

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

APPEAL NO. 83/ATMCD/2022
APPEAL NO. 381/ATMCD/2025
APPEAL NO. 382/ATMCD/2025

Mahender Singh
S/o Sh. Jabar Singh
R/o A-103, Khasra No. 587
Chattarpur Extension
New Delhi-110074

..... Appellant

Versus

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

..... Respondent

Date of Filing of Appeals	:	23.02.2022 & 04.06.2025
Date of Judgment	:	29.09.2026

JUDGMENT

1. These are all the three appeals challenging the demolition order dated 05.01.2022 in appeal no. 83/22, in respect of the unauthorized constructions carried out in the shape of Ground Floor, First Floor & Second Floor, demolition order dated 12.10.2021 in appeal no. 381/25 in respect of the unauthorized constructions carried out in the shape of Ground Floor and demolition order dated 31.01.2022 in appeal no. 382/25 in respect of the unauthorized constructions carried out in the shape of Third Floor, in the

Property No. A-103, Khasra No. 584, Suman Colony, Chhattarpur Extension (here in after referred as subject property).

2. The brief facts necessary for disposal of these appeals are that the appellant purchased the property through unregistered GPA dated 06.03.2007 bearing plot no. A-103 measuring 212 sq yards. The respondent vide show cause notice dated 04.10.2021 booked the unauthorized construction in the shape of raising columns at the ground floor followed by the demolition order dated 12.10.2021. The respondent thereafter vide fresh show cause notice dated 28.12.2021 booked the unauthorized construction from ground to second floor followed by demolition order dated 05.01.2022. Lastly, the unauthorized construction of the third floor was booked vide show cause notice dated 21.01.2022 followed by the demolition order dated 31.01.2022.
3. The appellant initially filed appeal no. 83/22, on 23.02.2022, against the demolition order dated 05.01.2022 and thereafter, the appeal no. 381/25 was filed against the demolition order dated 12.10.2021 and appeal no. 382/25 was filed against the demolition order dated 31.01.2022 on 04.06.2025 after delay of more than three years.
4. The appellant has sought condonation of delay on the ground that the demolition orders dated 12.10.2021 and 31.01.2022 were never served and these came to the knowledge of the appellant only after inspecting the office record of MCD filed in appeal no. 83/22. The delay in filing the appeal no. 83/22 was sought on the ground that the demolition order dated 05.01.2022 was found lying on road on 19.01.2022 and thereafter the appellant approached the MCD seeking clarifications about this order and then filed the appeal.
5. On merits, it was argued that none of the show cause notices and the demolition orders were issued in the name of the appellant nor same were served upon the appellant and therefore, the opportunity of reply and hearing was not provided. It was further argued that the construction is old and prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for which reliance was placed on electricity bills, lease agreement of a shop at ground floor and certain photographs.

6. Ld. counsels for the respondent on the other hand argued that the show cause notices and the impugned orders were duly served through pasting at the subject property. The respondent booked the unauthorized construction at the stage of raising columns at ground floor on 04.10.2021 but the appellant did not stop the unauthorized construction and constructed the building up to third floor for which the last demolition order dated 31.01.2022 was passed. The construction has been raised without sanction building plan and is unauthorized and therefore, is liable to be demolished. It was also argued that the appellant has failed to explain the inordinate delay in filing the appeals no. 381/25 and 382/25 and these two appeals are liable to be dismissed on this ground alone.
7. I have perused the record.
8. Firstly, I will take up the issue of limitation. As far as appeal no. 83/22 is concerned, the appellant has challenged the demolition order dated 05.01.2022 and the appeal was filed on 23.02.2022. As per the office record of the MCD, the demolition order was served through pasting on 07.01.2022 and the photograph of pasting is available in office record. The limitation shall start from 07.01.2022. The story of the appellant that he found this order lying on road on 19.01.2022 is not plausible as for no reason the order could be lying on road from 07.01.2022 when it was pasted, till 19.01.2022 when it was allegedly found on road. However since the delay is not inordinate, the same is condoned.
9. Coming to the limitation in other two appeals, the demolition order dated 31.01.2022 and the demolition order dated 12.10.2021 were served through pasting on 02.02.2022 and 14.10.2021 respectively and the photographs of pasting are available in the office record. Service through pasting is approved mode of service under section 444 of DMC Act for which reliance can be placed on the following judgments:

- 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.

