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

APPEAL NO. 332/ATMCD/2025

Smt. Neha Babbar
W/o Sh. Manish Babbar
R/o H.No. D-8, WZ-29
Ratan Park
New Delhi - 110015

…….. Appellant

Versus

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

…… Respondent

Date of Filing of Appeal	**:**	**20.05.2025**
Date of Judgment	**:**	**27.10.2026**

APPEAL NO. 830/ATMCD/2025

1. Smt. Neha Babbar
W/o Sh. Manish Babbar

2. Sh. Manish Babbar
S/o Sh. Sudarshan Kumar Babbar

Both R/o H.No. D-8, WZ-29, Ratan Park
New Delhi - 110015

…….. Appellants

Versus

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

…… Respondent

Date of Filing of Appeal	**:**	**08.12.2025**
Date of Judgment	**:**	**27.10.2026**

JUDGMENT

1. These are the two appeals challenging the demolition order dated 14.05.2025 in appeal no. 332/25 passed in respect of unauthorized construction carried out in property No. B-8/6, First and Second Floor, Double Storey, Ramesh Nagar, New Delhi (hereinafter referred as subject property) in the shape of adding / removal of load bearing walls and covering of open space. In the other appeal no. 830/25, the appellants have challenged the work stop notice dated 07.05.2025 directing that no further unauthorized construction be carried out in the subject property.
2. The brief facts necessary for disposal of these appeals are that the appellantsMrs. Neha Babbar and her husband Mr. Manish babbar are the owners of first and second floor of this property by virtue of GPA etc. executed by Mr. Vishnu Bhagat for half of the property and executed by Mrs. Meera Joneja being SPA of Miss Laxmi Bhagat for the remaining half portion of the property. The respondent booked the unauthorized construction vide show cause notice dated 25.10.2024 on a complaint received from Mr. Parmod Chopra. As per the show cause notice, the ground and second floor are old and occupied and there was unauthorized construction in the shape of adding/removing of load bearing walls and covering of open space at the first floor. The appellant duly replied the show cause notice and after providing personal hearing to the appellants, the respondent passed the impugned demolition order directing to restore/ demolish / remove the extent of construction as booked. Later the impugned Work Stop Notice was issued to stop further unauthorized construction.
3. The appellants have challenged these impugned orders primarily on the ground that no fresh unauthorized construction has been raised in the property and only repairs and renovations as permissible under building bye laws have been carried out. The impugned demolition order does not specify about the particular wall(s) which have been removed or added as mentioned in the show cause notice. The impugned demolition order is vague and lack

details of the open area covered at first floor. The covered area at the first and second floor is in existence since prior to 08.02.2007 and is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011. The respondent cannot be permitted to add additional grounds during arguments to claim that the location of the stairs have also been shifted or there is unauthorized construction even at second floor and therefore, the impugned orders are liable to be set aside.

4. Ld. counsel for respondent on the other hand argued that the title documents of the appellants do not confer any title upon them and they have no locus to file these appeals. The appellants may be trying to grab the property. These are double storey flats which can have only ground and first floor whereas the appellants have constructed entire unauthorized second floor. Further, the site plan filed with the appeal and the site plan filed by the appellants along with their reply before the Quasi Judicial Authority show that the location of the stairs has been changed and further, open space has been covered and the cubic content of the covered area has been increased. There are projections at municipal land and therefore, there are no merits in these appeals which are liable to be dismissed.

5. I have perused the record. The Principles of Natural Justice were duly followed by the Quasi Judicial Authority as the appellants were personally heard before passing the impugned orders. As far as the title of the appellants is concerned, this Tribunal has no power to adjudicate the issue of title and any personal aggrieved from the impugned order passed under section 344/343 of the DMC Act can file appeal before this Tribunal. The appellants have shown that they are in possession of the property and are aggrieved from the impugned orders and as such these appeals are maintainable.

6. Coming to the merits of the appeals, the respondent vide show cause notice dated 25.10.2024, booked the unauthorized construction only at the first floor in the shape of adding / removal of load bearing wall(s) and covering of open space. Further, the demolition order was also passed in respect of construction as booked vide the show cause notice dated 25.10.2024. The argument of ld. Counsel for MCD that the location of stairs has been changed or there is unauthorized construction even at second floor or there are projections on municipal land, cannot be considered as the Quasi Judicial

Authority cannot go beyond the show cause notice. The demolition order cannot be justified by adding fresh grounds or materials at the stage of appeal. The appellants did not get any opportunity to respond these arguments before Quasi Judicial Authority.

7. Not only that the booking was only for the construction at first floor, even the demolition order has been passed for unauthorized construction which was booked and its scope cannot be enlarged during arguments in appeal. Otherwise, also the impugned demolition order as well as the show cause notice are vague, since the Quasi Judicial Authority itself was not aware as to whether the load bearing wall(s) were added or removed and how much open space at the first floor has been covered. The impugned order should have specified these details as the JE (B) inspected the property as mentioned in the order. The details are missing in the show cause notice as to whether the load bearing wall(s) have been added or removed and how many and further what is the extent of the coverage of open space at first floor. The MCD record does not have the Standard Building Plan of these Double Story Flats and it is difficult to ascertain as to how much was the standard open area and which portion of same has been covered.
8. The rough sketch prepared by the Quasi Judicial Authority on the show cause notice clearly show that there is no booking in respect of the ground and second floor and only the covering of open space at first floor has been booked. Further, there is no booking of shifting of stairs or the projections. It is also relevant to note that the appellants have placed on record property tax return(PTR) of the year 2006-07 along with the G-8 receipt showing the payment of property tax for 2006-07. This PTR show that the covered area at the first and second floor is 106.18 sq. meter each since 2006 and at the third floor is 50.66 sq meters. This construction being existing prior to 08.02.2007 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
9. The respondent has failed to establish that any fresh construction except of repair and renovations has been carried out in the subject property. There do not exist any details of the alleged load bearing wall(s) either being added or removed nor there are details of the extent of open area covered at first floor. In these facts, the work stop notice dated 07.05.2025 is liable to be quashed

and the demolition order dated 14.05.2025 being non-specific is also liable to be quashed. The construction to the extent shown as per PTR of 2006-07 is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and no action can be taken till this act is in force. In these facts both the appeals are allowed and the impugned orders are set aside. The respondent is at liberty to take action as per law.

10. The appeals stand disposed of. Record of the respondent, if any, be returned along with copy of this order and appeals file be consigned to record room.

Announced in the open Court
today i.e. on 27.10.2026

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