

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

**APPEAL NO. 344/ATMCD/2024**

**Sh. Raj Kumar Goyal  
S/o Late Faquir Chand Goyal  
R/o Western portion of P.No. 3, Bela Road  
Civil Lines, Delhi-110054**

..... Appellant

**Versus**

- 1. Municipal Corporation of Delhi  
Through its Commissioner  
Civic Centre, Minto Road  
New Delhi**
- 2. Shri Sujai Hajela**
- 3. Shri Ajay Shankar**
- 4. Shri Naresh Shankar**
- 5. Dr. Engineer Shailendra Kumar Hajela**
- 6. Ms. Sunalani Hajela Sankhavram**
- 7. Mrs. Shubhika Srivastava  
(All LRs of Late Shri Shiv Shankar  
Through Shri Joginder Kumar Khurana Special Attorney  
S/o Late Mukand Lal Khurana  
R/o 58, Sainik Vihar, Pitampura, Delhi-110034**
- 8. Shri Krishan Bansal S/o Shri Arjun Dass  
R/o E-121, Prashant Vihar  
Delhi-110085**
- 9. Smt. Renu Bansal W/o Shri Krishan Bansal  
R/o E-121, Prashant Vihar  
Delhi-110085**

..... Respondents

**Date of Filing of Appeal : 14.05.2024**  
**Date of Judgment : 24.04.2026**

**APPEAL NO. 388/ATMCD/2024**

**Sh. Raj Kumar Goyal  
S/o Late Faquir Chand Goyal  
R/o Western portion of P. No. 3, Bela Road  
Civil Lines, Delhi-110054**

..... Appellant

**Versus**

1. **Municipal Corporation of Delhi  
Through its Commissioner  
Civic Centre, Minto Road  
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2. **Shri Krishan Bansal S/o Shri Arjun Dass  
R/o E-121, Prashant Vihar  
Delhi-110085**
3. **Smt. Renu Bansal W/o Shri Krishan Bansal  
R/o E-121, Prashant Vihar  
Delhi-110085**

..... Respondents

**Date of Filing of Appeal : 28.05.2024**  
**Date of Judgment : 24.04.2026**

**JUDGMENT**

1. These are the two appeals seeking revocation of the sanction building plan dated 13.04.2024 in appeal no. 388/24 and for setting aside the order of the Additional Commissioner dated 01.03.2024 in appeal no. 344/24 passed in respect of Property No. 3, Bela Road, Civil Lines, Delhi-110054.
2. The brief facts necessary for disposal of these two appeals are that late Sh. Shiv Narayan Shankar (here in after referred as SNS) was the owner of property bearing no. 3, Bela Road, measuring 3000 sq. yards by virtue of Sale Deed dated 11.11.1938. After his death, an area measuring 1650 sq. yards is in ownership of private respondents Mr. Krishan Bansal and Mrs. Renu Bansal whereas the remaining area measuring 1350 sq. yards came to the ownership of the appellant. This happened by virtue of some Sale Deeds executed by SNS and later by his successors. As per appellant who is the owner of western portion measuring 1350 sq. yards, the respondent/MCD sanctioned a building plan dated 09.11.2023 of area measuring 1270 sq. yards out of 1650 sq. yards in favour of respondent 2 to 7 of appeal no. 344/24. This sanction plan dated 09.11.2023 was challenged by the appellant before the Hon'ble High Court in Civil Writ Petition No. 360/24 which was

disposed of on 10.01.2024 with directions to the MCD to consider the said Writ petition as representation of the appellant and decide the said representation. The MCD thereafter considered the said Writ Petition as representation and after hearing the appellant on 23.01.2024 informed the appellant that show cause notice under Section 338 of the DMC Act for revocation of sanction building plan dated 09.11.2023 has been issued to the private respondents. Thereafter, the appellant did not receive any communication from MCD and came to know that an order dated 01.03.2024 has been passed by Ms. Shakshi Mittal, the then Additional Commissioner, MCD directing the recorded owner(s) i.e. private respondents Mr. Krishan Bansal and Mrs. Renu Bansal to get revised building plan sanctioned. The appellant has challenged this order dated 01.03.2024 in appeal no. 344/24 and has challenged the subsequent revised sanction building plan dated 13.04.2024 in appeal no. 388/24.

