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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5455/2026 & CM APPL. 26657-26658/2026**

NISHA SHARMA

.....Petitioner

Through: Mr. Vinod Kumar Mantoo, Mr. Hem
Kumar and Ms. Nupur Mantoo,
Advocates.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Ms. Sushant Singh, Advocate for
MCD.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

23.04.2026

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1. The present writ petition has been filed seeking setting aside of the impugned judgment dated 2nd December, 2025 passed by the Appellate Tribunal, Municipal Corporation of Delhi (hereinafter referred to as 'ATMCD') and the judgment dated 6th March, 2026 passed by the Principal District and Sessions Judge (Central), Tis Hazari, Delhi, in an appeal filed by the petitioner against the aforesaid judgment of the ATMCD.

2. Both the aforesaid orders arise out of a demolition order passed by the respondent/MCD on 12th September, 2016. The relevant extracts from the demolition order are set out below:



AND NOW, THEREFORE, I have carefully gone through the records pertaining to this property on record that unauthorized construction has been carried out in the shape of unauthorized construction of ground floor, first floor, second floor, third floor and fourth floor is without the sanctioned building plan and any valid permission from the competent authority.

Therefore, in view of the discussions made herein above, I Mohd. Shakil, Assistant Engineer (B) City Zone, Delhi who have been delegated with the power u/s 491 of the DMC Act 1957, came to the conclusion that the owner/occupier Smt. Nisha Sharma has carried out unauthorized construction of ground floor, first floor, second floor, third floor and fourth floor in property No. 490-491-492, Haider Quli, Chandni Chowk, Delhi-06 which is liable to be demolished. Therefore, Smt. Nisha Sharma is hereby directed under section 343 & 344 of the DMC Act to demolish the same within 6 days of receipt of this order otherwise the same will be demolished at the risk and cost of the owner/occupier.

3. The aforesaid order was challenged by the petitioner before the ATMCD and the appeal was dismissed *vide* order dated 2nd December, 2025. The relevant extracts from the order of the ATMCD are set out below:



3. I have perused the record. The appellant in reply to the show cause notice gave her reply dated 29.06.2016 where she claimed that the construction in the property is in existence prior to 1957. Thereafter she stated that she constructed mezzanine floors after purchasing the property. In the present appeal the appellant herself has admitted that mezzanine floors were added after purchasing the property in April 2010. From it, it is clear that the additional construction on mezzanine floor was done after 08.02.2007. Ld. counsel for appellant has claimed that the protection under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 is available to the properties situated in special area for the construction prior to 01.06.2014. This interpretation is contrary to the said law. The notification of the Central Government in this regard protects the village abadi, special area that have taken place up to 08.02.2007. The special area has also been defined in this notification which is divided in three separate parts namely; walled city, walled city and extension and Karol Bagh. The walled city is Shahjanabad where the suit property is situated. The protection is available only to the construction existing as on 08.02.2007 and not 01.06.2014 as argued by the appellant. As per the case of the appellant herself she constructed two mezzanine floors after purchasing the property in April 2010, the same admittedly is without any sanctioned building plan and is not protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011.
4. In these facts, the impugned demolition order does not suffer from any infirmity and is a well reasoned order passed after giving hearing to the appellant.

4. This order dated 2nd December, 2025 was challenged by the petitioner before the Principal District and Sessions Judge (Centre), Tis Hazari.
5. The appeal was dismissed by the Principal District and Sessions Judge (Central), Tis Hazari *vide* order dated 6th March, 2026. Paragraph 6 of the said order is set out below:



6. On perusal of above mentioned provision, it is clear that status quo is to be maintained in respect of the property constructed upto 08.02.2007 falling in special areas as per Building Regulations for Special Area, Unauthorised Regularised Colonies and Village *Abadis*, 2010. The property in question falls within the area of walled city and thus included in special area as defined under 2(1)(j) of the above mentioned Act. The construction raised prior to 08.02.2007 is exempted but the construction raised post 08.02.2007 is not entitled to any protection. The construction of mezzanine floors was raised after 2010 by the appellant.

6. Both the judicial authorities below have consistently taken the view that the protection under the NCT of Delhi Laws (Special Provisions) Second Act, 2011 (hereinafter 'the Special Provisions Act'), is available only in respect of properties that were constructed prior to 8th February, 2007. In this regard, reference may also be made to the relevant provision of Section 3 (2) of the Special Provisions Act, which is set out below:



(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgment, decree or order of any court, status quo—

(i) as on the 1st day of January, 2006 in respect of encroachment or unauthorised development;

(ii) in respect of unauthorised colonies identified under the National Capital Territory of Delhi (Recognition of Property Rights of Residents in unauthorised Colonies) Regulations, 2019, in respect of village abadi area (including urban villages) and their extensions, which existed on the 31st day of March, 2002, and in aforesaid categories, where construction took place up to 1st day of June, 2014, as mentioned in sub-section (1);]

(iii) in respect of special areas as per the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, 2010; and

(iv) in respect of all other areas within the National Capital Territory of Delhi as on the 8th day of February, 2007, shall be maintained.

7. 'Special Areas' have been defined in Regulation 2(vi), the Building Regulations for Special Area, Unauthorized Regularized Colonies and Village Abadis, 2010 (page no.171 of the writ petition) (hereinafter the 'Building Regulations'), to include (i) Walled City, (ii) Walled City and Extension, and (iii) Karol Bagh. A reading of the aforesaid provisions extracted from the Special Provisions Act makes it crystal clear that the cut-off date is 8th February, 2007 in respect of the properties located in the Walled City. It is undisputed that the subject property is located in the Walled City.

8. Mr. Vinod Kumar Mantoo, counsel appearing on behalf of the petitioner, places reliance on the Building Regulations to contend that since the Building Regulations were issued on 17th January, 2011, the same have to



be given effect prospectively. Reliance is also placed on paragraph 5 of the abovesaid Building Regulations to submit that these regulations have to be in conjunction with the Master Plan for Delhi, 2021 (hereinafter referred to as the 'MPD-2021') and Building Bye-Laws.

9. The aforesaid Building Regulations form a part of Section 3 (2) of the Special Provisions Act. Accordingly, the petitioner cannot rely on the said Building Regulations to submit that protection to properties within 'special areas' would be available till 17th January, 2011, when the Special Provisions Act itself clearly provides the cut-off date to be 8th February, 2007.

10. There is no merit in the present writ petition and the same is dismissed.

11. All pending applications stand disposed of.

AMIT BANSAL, J

APRIL 23, 2026

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