

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

APPEAL NO. 42/ATMCD/2018

**Smt. Angoori Devi
(Since Deceased)
Through Legal Heirs**

- 1. Sh. Kumar Pal
S/o Late Sh. Ram Singh
R/o C-2/6, Sector-11, Rohini
Rajapur Kalan, Rohini
Sector-7, Delhi-110085**
- 2. Sh. Vijay Pal
S/o Late Sh. Ram Singh
R/o 7381, Gali No. 1, Prem Nagar
Shakti Nagar, Delhi-110007**

..... Appellants

Versus

- 1. Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**
- 2. Smt. Saraswati
W/o Sh. Banwari Lal
R/o A-2/266, Nand Nagari
Delhi**
- 3. Sh. Yashpal
S/o Late Sh. Ram Singh
(Predeceased son of Late
Smt. Angoori Devi)
Through Legal Heirs:**
 - i. Sh. Kapil Pal (Son)**
 - ii. Ms. Chanchal (Daughter)**
 - iii. Ms. Jyoti (Daughter)**

**All R/o A-2/253, Nand Nagari
Delhi**

..... Respondents

Date of Filing of Appeal : **16.01.2018**
Date of Judgment : **12.10.2026**

JUDGMENT

1. This is an appeal challenging the demolition order dated 09.01.2018 passed in respect of unauthorized construction carried out in Property No. 7381, Gali No. 1, Prem Nagar, Delhi (hereinafter referred as subject property) in the shape of Ground Floor and First Floor.
2. The brief facts necessary for disposal of this appeal are that the appellants are in possession of around 49 sq. yards of the subject property, total measuring 200 sq. yards. As per appeal, this property was allotted as a Damage site by Delhi Development Authority (DDA) for which deceased appellant had been paying damages charges to DDA. The respondent booked unauthorized construction in the shape of Ground and First floor vide show cause notice dated 11.05.2016 followed by an earlier demolition order dated 01.08.2017. This demolition order was challenged by the deceased appellant in appeal no. 776/17 which was disposed of on 21.09.2017 directing the Quasi Judicial Authority to provide opportunity of reply and the personal hearing to the appellant and pass fresh speaking order. The Quasi Judicial Authority in pursuance to this order granted personal hearing(s) to the appellant and passed the impugned demolition order dated 09.01.2018.
3. The appellant has challenged this order on the ground that the construction is only up to ground floor and there is no construction at first floor in the portion in possession of the appellants measuring 49 sq. yards. This construction is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and except of repairs, no fresh construction has been raised in the property. It was argued for the appellants that the respondent did not even bother to inspect the property to ascertain if any first floor exist in the property. The initial booking of 2016 was in respect of the entire property and the earlier demolition order was passed in the name of nine persons and now the present demolition order has been passed only against the deceased appellant and her sons without any explanation as to why no demolition order has been passed against the other occupier(s) of the

property, who even did not challenge the first demolition order dated 01.08.2017 and therefore, the impugned demolition order is liable to be set aside.

4. Ld. counsel for MCD on the other hand argued that the property bearing no. 7381, comprises of different structures and in some portions, the construction up to first floor exist. The appellant raised fresh construction in her portion which were verified by the officials of Police Station Roop Nagar, Delhi who also filed such report in the civil suit and the respondent booked the property because of fresh construction which was duly verified and therefore, there are no merits in the present appeal.
5. I have perused the record. The respondent booked the unauthorized construction in the shape of ground floor and first floor in the property on 11.05.2016. The demolition order dated 01.08.2017 was passed against ten persons but only the deceased appellant challenged the same for her portion in the earlier appeal no. 776/17. The Tribunal allowed that appeal on 21.09.2017 and the matter was remanded back. The respondent thereafter gave opportunity of reply and personal hearings to the deceased appellant and passed the impugned demolition order. This demolition order was confined only to the deceased appellant and her sons for the portion under their possession. The respondent for unexplained reasons, did not pass any demolition order against the other structures and portion of the property.
6. The respondent during the proceedings in this appeal was directed to file status report as to whether any first floor exist in the portion in possession of the appellants, and the respondent stated that there is no first floor in the portion with appellant and it has only two rooms and verandah at the ground floor. When the portion in possession of appellant measuring 49 sq. yards does not have any construction at first floor, the impugned order passed in respect of construction at ground and first floor is factually incorrect and shows that the respondent did not inspect the property to ascertain the extent of construction.
7. The impugned order records that the property was booked on account of a court case wherein a status report was filed by police officials of Roop Nagar Police Station. The respondent relied upon that police report and inspected the property only on 09.01.2018 i.e. the date of demolition order. The Junior

Engineer(B) reported that as per visual inspection, some portion is old and some portion is recently constructed in the verandah in the shape of toilet and kitchen.

8. This report of Junior Engineer which was only on visual inspection, cannot be said to be prudent material to pass demolition order more so when the Junior Engineer report says that only a toilet and kitchen in the verandah have been recently constructed. The demolition order however is not in respect of toilet and kitchen but it seeks demolition of ground and first floor and interestingly, there is no first floor in the property in possession of the appellants.
9. The demolition order has been passed without any basis and material and without verifying the actual construction existing at site and the same is set aside. The respondent is at liberty to book the property after verifying the facts correctly.
10. The appeal stands disposed of. 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 12.10.2026**

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