10. Once the demolition orders were duly served through pasting on 14.10.2021 and on 02.02.2022, the appellant cannot claim ignorance. The appeals no. 381 and 382 were filed on 04.06.2025 after delay of more than three years which is not only inordinate but also unexplained. Equity cannot be a ground to condone unexplained inordinate delay.

11. The Hon'ble Supreme Court in the case titled as "*P.K. Ramchandran Vs. State of Kerala & Ors. reported as 1997 (7) SCC 556*" held that:

“when the statute prescribes a particular time limit to file an appeal, the said limit cannot be simply extended on equitable grounds when the party concerned is not providing any satisfactory, reasonable or even a proper explanation for not filing the appeal at the appropriate time”.

12. Further, the Hon'ble Supreme Court in the case titled as "*Bahiru Govardhane etc. Vs. Land Acquisition Officer reported as 2013 (10) SCC 765*" held that:

“the court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same”.

13. In view of the same, these two appeals are liable to be dismissed on the ground of limitation itself.

14. Coming to the argument that the show cause notices and the demolition orders were not issued in the name of appellant. The record shows that the show cause notices and the impugned orders were issued in the name of Mr. Pradeep (owner/builder/occupier) with correct address of the property. All the three orders and notices were served through pasting at the correct property and the identity of the property is not in dispute. Once these were served at the correct property and the appellant had the knowledge of service and being owner of the property, cannot claim that he was prejudiced by the act of the respondent of not issuing the show cause notice in his name. Every prudent person will immediately respond to the show cause notice and the demolition order once the same are found pasted at his property with correct address of

the property. Otherwise also the show cause notices clearly mentioned the words “owner/builder/occupier”. There are no merits in this submission.

15. Coming to the merits of the appeal that the construction is old and prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The appellant in this regard has relied upon a lease agreement dated 28.04.2012 executed between him and Prizm Payment Services Pvt. Ltd. This agreement is in respect of a shop to be used for ATM measuring 7 feet x 11 feet at the ground floor. It is an unregistered document but demolishes the story of the appellant regarding old construction. At the time of this rent agreement, there was a shop of about 77 sq feet let out for ATM whereas as per the site plan filed by the appellant in respect of the stilt floor, there is a shop measuring 18 feet x 17 feet 6 inch and another shop measuring 9 feet x 17 feet 6 inch. This clearly show that the shop existing in 2012, of 77 sq feet no longer exist and now the size of the smallest shop is around 158 sq feet.
16. Further, the photographs taken by the respondent clearly show that fresh construction has been raised from the stilt floor after demolishing the old structure. The photograph clearly show the stage when the columns at ground floor were raised in October 2021. The electricity bills relied by the appellant are of no help as these are of the period when the old structure were there which has now been demolished and a new property from stilt to third floor has been built. None of the electricity bills relied by the appellant are of upper floors.
17. It is also relevant to note that the respondent booked the unauthorized construction when it was at the stage of raising columns at ground floor on 04.10.2021, photographs of the same are available in office record of MCD. The appellant did not stop the unauthorized construction and raised construction up to third floor which was lastly booked on 21.01.2022. The appellant cannot seek equity once he did not stop unauthorized construction despite booking at initial stage and had the courage to construct the building up to third floor.
18. The construction from the scratch was raised after demolishing the old structure which was after 01.06.2014 and the same is without any sanction and has no protection under National Capital Territory of Delhi Laws (Special

Provision) Second Amendment Act, 2011. All the three appeals are without merits and are dismissed.

19. 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 29.09.2026**

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