3. It was argued for the appellant that initially the property bearing no. 3, Bela Road measuring 3000 sq. yards was purchased by SNS. He sold rear portion measuring 1350 sq. yards vide several sale deeds dated 27.03.1991 and 11.04.1991, which subsequently was purchased by the appellant. SNS bequeathed remaining undivided 1650 sq. yards to his daughter Smt. Aruna Hajela. After the death of SNS, his wife, two sons and the daughter became owner of one fourth share each in undivided 1650 sq. yards and after the death of widow of SNS, his two sons and daughter became owner of one third share each of 1650 sq. yards. Later the respondents 8 & 9 became the owner of this undivided 1650 sq. yards by virtue of several sale deeds. MCD sanctioned a building plan on 09.11.2023 of this sub-divided plot in violation of UBBL-2016, in favour of private respondents 2 to 7 in appeal number 344/2014, which was challenged successfully by the appellant in Writ Petition No. 360/24. The respondent no. 1/MCD thereafter, passed the order dated 01.03.2024 which is liable to be set-aside as Ms. Shakshi Mittal the then Additional Commissioner MCD was transferred from the post of Additional Commissioner, MCD with immediate effect on 20.02.2024, yet she passed the order dated 01.03.2024 without any authority. Further, no hearing was provided to the appellant while passing the order dated 01.03.2024. Further, the Additional Commissioner could not have proposed the private

respondents to apply for revised building plan and she had power only to revoke the sanction building plan dated 09.11.2023. Further, sub-division of plot is not permissible under Section 312 & 313 of the DMC Act. The sanction accorded for sub-divided portion measuring 1270 sq. yards is unlawful as the front portion of 1650 sq. yards was purchased through three sale deeds for area measuring 1082 sq. yards, 188 sq. yards and 380 sq. yards. The office record produced by the respondent observing that the plans were sanctioned for 1270 sq. yards in 1966 is perverse, since in 1966 the plans were submitted only for addition and alteration and not for sanction. As per location plan, the entire plot has been shown as one plot and the sanction accorded for 1270 sq. yards is unlawful. It was argued that there is no estoppel against law and any sanction contrary to Section 312 & 313 of the DMC Act cannot be perpetuated.

4. Ld. counsel for MCD on the other hand argued that these appeals are not maintainable as the appellant is neither owner nor can be aggrieved person from the impugned order and sanction. There is no layout plan of Civil Lines area. The sub-divided plot of 1270 sq. yards is a separate distant entity since 1966 when the then owner SNS applied for addition and alteration for 1270 sq. yards. The appellant shall be entitled to proportionate FAR as per law for 1350 sq. yards owned by him. The appellant has not challenged the 1966 sanction and therefore now, he cannot challenge the subsequent sanction. It was argued that Ms. Shakshi Mittal signed the order before relieving her charge from the post of Additional Commissioner, MCD and passed a valid order and therefore, there is no ambiguity in passing the order dated 01.03.2024 as well as the in issuing the revised sanction dated 13.04.2024.
5. Ld. counsel for private respondents on the other hand argued that the built up area measuring 1270 sq. yards was constructed by virtue of sanction plan dated 11.07.1966. The area sold to appellant was vacant land with some tenements and was never a part of sanction building plan. The area occupied by respondent no. 8 & 9 was built as per original sanction building plan. The valid sanctioned building plan dated 09.11.2023 which was challenged by the appellant in the writ petition and thereafter, Ms. Shakshi Mittal, the then Additional Commissioner, MCD passed the order dated 01.03.2024 and revised sanction was obtained by the respondents as per rules on

13.04.2024. It was argued that the appellant has no right to challenge the sanction obtained by respondents for the property owned by them and the appellant is only trying to grab the property by pressurizing and harassing the private respondents through baseless litigation.

