

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

APPEAL NO. 25/ATMCD/2026

**Asha Gupta
W/o Sh. Anand Kumar
R/o B-39, Gujrawala Town
1st Floor, Gujrawala Colony
GTB Nagar, Delhi-110009**

..... **Appellant**

Versus

- 1. Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**

- 2. Bhartiyaam Village Foods & Beverages Pvt. Ltd.
Khasra No. 46/16, 17, 24, 29 and 49/4
Village Bakoli, Tehsil Narela
Delhi-110036**

..... **Respondents**

Date of Filing of Appeal	:	15.01.2026
Date of Judgment	:	13.02.2026

JUDGMENT

1. This is an appeal challenging the Grant of Sanction under Clause 336 of DMC Act in respect of Property situated in/at Proposed IGL CNG Station at Khasra No. 46/16, 17, 24, 29, 49/4, Village Bakoli, Tehsil Narela, Delhi and to revoke / cancel the sanction. The brief facts necessary for disposal of this

appeal are that the appellant is the owner of land measuring 13 bighas 8 biswas out of Khasra No. 46/18, 46/23, 46/30 situated in Village Bakauli, Delhi – 110036 vide registered Sale Deed dated 17.06.1998. The appellant thereafter constructed a farmhouse pursuant to sanction building plan obtained from respondent no. 1.

2. It is stated in the appeal that appellant used to access her property through a public road having 30 ft. 3 inch width coming from Palla-Bakhtawarpur Road connecting to Bakoli Bakhtawarpur Road which is the only road which provide access to the property of the appellant . The respondent MCD gave sanction to the appellant on 10.06.2003 to construct her farmhouse which clearly delineate public road in front of the appellant's land. Prior to appellant, the previous owner also obtained sanction in 1998 which also shows a public road having 30 ft. 3 inch width and this road exist for more than 27 years. However, respondent no. 2 has raised construction on this road and blocked the appellant's access to her property. In December 2025, the appellant came to know about the sanction granted by MCD to respondent no. 2 on the basis of which said construction was raised. It is claimed that even the demolition order dated 18.11.2022 passed by MCD against the land of the appellant show this road. The appellant has already approached Hon'ble High Court through a Writ Petition No. 17181/2025 against illegal encroachment where MCD admitted 32 ft. wide road in the sanction plan of appellant. Appellant had also filed a Civil Suit before Ld. Civil Judge (North), Rohini bearing Suit No. 992 of 2022 but because of the Writ Petition, the Suit was withdrawn on 17.11.2025.
3. It was argued for the appellant that respondent no. 2 had obtained the sanction by misleading the authorities about the road in front of appellant's property which is a public road. The sanction plan of the appellant and the previous owner show existence of this road and now the sanction in favour of respondent no. 2 allowing construction on the road itself is without

application of mind and without considering that a road cannot be blocked and therefore, the impugned sanction should be revoked.

4. Ld. counsel for the respondent MCD argued that no road ever existed at the spot as claimed by the appellant. The concerned Revenue Authorities have given their report that there is no recorded pathway / rasta in Khasra No. 46/17, 46/24, 46/29 and 49/4, Village Bakauli. It was stated that in view of this report, the entire appeal is meritless and is factually wrong and the sanction accorded in favour of respondent no. 2 is as per law.
5. Ld. counsel for respondent no. 2 on the other hand argued that the appellant has tried to mislead this Court. In the Civil Suit No. 992 of 2022 , the appellant raised the same dispute regarding alleged right to way. In that Suit, it was claimed that there was no recorded passage to have access to the farmhouses and a road having 30 ft. width was left between the farmhouse of the appellant's land & the respondent no. 2 and this arrangement was made in 1995. The appellant further claimed easementary rights in that Suit and never claimed that it was public road. Contrary to it in the present appeal, it has been claimed that it is a public road. It was argued that when respondent no. 2 filed an application under order VII rule 11 CPC, in that Suit, the appellant cleverly filed the Writ Petition before the Hon'ble High Court and withdrew that Suit. It was argued that the plea of the appellant of a public road is wholly irreconcilable with pleading of her Suit. The appellant now is trying to claim that the same private passage is a fully fledged public way without any statutory base or revenue record. It was argued that the appellant was required to surrender an area of 34.5 ft. in front of her property for constructing road which she has not done till date and therefore, is not entitled to any relief. It was stated that there was never any alleged public rasta as alleged. The area for which the sanction has been accorded is the property of respondent no. 2 and the sanction has been accordingly accorded in favour of respondent no. 2. The respondent no. 2 has not

encroached over any public rasta. The sanction building plan or the MCD record or the placement of utility poles cannot establish existence of a public road over the land of respondent no. 2 in the absence of any entry in the revenue record or in the absence of any statutory notification vesting such land as a public street and therefore, the appeal should be dismissed. It was also stated that the appellant has full access to her property from Bakoli Bakhtawarpur Road and her plea of having no access to her property is baseless and this appeal should be dismissed. It was also argued that none of the grounds as contemplated under Section 338 DMC Act for revocation of the sanction exist in this case.

