

Building in a restricted area

Construction in prohibited and regulated areas is allowed subject to permission from ASI

Sunil Tyagi

htestates@hindustantimes.com

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LEGAL REMEDIES

When acquiring an immoveable property one is often not aware whether such property is situated in prohibited or restricted area of a historical monument or archaeological site. However, knowing the restrictions and regulations on construction activities that are applicable to such properties will ensure he/she does not face difficulties in carrying out construction.

In India, the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Act) and rules made thereunder provide for the preservation of ancient and historical monuments and archaeological sites and remains of national importance. This Act also regulates construction, reconstruction, renewal or renovation of immoveable properties situated in the vicinity of archaeological sites/historical monuments. The Archaeological Survey of India (ASI) governs and regulates

archaeological activities in the country under the said Act.

An ancient/historical monument and archaeological site declared to be of national importance by the Central Government, are termed as 'protected monument' and 'protected area' respectively. The Act draws a distinction between prohibited area and 'regulated area' with respect to restrictions on construction activities. This distinction was carved out in 2010 by Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010.

It is important to understand the distinction between prohibited area and regulated area. A 'prohibited area' is an area extending to a distance of 100 metres in all directions from the 'protected monument' or 'protected area', as the case may be. Any person

who owns a building or structure in a prohibited area may carry out repair of such property provided the owner has obtained permission from ASI. However, construction or reconstruction on such property is prohibited. A 'regulated area' is an area extending to a distance of 200 metres in all directions from the limit of the prohibited area.

Any construction or reconstruction of a building/structure falling in the regulated area is permitted only if an owner of such building / structure obtains prior permission from ASI. These limits for prohibited area and regulated area may be extended by the Central Government in respect of any protected monument having regard to its historical, archaeological and architectural

QUICK NOTES

- Renovation or repair work is permitted in prohibited areas falling within 100 m of a protected monument or sites only with prior approval of a competent authority
- Construction/ renovation/ is permitted in regulated areas falling within 200 m of prohibited areas only with prior approval of a competent authority
- Non-compliance may result in punishment with imprisonment of up to two years or fine upto ₹1,00,000 or both

value. Before proceeding with any construction activity, one must confirm from ASI whether or not the property falls under prohibited area / regulated area.

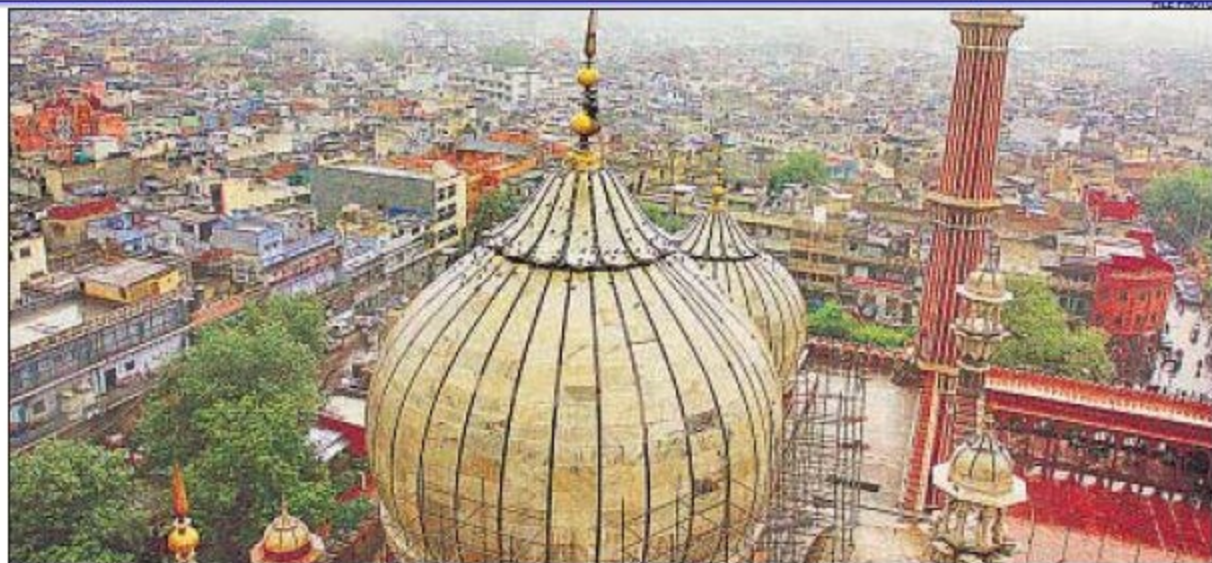
A person who wants to carry out construction activities on his/her building / structure falling in prohibited / regulated area in Delhi, is required to submit an application to ASI at least three

months before commencement of the proposed work. ASI will examine the application form, carry out site inspection and an impact assessment study and then forward the application to National Monument Authority (NMA) to seek its recommendation. After obtaining recommendation from NMA, ASI will intimate the applicant about the

grant or refusal of permission.

If a person undertakes construction activity on an immoveable property falling in prohibited or regulated area without obtaining prior approval from ASI, then such a person may face imprisonment for a term not exceeding two years or with fine upto ₹1,00,000 or both. After having obtained permission from ASI, one needs to obtain other construction approvals, sanctions of building plans etc from the local municipal authority and concerned authorities.

The author is senior partner at Zeus Law, a corporate commercial law firm. One of its areas of specialisations is real estate transactional and litigation work. If you have any queries, email us at ht@zeus.firm.in



The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Act) provides for the preservation of ancient monuments and archaeological sites of national importance

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