

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

APPEAL NO. 994/ATMCD/2024

Paardarshita Public Welfare Foundation (NGO)
Through its President, Harkrishan Das Nijhawan
B6/69-A, Safdarjung Enclave,
New Delhi -110029

..... Appellant / NGO

Versus

- 1. Municipal Corporation of Delhi**
(Through its Commissioner)
9th Floor, Civic Centre, Minto Road,
New Delhi-110002.
- 2. Delhi Development Authority,**
Through its Vice Chairman,
Vikas Sadan, INA,
New Delhi -110023.
- 3. M/s Gian P. Mathur & Associates (P) Ltd.**
Architects, Engineers & Project Manager,
C-55, East of Kailash,
New Delhi-110065.
- 4. M/s DCM Limited**
2050-2052, 2nd Floor, Plaza-II, Central Square,
20, Manohar Lal Khurana Marg, Bada Hindu Rao,
Delhi -110006.
- 5. M/s Purerth Infrastructure Limited**
Central Square,
20, Manohar Lal Khurana Marg, Bada Hindu Rao,
Delhi -110006.
- 6. M/s Basant Project Limited**
G-3 Ground Floor, Aggarwal Corporate Tower,
District Centre, Rajendra Place, Delhi -110008.

..... Respondents

Date of Filing of Appeal : 11.11.2024

Date of Judgment : 01.04.2025

JUDGMENT

1. The present appeal has been filed by the appellant NGO impugning the approval of the layout plan dated 18.02.2022 in respect of the DCM Group Housing Residential Complex. Appellant NGO has raised the concerns regarding the measurements of the residential area of the project, approval granted vide resolution dated 24.11.1989, inclusion of leasehold and in the Comprehensive Scheme, inclusion of non-contiguous land in the comprehensive scheme, allegations regarding encroachment of 18 meters wide public road, publication of wrong address of the project etc.
2. The aforesaid approval was initially challenged by the appellant NGO before the Hon'ble High Court of Delhi in a public interest litigation. Thereafter pursuant to the directions passed by Hon'ble High Court of Delhi in W.P.(C) 14193 of 2024 vide order dated 05.11.2024 and 08.11.2024 the present appeal was filed. The relevant extract from aforesaid orders is reproduced below:

“3. In the face of this objection taken by the respondents, the President of the petitioner/Organisation, Mr.Harkrishan Das Nijhawan, who appears in person, submits that the petitioner instead of pressing the present petition will approach the learned Appellate Tribunal. He, however, prays that it may be clarified that, in case, an appeal under Section 347 B of the Act is now preferred by the petitioner, the same will be considered on merits and shall not be rejected on the ground of delay.

4. Learned counsel for the respondents have no objection to this limited request.

5. In the light of the aforesaid, the writ petition is, accordingly, disposed of as not pressed with liberty to the appellant to approach the learned Appellate Tribunal by way of an appeal under Section 347B of the Act. Taking into account that the appellant had earlier also approached this Court by way of W.P.(C)5210/2024, which petition was disposed of as withdrawn with liberty to the petitioner to make a representation to the respondents, we direct that in case, the petitioner/Organisation prefers an appeal assailing the sanction order dated 18.02.2022, within a

period of two weeks from today, the same will be considered on merits and will not be rejected on the ground of delay. It is however made clear that this Court has not expressed any opinion on the merits of the rival submissions of the parties.

6. Needless to state, in case, the petitioner is aggrieved by any orders passed by the learned Appellate Tribunal, it will be open for the petitioner to seek legal recourse as per law.”

