh on-going construction was found at the time of booking and the property was booked only on court case and complaint.
7. Record further shows that the Monitoring Committee appointed by the Hon'ble Supreme Court sealed the ground floor shops sometime in 2018 and thereafter, the ground floor shops were directed to be desealed vide order dated 07.09.2022. In those proceedings, the then AE(B) filed status report under the signatures of the then Dy. Commissioner, MCD. As per that status report, the year of construction could not be ascertained and there were projections on the govt. land. The Monitoring Committee after taking into consideration the report of Assessment and Collection Department, MCD and after assessing the physical appearance of the building, comprehended that

the property is old and covered under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appellant paid the misuser charges for misusing the ground floor in contravention to MPD-2021 and therefore, the ground floor was directed to be desealed.

8. Though it is correct, as argued by Ld. Counsel for MCD, that this proceedings were in respect of misuse, but from this order it is clear that the Monitoring Committee was of the considered opinion and further comprehended that the building is old and covered under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The record of the respondent does not contain any material to show that any fresh construction has been raised after 07.09.2022 when the Monitoring Committee directed desealing or even after 08.02.2007 which is the cutoff date for protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
9. Though the Quasi Judicial Authority in the impugned order examined and evaluated the existing construction with the covered area mentioned in the property tax return but there is no material to show that the additional covered area has been raised after 08.02.2007. It is also relevant to note that the booking was in respect of entire property from ground to partly constructed third floor but in the impugned order, the respondent has directed to demolish the entire area of 128.18 sq meters at third floor which is equivalent to the covered area of the second floor. The respondent did not inspect the property and booked only the partly constructed third floor, constructed towards the service road side but later passed the demolition order in respect of entire third floor.
10. Further in the show cause notice, there was no booking of the projections from ground to second floor on front and rear and projections on the front side only at third floor, but the respondent passed the demolition order even in respect of the projections without putting appellants to the notice thereof.
11. The respondent gave protection to entire basement, ground and second floor on the basis of property tax returns and passed demolition order of a tin shed of 27.30 sq meters at the first floor. The mezzanine floor which has covered area of 71.71 sq meters as per property tax record, was considered as first floor by the Quasi Judicial Authority. The existing 91.01 sq meters at this first

floor includes the tin shed of 35.81 sq meters and RCC portion of 63.20 sq meters. If the existing area of the tin shed is 35.81 sq meters, how the protection has been granted to only 8.50 sq meters. From this order it appears that the Quasi Judicial Authority was of the view that tin shed of 8.50 sq meters is existing since prior to 08.02.2007. There is no material in the MCD record to belief that the remaining area of tin shed i.e. 27.30 sq meters was constructed later on.

12. Keeping in view the findings of the Monitoring Committee that the building is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and that the MCD record is completely silent in respect of even approximate date of unauthorized construction being raised by the appellant and further, the status report filed by MCD before Monitoring Committee under the signatures of the then Dy. Commissioner stating that the year of construction could not be ascertained, the appellants are entitled to protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
13. However the contention of Id. Counsel for the appellants that the amount of Rs.91,101/- was deposited towards compounding charges is without any merits since that amount was towards misuser charges for misusing the ground floor for commercial purposes and has nothing to do with compounding of unauthorized construction.
14. In these facts the impugned demolition order is upheld but 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 unauthorized construction once this Act ceases to be in force.
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 25.09.2026**

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