

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

**APPEAL NO. 566/ATMCD/19**

**Ferrari Estates LLP  
236, Cycle Market,  
Jhandewalan Extension,  
New Delhi-110055  
Through its Designated  
Partner  
Sh. Babu Ram Jain.**

**..... Appellant**

**Vs**

**1. South Delhi Municipal Corporation,  
Service to be effected through,  
its Commissioner,  
at Civic Centre, Minto Road,  
New Delhi**

**2. DSS Hotels (P) Ltd.  
Through Director  
N-1, BMC House,  
Middle Circle, Connaught Place,  
New Delhi-110001.**

**.....Respondents**

**Date of Filing of Appeal : 19.09.2019  
Date of Order : 13.04.2026**

**ORDER**

1. This is an appeal seeking revocation of sanction dated 29.03.2017 accorded to respondent No.2 for construction of Motel building at Khasra No.423/2, 425/1 min, 425/2, 426, 427, 430, 431 at Village Rangpuri and Khasra No.19/16 min, 20/20 min, 20/22 min, 19/25 min, 20/21 min and 19/25 min Village Samalkha, New Delhi.

2. The appellant has challenged this sanction on the ground that respondent No.2 has obtained this sanction by filing false affidavits, undertakings and declaration stating that respondent No.2 is the exclusive owner of Khasra No.427, 430 and 431 Village Rangpuri. It was argued by the appellant that this sanction was obtained on misrepresentation of facts regarding ownership of these three Khasras. The appellant is the joint Khatedar of land of these three Khasras duly recorded in the revenue record. The appellant obtained this sanction by suppressing this fact and by claiming exclusive ownership of these three Khasras and therefore, this sanction should be revoked. It was argued that this appeal is in limitation since the appellant got formal knowledge of this sanction for first time in August 2019 and the appeal was filed on 19.09.2019. It was also argued that appellant being co-owner has every right to challenge this sanction u/s 338 of the DMC Act. This appeal is maintainable as the sanction is still valid and has not become infructuous only because the period of sanction has lapsed. The appellant has right to challenge this lapsed sanction which can always be revived. The impugned sanction is illegal as the facts of ownership were misrepresented and therefore, the sanction should be revoked.
3. Ld. counsel for MCD has stated that the sanction was obtained on misrepresentation of ownership facts by respondent No.2 and should be revoked.
4. Ld. counsel for respondent No.2 on the other hand has argued that this appeal has become infructuous since the sanction has already lapsed by efflux of time and there is no renewal. The appeal is barred by limitation as the appellant had knowledge of this sanction at least since 30.08.2017 when he filed an application for impleadment in the W.P.(C) No.7081/17 pending before the Hon'ble High Court challenging this sanction on some other grounds. It was argued that the sanction was never obtained in respect of Khasra No.427, 430 and 431 on which the appellant is wrongly claiming co-ownership. The respondent No.2 is the exclusive owner even of the land of disputed Khasras for which orders have already been passed by the Revenue Assistant on 13.02.2013 and appeal against this order filed by appellant was dismissed by the Collector on 20.11.2014. It was also argued that the respondent No.2 vide affidavits and

indemnity bond dated 01.02.2017 clarified before the MCD that respondent No.2 is the owner of the land of Khasra No.427, 430 and 431 Village Rangpuri in joint Khatas with other co-owners and further clarified that the respondent No.2 will not construct any building on these three khasras and therefore the appeal is meritless and should be dismissed.

5. I have perused the record. The present appeal was filed on 19.09.2019 and there is no application seeking condonation of delay. The appellant claims that the formal copy of the impugned sanction for the first time was received in August 2019 through RTI and therefore the limitation shall start from that date. This submission of the appellant is incorrect because the appellant himself has mentioned about the impugned sanction in the application filed under Order 1 Rule 10 CPC dated 30.08.2017 before the Hon'ble High Court in W.P.(C) No.7081 of 2017 titled as Amaltas Avenue Residents Welfare Society Vs UOI and Ors. This writ was filed against the impugned sanction on some other grounds. The appellant preferred an application for impleadment on 30.08.2017. In Para 5 of this application the appellant stated that the impugned sanction has been obtained fraudulently by respondent No.2 claiming to be the only owner. In Para 9 of this application it was stated that the sanction does not even mention the area situated specifically in which the sanction for construction of Motel has been given to respondent No.2 who was respondent No.5 in that writ. In Para 13 it was specifically stated that the rights of the appellant would be infringed if judicial recognition is given to this sanction and prayer was made to supply the copy of the record pertaining to this sanction. Admittedly, there was no prayer before the Hon'ble High Court to get the copy of this sanction. Only the record pertaining to the sanction was sought. The prayer of this application read with the contents clearly show that the appellant had knowledge and copy of this sanction on 30.08.2017. In view of the same the present appeal is barred by limitation and the same was filed almost after two years from the date of knowledge of this sanction. However, the same is not dismissed on this ground alone as the appeal otherwise is meritless for the following discussion.

6. The respondent MCD also filed status report in this writ petition in January 2018 and as per Para 20 of this status report, the Building Plan Committee vide item No.01/17 took a decision that the sanction may be accorded to respondent No.2 on his submitting an indemnity bond that he will not construct any building on Khasra No.427, 430, 431 Village Rangpuri stated to be in joint holding with appellant. It was also decided in that meeting that appellant will submit affidavit about the ownership of these three Khasras. It clearly shows that there was no sanction to construct a building in these three disputed Khasras.
7. The respondent No.2 after this decision of the Building Plan Committee submitted indemnity bond to the effect that no construction will be raised in these three Khasras and also filed an affidavit that respondent No.2 is the owner of the land of these three Khasras in joint Khatas. On the basis of these documents and in view of the decision of Building Plan Committee, the impugned sanction was accorded to respondent No.2 on 29.03.2017.
8. In these facts it cannot be stated as argued for the appellant which was supported by Ld. counsel for MCD that this sanction was obtained on misrepresentation of facts. As per record a status report was filed by MCD dated 16.12.2019 for 18.12.2019. MCD in this status report stated that the competent authority approved the case of the sanction as per policy and also annexed the copy of the indemnity bond dated 01.02.2017 alongwith minutes of the meeting of the Building Plan Committee dated 02.01.2017 wherein vide item No.01/2017 it was decided that the sanction should be accorded to respondent No.2. Therefore, the argument of the appellant and Ld. counsel for MCD that the sanction was accorded on the basis of false affidavits dated 24.01.2017 is incorrect. It was accorded only when the respondent No.2 submitted indemnity bond and affidavits as discussed in the meeting of Building Plan Committee. Therefore, the present sanction was not obtained on misrepresentation of facts.
9. It was also argued for respondent No.2 that the appellant should have initially approached the Commissioner, MCD challenging this sanction before filing this appeal. This argument on the face of it is baseless since any aggrieved person can file appeal u/s 338 of the DMC Act challenging the sanction and is not

required to first give representation to the Commissioner, MCD against the sanction.

10. It was also argued that this appeal is infructuous since the sanction has lapsed because of efflux of time. This argument is also meritless since the sanction still exists and does not lapse because of time unless and until revoked by the MCD or appropriate authority.
11. In view of this discussion, not only the appeal is barred by limitation, the same is without merits as there were no misrepresentation of facts as alleged by the appellant. Same is dismissed.
12. 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 13.04.2026**

**(AMIT KUMAR)  
District Judge-cum-P.O.  
Appellate Tribunal : MCD Delhi**