BACKGROUND

3. A proposal was made by DCM to develop a Group Housing Project an area 39.89 acres which included freehold and leasehold land. The said proposal was approved by the DDA for residential development vide resolution no. 26 dated 01.02.1983. On 01.08.1986 the DDA vide resolution no 3 withdrew its approval and the same was challenged before the Hon'ble High Court of Delhi. The Hon'ble High Court vide judgment dated 22.05.1987 set aside the said resolution no 3 dated 01.08.1986 passed by DDA. The standing committee of MCD vide resolution no. 1137 dt 24.11.1989 approved the layout plan for redevelopment of area of 39.89 acres as a comprehensive scheme (including the lease hold land).
4. DDA filed a special leave petition before the Hon'ble Supreme Court of India. Hon'ble Supreme Court vide judgment dt. 13.03.1990 upheld judgment passed by the Hon'ble High Court and directed for considering approval of plan in respect of freehold land and the leasehold land was excluded. DDA filed a review petition. The Hon'ble Supreme Court vide judgment dated 01.05.1991 disposed the review petition with directions to the parties to carry out their obligations as per judgment dated 13.03.1990.
5. In the year 1995 the layout plan was approved by the MCD for 26.90 acres of freehold land vide resolution no. 3172 dated 28.08.1995. The leasehold land was excluded from its purview.

6. DCM applied for revised layout plan for the redevelopment of group housing project in the year 2011 on 26.9 acres of free hold land as per Master Plan, 2021. DDA vide letter dated 19.09.2012 clarified that area under reference forms part of special area and the redevelopment will be permissible as per para 16.2 of the Master Plan, 2021. Standing Committee of MCD vide resolution no 62 dated 30.05.2014 approved revised layout plan.
7. Thereafter in the year 2014 and 2015 DDA executed conveyance deed in respect of seven plots of leasehold land and they were converted to freehold land.
8. DCM applied for revised layout plan and MCD vide standing committee resolution number 345 dated 13.01.2017 approved the revised layout plan with FAR of 300 (50% incentive for special area).
9. A revised layout plan was submitted for approval of land admeasuring 38.68 acres which included 26.90 acres of freehold land plus 11.78 acres leasehold land (which was converted to freehold in the year 2014 and 2015). The Standing Committee of NDMC vide resolution no. 135 dated 31.10.2019 approved the layout plan for single entity 36.71 acres excluding the non-contiguous plots admeasuring 1.97 acres.
10. Thereafter, DCM again submitted a proposal dt. 07.02.2020 for reconsideration of revised layout plan to include 1.97 acres of land of non-contiguous land. MCD sought clarifications from DDA. As no clear clarifications were received, the LOSEC without going into the merits of proposal vide item no. 52/20 dated 19.11.2020, recommended the case to be sent to the Standing Committee for rejection. The standing committee referred the matter to the Commissioner vide resolution no. 203 dated 10.03.2021.
11. Thereafter fresh clarifications were sought by MCD from the DDA which were received from DDA vide reply dt 07.12.2021. The representative of DDA also attended LOSEC meeting on 28.1.2022 and clarified that the proposal for inclusion of non-contiguous land can be

considered as a comprehensive scheme. He also cited the example of other similarly placed projects. Thereafter the minutes of LOSC were shared with DDA for confirmation and by resolution no. 266 dt. 18.02.2022 the revised layout plan was approved by MCD.

12. The respondent no. 4 & 6 in their written submission have tabulated the list of dates and events which are relevant for adjudication of the present case and the relevant dates are reproduced below: -

Dates	Particulars
01.02.1983	DDA granted approval in its authority meeting vide resolution No. 26 to the proposal of DCM for redevelopment of DCM as a comprehensive scheme on an entire area of 39.89 acres [Land A. 37.93 including 2 parcels of freehold land (15.97 acres + 10.93 acres) and 2 parcels of leasehold land (7.53 acres + 2.28 acres) along with 1.05 acres and further Land B. 1.96 acres comprising of 3 parcels of leasehold land]
01.08.1986	DDA passed resolution No. 3 while withdrawing its approval dt. 01.02.1983.
1986	DCM challenged resolution dt. 01.08.1986 & 03.11.1986 by way of WP (C) No. 2687/ 1986 before Delhi High Court
22.05.1987	Delhi High Court held that the decision of authority dt. 01.08.1986 & 03.11.1986 were bad in law and resolution dt. 01.02.1983 deserved to be restored.
24.11.1989	The Layout Plan of DCM was approved by the standing committee of MCD vide resolution No. 1137.DCM was granted permission for the implementation of the scheme on the entire land of 73 acres with recommendation that formal approval of DUAC, competent authority slum, the lesser DDA etc., approval of water supply, stormwater drainage system was also sewerage and required and therefore, the case was submitted for consideration of standing committee and for taking a decision in the matter.

