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

APPEAL No. 385/ATMCD/25

Harcharan Singh Yadav
S/o Late Sh. Om Prakash,
R/o H. No. 24, VPO Rajakari,
New Delhi-110038. …….. Appellant

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 : 05.06.2025
Date of Order : 16.10.2026

ORDER

1. This is an appeal challenging the demolition order dated 19.11.2024 passed in respect of unauthorized construction in the shape of ground and first floor in property falling in Khasra No. 1023/1, Village Rajokari, Vasant Kunj, New Delhi.
2. The brief facts necessary for disposal of this appeal are that the subject property stated to be bearing H. No. 24, is an ancestral property stated to be constructed prior to the cut-off date of protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 which is 01.06.2014. The Village Rajokari was urbanized vide notification dated 21.11.2019 issued u/s 507 of DMC Act. The respondent booked the unauthorized construction in the shape of entire ground and first floor vide show cause notice dated 08.11.2024 followed by the impugned demolition order dated 19.11.2024. The respondent thereafter booked the unauthorized construction in the shape of partly

constructed second floor in continuation of previous booking vide show cause notice dated 21.03.2025 and passed the second demolition order dated 16.04.2025. The appellant has not challenged the second demolition order.

3. The first demolition order has been challenged on the ground 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. Further, the show cause notice and the demolition order were not served upon the appellant nor mentioned the name of the appellant. The house of the appellant constructed in 1980 was in dilapidated condition and only strengthening of the same was done to avoid any damage and no fresh construction has been raised. The Revenue Authority in an earlier suit pending in respect of Village Rajokari has stated that the entire Khasra No. 1023/1 stands constructed in the shape of residential properties and this statement made way back in 2013 by the then Patwari clearly prove that the subject property is in existence since prior to 01.06.2014 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
4. Ld counsel for the respondent on other hand argued that there are photographs taken by the officials of respondent which clearly show ongoing construction in the property at the time of booking. Further, the appellant did not stop the unauthorized construction after first booking of ground and first floor and raised construction of part portion at the second floor which was subsequently booked and therefore the construction being raised after 01.06.2014 without any sanctioned building plan is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and the appeal is liable to be dismissed.
5. I have perused the record. The appellant has claimed that the show cause notice dated 08.11.2024 was never served upon the appellant. The appellant in para 7 (G) of the appeal has mentioned that the show cause notice dated 08.11.2024 was handed over to his mother on 12.11.2024 when the appellant was in Bharatpur, Rajasthan. This admission of the appellant is sufficient to say that the show cause notice was duly served upon the appellant. He further

admits in the same paragraph that the copy of the impugned demolition order was supplied to him during the hearing of civil suit no. 1069/24 filed against him by Bhagwan Singh at Patiala House Court claiming unauthorized construction in the subject property. These pleadings in the appeal show that the show cause notice as well as the demolition order were duly served.

6. Coming to the arguments that the show cause notice and the demolition order were not issued in the name of the appellant, once the show cause notice was duly received by the mother of the appellant and the demolition order was received in the civil suit, the fact that the show cause notice and the demolition order were issued in the name of owner/builder, did not cause any prejudice to the appellant. He received demolition order during the judicial proceedings in the civil court and the show cause notice was duly served upon her mother and was meant for the subject property and therefore there are no merits in the submissions that the show cause notice and the demolition order were not in the name of the appellant.
7. Coming to the merits of the appeal. The appellant has claimed that the construction is old and protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and he carried out only the strengthening work to save dilapidated property. The photographs filed by the appellant itself show that fresh construction has been raised in the property and it is not a case of repairs/strengthening as claimed. Further, the MCD record shows that the show cause notice was affixed at the subject property, when the property was under construction. The MCD record also has the photographs filed by the complainant Bhagwan Singh along with his complaint dated 08.11.2024 which also show fresh construction being going on in the property. Bhagwan Singh also filed civil suit no. 1069/2024 claiming unauthorized construction being raised by the appellant. This clearly shows fresh construction after erasing the existing structure.
8. Coming to the statement given by Patwari in the civil suit. The said Patwari stated that Khasra No. 1023/1 has houses built on entire land. That by itself

does not mean and reflect that the appellant did not demolish the old structure and raised fresh construction.

9. The intervener Sh. Bhagwan Singh along with his application filed the photographs of ongoing construction in the subject property as well as the cross examination of the appellant dated 07.03.2024 conducting in civil suit no. 619/18 where the appellant appeared as DW-1. In that cross examination the appellant admitted that as per the compromise deed the width of the common passage was mentioned at 15 feet whereas the said width of the common passage as on today is 14 feet 10 inches. This also shows that the fresh construction was raised in the property and the width of the common passage was reduced.
10. It is also relevant to mention that the first booking was only for the ground and first floor and the appellant did not stop the unauthorized construction and constructed part second floor as well which was booked subsequently. The appellant has not filed any documents to show that this two and a half storied structure exist since prior to 01.06.2014.
11. In these facts, the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is not available as the property has been constructed after 01.06.2014 without any sanctioned building plan or permission. The appeal stands dismissed.
12. 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 16.10.2026

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