6. I have perused the record. As per record, respondent no. 1 accorded sanction in favour of previous owner Sh. Subhash Chand Aggarwal to construct farmhouse in 1998. The office record of this sanction clearly depicts that there was rasta aam on the east side of the property of the appellant of the width of 30 ft. 3 inch. This report was submitted by the then Patwari and duly approved by Tehsildar. This fact show that a rasta aam existed even in 1998 on the east side of appellant's land.
7. The Tehsildar verified this road as Shaare-e-aam road. It was further recorded that the right of way (ROW) of the village would be 100 ft. wide and other than village road, the ROW would be 60 ft. wide and this right of way be so maintained and considered by the Building Department. In view of this report of the Tehsildar, the building plan was sanctioned to the previous owner recording that the farm land abuts on 30 ft. 3 inch wide road which is Shaare-e-aam road and the previous owner was asked to leave 34 ft. – 10-1/2 inch of wide strip of land for a length of 552 ft. 9 inch. That was done to make ROW of 60 ft width. This ex-facie show that this Shaare-e-aam road of 30 ft. 3 inch was duly recognized not only by MCD but also by the Patwari and Tehsildar (HQ). It shows that even the Revenue Authorities recognized this road, though as Shaare-e-aam road even in 1998. The sanction plan

was accorded in 1998 to the previous owner considering existence of this 30 ft. 3 inch wide road stated to be Shaare-e-aam road.

8. Let us examine as to what is a Shaare-e-aam road. It is a thoroughfare to be used by public. It is a road/rasta open to all i.e. Rasta Shaare-e-aam. A public road to be precise. Once MCD and Revenue authorities recognized a 30 feet 3 inch public road, how can it be now submitted that there does not exist road.
9. Though it is stated for MCD that now the Revenue Authorities have stated that there is no recorded pathway / rasta in Khasra No. 46/17, 46/24, 46/29 and 49/4 but this fact has been stated on the basis of consolidation process in the year 1997-98. However, existence of this road as Shaare-e-aam road was duly recognized by Revenue Authorities in 1998. Later, when the appellant purchased this property on 17.06.1998, she applied for sanction building plan showing this road and the same was acknowledged by MCD and sanction was accorded to the appellant duly considering that this road joining Palla-Bakhtawarpur Road and Bakoli Bakhtawarpur Road exist in front of the property of the appellant. MCD/Revenue Authority therefore are now estopped from taking a different stand.
10. Coming to the Civil Suit filed by the appellant bearing Suit No. 992/2022. The appellant who was plaintiff therein stated in para 3 of the Suit that since there was no recorded passage, so in order to have access to the farmhouses, the road having width of 30 ft. was left between the farmhouses of plaintiff and defendant no. 1. The pleading was that a road was left between the two properties. Whether the owners of each farmhouse left land up to the extent of 30 ft. or the same was already existing is not material for the reason that in both circumstances, a road/ Shaare-e-aam rasta came into existence between the properties of the farmhouses of both sides. The appellant in that Suit claimed that illegal construction in the common passage has created problem in her right to free and peaceful passage confirmed by

the Constitution of India and by Section 15 of the Easement Act. I do not find any contradiction in the pleadings of this appeal as compared to Civil Suit.

11. Coming to the Writ Petition filed by the appellant. In the Writ Petition No. 17181 of 2025, the appellant has claimed that the respondent MCD should be directed to immediately remove the constructions and encroachments on this public road. This prayer cannot be made nor can be granted by this Tribunal in this appeal challenging the sanction for construction accorded to respondent no. 2 and therefore, this appeal as well as the writ petition are maintainable.
12. Ld. counsel for the respondent no. 2 has also argued that no layout plan of the area is available as the farmhouses are developed on agricultural land. The appellant has not surrendered 34 ft – 10-1/2 inch wide strip of her land which was a pre-requisite for sanction of her building plan and if this strip of land is surrendered as has been done by the other farmhouse owners, the appellant will have a road to approach her property even from Palla-Bakhtawarpur Road. It was argued that the respondent no. 2 has not encroached on any public land and the claim of the appellant is only because of non-surrender of portion of her land.
13. The status report filed by MCD dated 11.12.2025 before the Hon'ble High Court in Writ Petition No. 17181 /25 is relevant. In that status report in para 7, the MCD itself has stated that as per sanction building plan of the appellant, a side road of approximately 32 ft. width is shown as existing road and further 34 ft.- 10-1/2 inch land is to be surrendered by the appellant for future road-widening. This status report given by Executive Engineer (Bldg.) of MCD itself show that even MCD does not deny existence of such road between the property of the appellant and respondent no. 2
14. Further, MCD filed written statement in suit no. 992 of 2022 and stated therein that appellant and respondent no. 2 herein have also encroached