	SLP filed before Supreme Court of India by DDA & UOI against DCM listed as Civil Appeal No. 1401/1990 [arising out of SLP (Civil) No. 10032 of 1987] and civil appeal No. 1402/1990 [arising out of SLP (Civil) No. 11009 of 1987]
13.03.1990	SC dismissed both appeals holding that DDA would grant conditional approval to DCM subject to removal of objections raised by DDA.
07.05.1990	Resolution bearing No. 41 passed by DDA by holding that scheme would stand cleared only after grant of final approval & DCM would be entitled to give effect to scheme only thereafter because SC had made clear that no activity w.r.t any aspect of scheme would be undertaken until objections of DDA weren't met.
01.05.1991	After hearing I.A. No. 4,5,6 & 7 of 1991 for review in Civil Appeal No. 1401-1402 of 1990 filed by DDA, SC held: <ul style="list-style-type: none"> ● that as per the master plan, 28.14 acres was earmarked for flatted factories and 43.39 acres as residential, though sum total goes to more than 63 acres, therefore, the respective areas had to be cut in either area or both. ● Scheme in modified form would have to be brought in, not anew but as a substitute for the original scheme registering its birth, legitimacy and binding force as of the original scheme. ● parties were under obligation to responsibly carry out directions of Apex Court dated 13.03.1990.
28.08.1995	Layout plan for residential housing complex approved by Standing Committee, MCD vide resolution bearing No. 3172 whereby: <ul style="list-style-type: none"> ● approval to development on 26.90 acres & putting development on other land 7.53+ 2.28+ 1.05 (disputed land) + 1.97 acres on hold as per directions of SC. ● 3 parcels of land abutting New Rohtak Road measuring 1.97 acres was part of approved scheme dt. 01.09.1983. ● Road permitted to connect parcels of land to main road.
2011	DCM applied for revised layout plan for redevelopment of housing complex on 26.9 acres of freehold land as per MPD, 21

2014	New proposal by DCM on freehold land measuring 108858.92 sq. mts. (26.9 acres) with applicable MPD, 2021 norms thereby envisaging development of 1306 dwelling units, 534 EWS units with common facilities and parking in basement (3 levels) DCM also requested revision of Clause 16.2 of MPD, 2021 that addresses Special Area Regulations under para 3.3.2 & 4.2.2.
11.06.2014	Vide Resolution No. 62 passed by Standing Committee of NDMC, approval u/s 313 of DMC Act, on the basis of commissioner's letter No. F.33/CTP/NDMC/55/C&C 30.05.2014, was given.
08.08.2014	Office of Commissioner, North MCD approved the building plan for construction of Residential Group Housing Complex under section 336 of Delhi Municipal Corporation Act vide letter bearing No. 30/B/HQ/NDMC/2013/D-137/AE-VI.
20.05.2014, 09.07.2014, 25.08.2015	Conveyance Deeds executed in favour of DCM by DDA in respect of ten lease hold plots of DCM.
	DCM applied for revised approval of layout plan as a comprehensive redevelopment scheme in special area with FAR 300.
	Revised Plan submitted to NDMC for approval (u/s 313 DMC Act) of group housing society for 300 FAR on 39.73 acres.
04.09.2014	Letters given by DCM to MCD for permission to approve the layout plan on 38.65 acres of land with 300 FAR in accordance with MPD, 2021.
13.01.2017	Revised layout plan passed by MCD based on comprehensive scheme approved u/s 313 DMC Act vide resolution No. 345 on land measuring 36.71 acres (26.9 acres freehold +7.53 acres lease hold +2.28 acres leasehold converted into freehold by DDA) for 300 FAR (200 + 50% as incentive of FAR in a special area as per para 3.3.2 of MPD, 2021) for redevelopment.
01.03.2017	Representation given by DCM to MCD.
17.05.2017	Revised Layout Plan sanctioned by MCD vide letter No. 45/B/HQ/NDMC/2016/D-26/AE-IV u/s 336 of DMC Act.
31.10.2019	MCD approved revised layout of DCM vide resolution No. 135 on 36.71 acres. 1.97 acres of land was not

