

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

APPEAL No. 555/ATMCD/26

**1. Sh. Bhagwan Singh
S/o Late Sh. Gopal Singh,**

**2. Sh. Satnam Singh
S/o Late Sh. Gopal Singh**

**Both resident of
B-99 (Part), Private No. B-99/3,
Naraina Industrial Area, Phase-I
New Delhi-110028.**

..... Appellants

Vs

**Municipal Corporation of Delhi.
Through its Commissioner,
17th Floor, Dr. S.P.M. Civic Centre,
Minto Road, New Delhi.**

.....Respondent

Date of Filing of Appeal	:	01.07.2024
Date of Order	:	14.10.2026

ORDER

1. This is an appeal challenging the demolition order dated 11.06.2026 passed in respect of unauthorized construction in the shape of entire basement, ground and first floor and tin shed and room at second floor of property bearing no. B-99 (Part), Private no. B-99/3, Naraina Industrial Area, Phase-I, New Delhi.
2. The brief facts necessary for disposal of this appeal are that the property no. B-99, Naraina Industrial Area was allotted to M/s Real Manufacturing

Company under Industrial Development Scheme later it was converted into free hold and conveyance deed was executed on 17.02.2012. Thereafter this property was partitioned in five separate portions vide partition deed dated 18.06.2021 and private numbers from B-99/1 to B/99/5 were given. The appellants are the owners of B-99/3 by virtue of Gift Deed dated 08.07.2025.

3. The appellants filed a writ petition before Hon'ble High Court bearing no. 12057/25 alleging unauthorized construction in portion bearing no. B-99/5. The Hon'ble High Court vide order dated 06.10.2025 passed in that writ petition directed the MCD to take requisite action, if required against the property of the appellants who were petitioners before the Hon'ble High Court. In pursuance to this directions the respondent inspected the property on 02.12.2025 and booked the same vide show cause notice dated 02.12.2025. The same was duly replied by the appellants and after providing personal hearings to them, the Quasi Judicial Authority passed the impugned demolition order.
4. The appellants have challenged this order primarily on the ground that the construction existing in their portion no. B-99/3 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 appellants that the property of the appellants is in the middle of property no. B-99 and unauthorized construction exist in the other portions of the property but the respondent did not take any action against the other portions in this property and malafidely booked the property of the appellants only because they filed writ petition before Hon'ble High Court. It was argued for the appellants that the respondent did not consider the documents of the appellants and solely relied upon the assessment given by the appellants under Amnesty Scheme SUNIYO and the same cannot be a basis to pass impugned order without any other material available with the respondent in respect of alleged unauthorized construction and therefore the impugned order should be set-aside.

5. Ld counsel for the respondent on the other hand argued that the appellants themselves disclose in the assessment under SUNIYO Scheme that some portion at ground floor, first floor and second floor was constructed after 2020 and since there is no sanctioned building plan of the property, the construction raised after 08.02.2007 is not protected and the demolition order has been passed only in respect of construction raised after 08.02.2007 and therefore there are no merits in this appeal.
6. I have perused the record. The respondent booked the property in pursuance to the inspection dated 02.12.2025 which was done on the directions of the Hon'ble High Court dated 06.10.2025 passed in W.P.(C) No. 12057/2025. The argument of the appellants that the respondent with malafide intention booked the property of the appellants is not correct.
7. Coming to the merits of the appeal. The appellants in the assessment under SUNIYO Scheme itself mentioned that the area measuring 69.67 sq mtr. at the ground floor, 40.65 sq. mtr at the mezzanine floor (considered as first floor in the impugned order) and area measuring 278.67 sq. mtr. at the first floor (considered as second floor in the impugned order) has age factor of 1.2. It means that the construction to this extent was raised sometime after 2020. When the appellants themselves admitted that this additional construction was raised after 08.02.2007 and after 2020, and there is no sanctioned building plan, the same is not entitled to protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
8. The impugned order however has not given protection to the area measuring around 145.24 sq. mtr. at the mezzanine floor (referred as first floor in the order). When the Quasi Judicial Authority solely relied upon the assessment under SUNIYO Scheme, there was no reason to pass demolition order for 145.24 sq. mtr. at the mezzanine floor (first floor as per order). The protection should have given to the entire construction at this floor except of 40.65 sq. mtr. and the impugned order giving directions to demolish 145.24 sq. mtr. at mezzanine floor (first floor) is not sustainable.

9. It is also relevant to note that the Partitioned Deed dated 18.06.2021 as well as the Gift Deed dated 08.07.2025 filed by the appellants have site plans annexed with them but the appellants choose not to file those site plans and the reasons for not filing the same are obvious as it would have shown the extent of construction existing in their portion no. B-99/3.
10. The appellants therefore are entitled to protection of the entire construction at mezzanine floor (first floor) except of area measuring 40.65 sq. mtr. For the other floors, the demolition order is correct as the appellants themselves claim to have raised additional construction after 2020 at ground floor measuring 69.67 sq. mtr. and at the first floor (second floor as per order) of area measuring 278.67 sq. mtr.
11. In these facts, the demolition order is upheld but modified to the extent that the appellants are entitled to protection for entire mezzanine floor except for an area measuring 40.65 sq. mtr. They are required to demolish area measuring 69.67 sq. mtr. area at ground floor, 40.65 sq. mtr. at mezzanine floor (first floor) and 228.12 sq. mtr. at first floor (second floor as per order).
12. The appeal stands disposed of.
13. 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 14.10.2026**

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