upon land which was necessarily required to be left by them for proposed road-widening in terms of sanction building plan. It was also stated in the written statement that a side road of 32 ft. width is shown existing in the sanction building plan of the appellant. Though, MCD filed an application later to amend this Written Statement on the ground that after extensive analysis of documents and detailed inquiry, the WS is to be amended but the aforesaid averments were already made in the WS. It is relevant to note that even as per para 5 (4) of the amended Written Statement, in the sanction building plan dated 24.03.2005 in favour of respondent no. 2 herein, there is one Shaare-e-aam road in the front (ROW) as verified by the Revenue department. It was also stated that respondent no. 2 has to surrender area of 0.054 acre in front side of the property at Main Palla-Bakhtawarpur Road . This shows that not only appellant, even respondent no. 2 has not yet surrendered the required land in front of its property at Palla-Bakhtawarpur Road .

15.MCD in para 6 of the amended Written Statement stated that both the appellant and the respondent no. 2 herein are guilty of raising unauthorized construction and further appellant is guilty of encroachment and therefore both are not entitled to any discretionary relief. The pleadings of this Written Statement clearly show that even the sanction building plan of respondent no. 2 dated 24.03.2005 show Shaare-e-aam road which was verified by Revenue Department. In these facts the report of the Revenue Department that there is no such recorded pathway / rasta in consolidation process of 1997-98 is of no help. It may be that there exist no recorded pathway during consolidation process in 1997-98 but the Revenue Authority as well as MCD recognized existence of 30 ft. 3 inch Shaare-e-aam rasta between the properties of appellant and respondent no. 2 which joins Palla-Bakhtawarpur Road and Bakoli Bakhtawarpur Road. It is also relevant to note that it is a

proper laid metallic road having electricity poles on both sides of the road and is maintained by government agency.

16. The fact that the appellant having an access her property from the side of Bakoli Bakhtawarpur Road is of no assistance to respondent no. 2 since it is the right of the appellant to access her property even from Palla-Bakhtawarpur Road and otherwise also respondent no. 2 cannot be permitted to raise construction on a road in existence at least since 1998 and duly recognized by MCD and Revenue Authorities as Shaare-e-aam road having width of 30 ft. – 3 inch. The MCD has accorded sanction to respondent no. 2 to construct CNG Station despite sanctioning building plan of appellant and respondent no. 2 showing this road in their respective sanction plans. MCD now cannot claim that since there did not exist any recorded road in the revenue record, the respondent no. 2 can be permitted to raise construction on Shaare-e-aam road.
17. Ld. counsel for respondent no. 2 also raised objection that a sanction can be revoked only if there is any material misrepresentation or fraudulent statement and in the present case, respondent no. 2 did not commit any of these and therefore, appeal should be dismissed. Section 338 of the DMC act provides revocation of sanction, if same is obtained or fraudulent statement. In the present case, the sanction was obtained claiming that respondent no. 2 is the owner of the land where CNG Station is to be erected. The fact that there existed a metallic road / Shaare-e-aam road duly mentioned even in the sanction building plan of respondent no. 2 dated 24.03.2005 was not brought to the notice of MCD. Respondent no. 2 should have informed MCD about this Shaare-e-aam road as the same was duly shown in its own sanction plan dated 24.03.2005. Concealment of this fact amounts to material misrepresentation and therefore, the sanction can be revoked by the Commissioner under Section 338 and also by this Tribunal under Section 347B of DMC Act.

18. In view of this discussion, it is ex-facie shown that there was a Shaare-e-aam road of 30 ft. 3 inch between the property of the appellant and respondent no. 2 since 1998 duly recognized by MCD and Revenue Authorities. Respondent no. 2 obtained impugned sanction to construct CNG Station on this road. The fact that the appellant has not surrendered 34 ft. & 10-1/2 inch strip of her land cannot be a ground to permit respondent no. 2 to block this road. The ROW of this road which is other than village road is to be maintained as 60 ft. ROW and even if the appellant surrenders about 35 ft. strip of her land, the subject-road of 30 ft. 3 inch which is a Shaare-e-aam road now metallic road is also required for ROW of 60 ft. The impugned sanction accorded therefore is liable to be revoked and therefore, the appeal is allowed and the impugned sanction dated 26.07.2025 accorded to respondent no. 2 is revoked.
19. With the above observations, the appeal stands disposed-off.
20. 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 13.02.2026**

**(AMIT KUMAR)
Addl. District & Sessions Judge
PO: Appellate Tribunal, MCD, Delhi**