	considered due to land being non- contiguous.
07.02.2020	DCM submitted its request for reconsideration of revised layout plan including 1.97 acres.
12.06.2020	Revised Building Plans were sanctioned by Sanctioning Authority, NDMC u/s 336 of DMC act vide File No. 10074638.
19.11.2020	Meeting of committee of LOSC, MCD conducted in which it was decided to reject the proposal of amalgamating 3 entities & case was directed to be placed before Standing Committee for rejection.
08.02.2022	After getting nod from DDA on 08.02.2022 & 09.02.2022 by E-mail, the proposal was submitted for revised layout plan for land measuring 38.68 acres with 300 FAR approved by NDMC vide resolution no. 266.
18.02.2022	The impugned layout plan approved vide resolution no. 266.
25.03.2022	DGP Traffic gave its NOC vide letter bearing No. (F.134/16)/TE(NOC)/Traffic.
18.04.2022	A letter bearing No. TP/G/358/2022 was received from NDMC regarding approval of standing committee of NDMC vide resolution No. 266 dt. 18.02.2022.

A. Jurisdiction

13. The aspect of jurisdiction is challenged by Ld. Counsels for the respondents. It is submitted that the appeal under Section 347B of The Delhi Municipal Corporation Act, 1957 (hereinafter referred as DMC Act, 1957) can only be filed by an aggrieved person. It is submitted that the Hon'ble High Court in the matter of **Hardayal Singh Mehta Vs. MCD**, AIR 1990 Delhi 170 has clearly laid down legal position and clarified about the person who can become party to the present appeal proceedings. It is submitted that a person who is whistle blower or informant can only be a witness but cannot be made a party. It is submitted that appellant has no *locus standi* in the present matter and does not satisfy the test laid down in the case of Hardayal Singh Mehta

(Supra). Respondents have also relied upon the case titled as **Jasbhai Motibhai Desai Vs. Roshan Kumar and Ors.** in Civil Appeal No. 2035 of 1971 decided on 19.12.1975 to impress upon that the appellant does not fall in the definition of aggrieved person.

14. In present case, initially appellant filed a public interest litigation vide WP(C) 14193 of 2024 before the Hon'ble High Court of Delhi. The division bench of Hon'ble High Court vide order dated 05.11.2024 and 08.11.2024 disposed of the writ petition with liberty to the appellant to approach this Tribunal. The Hon'ble High Court also directed that the case shall not be rejected on the ground of delay. The order clarified that the High Court has not expressed any opinion on the merits of the rival submissions of the parties.

15. In view of the categorical directions passed by the Hon'ble High of Delhi directing the appellant to approach this Tribunal the question of jurisdiction cannot be disputed in the peculiar facts and circumstances of the present case. Accordingly, the objections as to the jurisdiction taken by the respondents are rejected in view of the directions passed by the Hon'ble High Court.

B. Issue Regarding the measurements of the Residential Area of the Project.

16. It is alleged by the appellant that as per resolution dated 26.12.1983 residential area is 43.39 acres not 39.73 acres. It is stated that the proposal is silent regarding the land of about 3.50 acres.

17. Perusal of record shows that in 1983 a comprehensive scheme was proposed for the area of 63 acres which included flatted factories as well as residential area. In order dated 01.05.1991 passed in I. A. No. 4, 5, 6 & 7 in Civil Appeal No. 1401 & 1402 of 1990, Hon'ble Supreme Court of India dealing with objections of measurements of area raised by DDA observed that the Scheme needs to be spruced to 52 acres of land and original scheme had to be modified accordingly. The said proposal was again considered in 1995. The approval granted by the MCD clearly mentioned the area of land which had been

considered for the purposes of residential development after deduction of area earmarked for other purposes, encroached land, lease hold land etc. The layout plan of the year 1995 clearly mentions that it was limited to freehold residential area of 26.9 acres. The subsequent approval granted by the MCD in respect of the revised layout plans clearly records the break-up of the land which has been apportioned for the residential purpose in the comprehensive scheme. Such break-up clearly mentions the area which is freehold, leasehold and the area which has been excluded. In respect of leasehold land converted to freehold, respondents have filed conveyance deeds showing area purchased by them. From the record it is apparent that the measurement of the area is clearly delineated in the proposal approved by MCD and the allegations are not well founded.

