

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

APPEAL NO. 269/ATMCD/26

**Sh. Harish Chaturvedi
S/o Late Sh. Laxmi Chand Chaturvedi,
R/o 232, Samrat Ashoka, Plot No.6,
Dwarka, Sec-18A, New Delhi-110075.**

..... Appellant

Vs

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

.....Respondent

Date of Filing of Appeal	:	30.03.2026
Date of Order	:	13.10.2026

ORDER

1. This is an appeal challenging the demolition order dated 18.03.2026 passed in respect of the unauthorized construction in the shape of lowering of ground level and construction of loft/mezzanine floor in existing shop in property No.1911, Main Road, Chandini Chow, Delhi-110006.
2. The appellant who is a tenant in the shop since 1945 has challenged this order on the ground that no fresh construction has been raised in this shop which was under tenancy of his father since 1945 and only repairs from time to time as permitted under Building Bye-laws have been carried out but the respondent booked the property at the instance of Mr. Prahalad Singh Sahney and the impugned demolition order has been passed without any basis and is liable to be set aside.
3. Ld. counsel for the MCD on the other hand argued that the appellant lowered the floor level and thereafter constructed a mezzanine floor and also constructed

concrete stairs to reach the mezzanine floor which cannot be called as repairs and therefore the appeal is liable to be dismissed.

4. I have perused the record. The respondent booked this unauthorized construction vide show cause notice dated 12.02.2026 which was on complaint. No ongoing construction was found at the time of booking. The appellant gave detailed reply to the show cause notice and thereafter personal hearing was provided to him and the demolition order was passed.
5. The photographs filed by the appellant as well as available in the office record do not show lowering of ground floor level as mentioned in the demolition order. The appellant has only constructed a platform about six inches above the floor level just to stop the rain water flowing to the shop. He has not lowered the ground floor level as claimed. Further, the photographs filed by the appellant show that the mezzanine floor existing in the property since long as a two wheeler scooter having registration No.DIO-4718 was parked in the shop which show that there were stairs even at that time leading to the mezzanine floor. The roof of the ground floor is also visible in that photograph showing a mezzanine floor in the property. So, the case of the respondent that a new mezzanine floor has been constructed is not correct. Re-flooring of the mezzanine floor or re-roofing the roof of the ground floor is permissible under clause 2.0.1 (d) of UBBL-2016 for which no prior permission is required.
6. Coming to the argument of constructing concrete stairs to approach the mezzanine floor. The respondent never booked the construction of concrete stairs. The demolition order is completely silent in respect of these stairs and same were only argued by the Ld. counsel for the MCD during this appeal. This argument of constructing stairs cannot be entertained being beyond the show cause notice and the demolition order.
7. It is also relevant to note that the respondent concluded the personal hearing on 09.03.2026 and thereafter the Junior Engineer was directed to inspect the property by Quasi Judicial Authority which was inspected on 13.03.2026. This inspection report and the photographs taken on 13.03.2026 were not brought to the knowledge of the appellant before passing the demolition order as the

proceedings of personal hearing were already closed on 09.03.2026. The Quasi Judicial Authority relied upon some material collected subsequent to closing of personal hearing and an order based on that material is not sustainable.

8. In view of the above discussion, the demolition order is set aside. The appeal is allowed.
9. 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 13.10.2026**

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