18. Appellant has failed to lead any positive evidence to substantiate his allegations in this regard and the contention is without any merits and rejected.

C. Resolution No. 1137 Dated 24.11.1989

19. It is alleged by the appellant NGO that MCD and DDA in their replies have stated that vide resolution no. 1137 dt. 24.11.1989 the comprehensive scheme proposed by the DCM Group was approved by the Standing Committee. It is submitted that a perusal of the resolution dt. 24.11.1989 records that a finding was given that the scheme was not matured enough and thus not recommended at that stage.
20. Perusal of the aforesaid proposal dated 24.11.1989 shows that the proposal was placed before the standing committee with the aforesaid observations. MCD in their reply filed before the Tribunal have confirmed that the said proposal was approved by the Standing Committee vide resolution 1137 dt 24.11.1989. The fact is also reiterated by the DDA in various communications with the MCD.
21. The aforesaid arguments made by the appellant loses its essence firstly, in the light of the confirmation made by the MCD in their

reply and secondly, in view of the directions issued by the Hon'ble Supreme Court of India in Civil Appeal no. 1401 and 1402 of 1990, wherein directions were given to the DDA to grant conditional approval subject to removal of objections recorded therein. The position in respect of comprehensive scheme was reiterated by the Hon'ble Supreme Court of India further vide order dated 01.05.1991 wherein it was directed that the original scheme be considered by the authorities subject to necessary modification. In compliance of the directions, the standing committee approved the project on 28.08.1995 vide resolution no. 3172 in respect to the free hold area measuring 26.9 acres. The subsequent revision in the layout plan were sought by the appellant for enhancement of FARs, inclusion of leasehold land (which was converted into freehold land) and inclusion of non-contiguous land of 1.97 acres in the comprehensive scheme.

22. From the record it is apparent that the Hon'ble Supreme Court of India gave its imprimatur to the scheme subject to the modification and objections raised by MCD & DDA. The same were considered while granting the approval in year 1995 and the allegations regarding the alleged deficiencies in the 1989 approval does not go to the root of the matter and is without any substance.

D. Inclusion of Leasehold Land in the Comprehensive Scheme

23. It is argued by the appellant that the Hon'ble Supreme Court of India in their judgment 13.03.1990 and 01.05.1991 categorically directed the authorities to treat freehold land as separate entity from other land but despite that the MCD / DDA have continued to misinterpret and manipulate these orders to treat the project as comprehensive scheme.
24. Judgment dated 13.03.1990 records that the objections of the MCD were adopted by DDA. One of the objections was in respect of the land given on lease to DCM which was included in the redevelopment scheme. It was objected that as the ownership of land was with DDA

and therefore it was proposed to be deleted from the scheme in order to confine scheme only to freehold land only. The order dated 01.05.1991 also emphasized regarding exclusion of the lease hold land.

25. After passing of the aforesaid judgments by the Hon'ble Supreme Court of India the revised layout plan was considered for the project vide resolution no. 3172 dated 28.08.1995. The said approval was limited only to freehold land of 26.9 acres and did not include the leasehold land.

26. It is only in the year 2014, when leasehold land was converted into freehold by the DDA and the conveyance deeds were executed in favor of DCM, the MCD considered the inclusion of the leasehold land in the comprehensive scheme. The area of 11.78 acres which was contiguous was considered for addition in the area of 26.9 acres as it was originally included in 1983 Scheme.

27. It is clear from record that the comprehensive scheme of 1983 included both the leasehold as well as freehold land. The leasehold land was excluded due to the objections of the DDA in the proceedings before the Hon'ble Supreme Court of India. There was no objection in respect of the development of the freehold land. Upon conversion of the leasehold land to the freehold land by the DDA, there was no embargo upon the MCD to consider the same for inclusion of the same in the Project as per the extant rules. During the course of arguments the appellant also admitted that he has no issue in respect of contiguous portion of freehold land of 36.71 acres which is part of comprehensive scheme. The land has been included in the Project after it was made freehold by the DDA and therefore allegations in respect of inclusion of leasehold land (later converted to freehold) in the comprehensive scheme of project are baseless and without any merits.

E. Inclusion of Non-Contiguous Land in the Comprehensive Scheme

28. It is alleged by the appellant that 1.97 acres of non-contiguous land on the western side of Karol Bagh has been illegally amalgamated into the comprehensive scheme by conversion of residential plots into

commercial activities. It is submitted that the said land is divided by 18 meters wide public road and cannot be made part of the Project. It is submitted that the LOSC vide item no. 203 of 23.12.2020 recommended the case for rejection of the proposal.

29. Perusal of the record shows that recommendation made by the LOSC on 23.12.2020 to reject to proposal for amalgamating 1.97 land in comprehensive scheme was not on merits. It records that as DDA did not provide any clear reply and therefore, LOSC did not consider the proposal and placed the matter before the standing committee for rejection. The standing committee did not accept the rejection proposal and referred matter back to the Commissioner. Thereafter MCD sent a letter dated 22.09.2021 to the DDA seeking clarifications on various aspects and upon receipt of the reply dated 07.12.2021 from DDA the matter was further processed.

30. The area of 1.97 acres was part of the comprehensive scheme which was approved by the DDA in the year 1983. This position has been reiterated by the MCD and DDA in various communications filed on record. The DDA in their reply dt.15.02.2019 categorically opined that the residential pockets measuring 1.97 acres were part of the comprehensive scheme approved by the DDA vide resolution no. 26 of 1983. It was also clarified that apportionment of permissible FAR can also be done upon their inclusion. The relevant extract is reproduced below: -

(ii) With reference to the issue regarding consideration of three residential pockets and existing school, it is to bring on record that these residential pockets measuring 1.97 acres and existing schools are part of comprehensive scheme approved by Authority meeting of DDA vide Item no. (b) of Resolution No. 26 of 1983 and North MCD has already approved them as part of the comprehensive scheme. In case the above three plots are considered as a part of single comprehensive scheme, apportionment of permissible FAR can be done within the said residential scheme.

31. Thereafter, DDA in their letter dt. 07.12.2021 once again clarified that the aforesaid land is part of the comprehensive scheme of the DDA in the year 1983. It also clarified that FAR needs to be apportioned in respect of area of 1.97 acres and treating the said area separately does not arise. The relevant extract of the letter 07.12.2021 is reproduced below:

Sir,

This is regarding the subject and reference dated 22.09.2021 received from Chief Town Planner, North DMC along with letter dated 27.09.2021 of DCM LTD vide which it is requested to provide comments/clarification w.r.t inclusion of the smaller three entities/plots measuring 1.97 acres in already approved scheme area of 36.71 acre and its related aspects.

In this regard, the matter has been examined and I am directed to convey the following:

1. In response to letter dated 22.09.2021 of North DMC, a letter dated 16.11.2021 from DCM LTD has been received in this office wherein it is mentioned that the land measuring 1.96 acres is a part of comprehensive scheme approved by DDA in their Authority Meeting vide Resolution no. 26 dated 01.02.1983 and the comprehensive scheme layout was also approved vide Resolution no. 1137 dated 24.11.1989 in the Standing Committee, of Municipal Corporation of Delhi. This may be done by the Local Body as per the previously sanctioned plans.

2. The FAR is applicable on the whole scheme and apportionment of the FAR on the different pockets can be done as per the scheme/design, which is to be approved by the concerned local body and hence the issue of treating the area of 1.97 acres separately does not arise.

3. All the provisions of Master plan related to the Redevelopment of DCM Group Housing already stand conveyed to the local body vide letter dated 31.12.2014, 13.04.2016 and 15.02.2019. These provisions of MPD will apply in totality to the scheme and application of the provision of MPD cannot be considered in a piece meal manner.

4. Issues raised at point no. 4 & 5 do not pertain to DDA and are design related issues which need to be seen by the Local Body while examining the application for sanctioning of Revised Redevelopment Plans as mentioned at point no. 1 and 2 above.

This issues with the approval of the Competent Authority.

32. Resolution No. 266 dated 14.02.2022 also records the clarifications given by the representatives of the DDA in LOSC meeting dated 28.01.2023. Dy. Director, DDA attended the said meeting as Nodal officer. He clarified that the aforesaid non-contiguous piece of land can be considered in the comprehensive scheme and cited the examples of other projects wherein the land portion divided by road were considered as a comprehensive scheme. The minutes of the said meeting of LOSC were also shared with the DDA for confirmation and it is only after following the necessary process the land was included in the comprehensive scheme.
33. In addition to aforesaid Clause 3.3.2 of MPD, 2021 permits amalgamation and reconstitution of plots. Nature of project is residential. Ten percent commercial component from total FAR is also permissible and can be utilized for the portion of land which forms part of comprehensive scheme. The MCD record shows that the aforesaid aspects have been deliberated and the said amalgamation has been done keeping in view of the provision of Master Plan 2021. So far as question regarding FAR is concerned, in the letter dated 04.02.2022 written by MCD to DDA it is categorically stated that as the land forms part of the plotted development therefore FAR has been restricted to 200. An undertaking is also sought from the DCM not to amalgamate / encroach / re-align 18 meters wide road.
34. Therefore, in view of the aforesaid, it is clear that the non-contiguous land was originally part of the comprehensive scheme of 1983. It was excluded initially being leasehold. Upon conversion from freehold to leasehold the same was included in the comprehensive scheme after due deliberations and consultation with DDA. The allegations made by the appellant NGO in respect of inclusion of non-contiguous land of 1.97 acres in comprehensive scheme are baseless and without any merits.

F. Allegations in respect of Public Road and Private Road

35. It is alleged by the appellant that respondents have encroached upon 18 meters wide public road. It is alleged that DCM has also constructed a 24 meters private road from Rohtak Road to entry point without any approval.
36. Pursuant to directions of LOC in item no. 39/16 dated 23.05.2016 NOC was to be obtained from Traffic Police. The layout plan was examined by School of Planning and Architecture which gave its suggestions. Central Research Institute also gave its recommendations to the DCP concerned. Vide letter dated 26.09.2016 the DCM informed the DCP Traffic (HQs) that they have handed over 2517.25 sq. Meters of land with a width average of 6 meters to North MCD for widening of Manohar Lal Khurana Marg to make it 24 meters. An intimation was also given that DCM is planning to earmark additional road 80' meters wide on their own land which shall connect residential complex to main Rohtak Road. The office of DCP Traffic HQs vide letter dated 14.10.2016 written to Senior Town Planner North MCD informed about No Objection of Delhi Traffic police regarding entry / exits of proposed DCM Group Housing Project. It also confirmed handing over of 2517.25 sq. metes of land with average of 6 meters road widening of Manohar Lal Khurana Marg. It also mentioned about earmarking additional road of 80' by DCM to be developed from its own land. The office of the DCP (Traffic) also sent a site plan along with approval dated 14.10.2016 clearly show the 80' wide road connecting the residential complex to main Rohtak Road without realigning either service road (4.5 meters wide), small park and 18 meters wide road.
37. The DCP Traffic HQs vide letter dated 25.03.2022 again communicated the approved drawings received from SPA in respect of 7 entry / exit gates.
38. Approvals of 1995, 2014, 2017, 2019 and 2022 also highlighted the requirement of handing of land for road widening. Delhi Traffic Police also recommended for the same vide letter dated 14.10.2016. Resolution no 345 dates 13.01.2017 point 25(XV) directed

DCM to adhere to conditions imposed by the Dy. Commissioner, Traffic (HQ) in the NOC and in the observations made by SPA and CRRl in their reports.

39. Perusal of resolution No. 266 dated 14.02.2022 clearly records the facts in respect of 24-meter-wide (80 Ft.) road made by DCM from their own land. The proposal was deliberated and the applicant was advised to obtain traffic impact advisory in this regard. In respect of the public road, it was directed that an undertaking needs to be obtained from the applicant that under no circumstance amalgamation / encroachment / re-alignment or misuse of boundary of 18 meters of road will be done and no construction / barricading would be done in future on the proposed 24 meters wide road. The site inspection report recorded in the MCD resolutions does not mention any fact regarding encroachment of public road.
40. It is clear from the record that MCD made due deliberations in respect of public road as well as 24 meters road were made. It is clear from record that DCM had obtained necessary approvals in respect of the roads abutting the projects and have also contributed its own land for widening of the road. An undertaking is also required to be furnished to keep the public road unobstructed and unaltered. The site inspection report also does not record anything negative about allegations of encroachment. Therefore, the allegations made by the appellant in this regard do not found any force and are rejected.

G. Address of Project

41. It is alleged by the appellant that respondent DCM in their advertisements have falsely mentioned the address of the group housing as Rohtak Road, Karol Bagh whereas the same is situated in Kishan Ganj Area.
42. Respondent DCM has placed on record the copy of communication made by them with postal department, Karol Bagh. They have written letter dt. 27.01.2022, 25.01.2022, 18.1.2022 to the postal department seeking clarifications regarding their pin code for

their postal correspondence. The department of post vide letter dt. 24.03.2022 clarified the issue. It observed that the main gate of the group housing society is on New Rohtak Road which is under delivery jurisdiction of Karol Bagh Post Office New Delhi -110005. It also clarified that north side of the society also comes under the Karol Bagh Post office. It mentions that the conveyance deed executed between DDA and DCM also indicates the area is situated as WEA New Rohtak Road, Karol Bagh. It clarified that delivery of letter to residents of society will be done through Karol Bagh PO as main gate of the society exist on New Rohtak Road under the jurisdiction of Karol Bagh Post Office, New Delhi -110005.

43. It is clear from record that the department of Post have clarified regarding postal address which needs to be used by the residents of the society. It also clarified that main gate of the society falls on the Rohtak Road. The conveyance deed also mentions the address as Karol Bagh. It is clear that the land of projects abuts Gaushala Road, New Rohtak road, DCM road etc. Therefore, in view of the clarification given by Department of Post there is no substance found in the allegations made by the appellant regarding false declaration of the address of the project and the plea is rejected.

H. Objections as to record of MCD

44. In the written submission filed before the Tribunal appellant NGO has taken an objection that the proceedings have been conducted by the Tribunal based on photocopies of record submitted by the MCD instead of original documents.
45. The aforesaid plea has been taken by the appellant for the first time in the written submissions only. During various hearings in the present appeal the appellant never objected to the production of the copy of the record by the MCD. The MCD record produced in the present case are resolutions, letters, and documents etc. None of the documents is disputed by the appellant or other parties during the hearing. The documents placed on record are confirmed by the DDA

also. MCD has also referred and affirmed all documents / annexures in their reply.

46. In these circumstances, the objections taken by the appellant are nothing but a hyper technical approach intended to create obstacles in administration of justice and expeditious disposal.
47. In view of aforesaid analysis and observations, it is clear that the allegations levelled by the appellant in the appeal are baseless and are not well founded. The comprehensive scheme for group housing project has been approved by the MCD as per extant laws, in consultation and in the light of clarifications provided by the DDA. The Tribunal does not find any merits in the appeal and the same is dismissed.
48. Record of the respondent, if any, be returned along with copy of this judgment and appeal file be consigned to record room.

**Announced in the open Court
today i.e. on 01.04.2025 (s)**

**(ABHILASH MALHOTRA)
AD&SJ-cum-P.O.
Appellate Tribunal : MCD Delhi**