6. I have perused the record. Admittedly the appellant is not the owner of the remaining portion of the plot measuring 1650 sq. yards which also includes the area measuring 1270 sq. yards for which revised sanction building plan dated 13.04.2024 has been sanctioned. The appellant is the owner of only 1350 sq. yards and shall be entitled to the proportionate FAR of the area of the plot owned by him. The law in this regard has now been settled by the Hon'ble Supreme Court in the case of **“Sharda Nath Vs. Delhi Administration 2019 SCC online SC 2301”** where the Hon'ble Supreme Court held as under:

*“It would be thus permissible for the two parties to approach the South Delhi Municipal Corporation for sanction of plans in respect of their respective portions of the plot with FAR divided on the whole plot in proportion to the area vested with the two parties in the plot and to carry out construction accordingly. Each of the parties would be separately responsible for their portion of construction and violation, if any. Needless to say that for sanction of the plan ‘No Objection Certificate’ would not be recruited by any of the parties from the other party. On construction of the plot, the conveyance deed would be executed on payment of requisite charged separately for the two portions. This is so directed as without construction separate lease deeds would not be permissible as per norms. Needless to say that for practical purposes the two parties would thus have separate liabilities and responsibilities in respect of the area vested therein.”*

7. The same was referred by Hon'ble Division Bench of Hon'ble Delhi High Court in LPA 591 of 2023 dated 08.01.2026 titled as **MCD Vs. Sanjeev Malhotra and Another.** wherein the Hon'ble High Court in para 9 of this judgment held as under :

*“9. Predicated on the aforesaid order passed by the supreme Court, the joint decision of the Commissioner, MCD and the VC, DDA concludes as under:*

*“6. Discussion and Decision*

*The matter has been discussed in detail in view of the law laid down by the Hon'ble Supreme Court.*

- (i) As long as the respective share of the co-owners is well defined in the plot as per the sale deed or title document or court judgment, there should not be any necessity for joint applications in such cases.*
  - (a) The separate buildings for the co-owners may be sanctioned in such cases subject, to stipulations that FAR and Ground coverage of all the Dwelling Units in all the buildings put together shall not exceed the applicable FAR and Ground Coverage of the single undivided plot.*
  - (b) Dwelling Units permissible for the entire plot and co-shares would enjoy the FAR and Ground Coverage in their Dwelling Units on proportionate basis of the total FAR and Ground Coverage, permissible for that plot. This would be in line with laid down law by Hon'ble Supreme Court and the provisions of Master Plan-2021.*
- (ii) However, if respective shares of the co-owners are not defined in the plot, that is to say, it is not clear which portion of the plot belongs to who co-owner, then all co-owners would have to apply jointly which will indicate after their mutual settlement of their respective share/portion in the plot."*

8. In view of this law, the appellant shall definitely get the proportionate FAR for his share to the area vested in him and even does not require any No Objection Certificate from the private respondents and therefore, cannot be said to be an aggrieved person as far as the sanction dated 13.04.2024 accorded to the private respondents is concerned.
9. Under Section 347B of the DMC Act, an appeal before this Tribunal can be filed by any person aggrieved by the impugned order and the appellant has failed to establish that how he is aggrieved from the impugned sanction dated 13.04.2024 or by the order dated 01.03.2024. As per the sale deeds executed in favour of the appellant which have been filed by the private respondents, the appellant can have entry to his portion measuring 1350 sq. yards only from the side of Daya Lane and not from Bela Road which abuts the portion owned by private respondents. When there is specific stipulation in the sale deeds that the appellant will not have any access to his property from Bela Road side, he cannot claim that his rights shall be infringed from

any construction in the remaining area measuring 1650 sq. yards or 1270 sq. yards as the owners/private respondents of that portion shall have access to their property only from Bela Road side and not from Daya Lane side.

10. In these facts, these appeals are liable to be dismissed only on the ground that appellant is not a person aggrieved as contemplated under Section 347B of the DMC Act to file these appeals as none of his rights or interests are affected from the impugned orders.
11. Be that as it may, let us examine the appeals on merits as well. The first grievance of the appellant was that he was not heard by the respondent after the matter was remanded back by the Hon'ble High Court vide order dated 10.01.2024. I have seen the order passed by the Hon'ble High Court in the Writ Petition No. 360 of 2024 dated 10.01.2024. The Hon'ble High Court while disposing of this Writ directed the respondent MCD to consider the Writ Petition of the appellant as his representation and passed reasoned order within three weeks. After this order, the respondent gave hearing to the appellant and issued a show cause notice under Section 338 of the DMC Act to the private respondents seeking reply as to why the sanction building plan dated 09.11.2023 should not be revoked and after giving this notice, the MCD considered all the documents filed by the appellant and the private respondents and found that the sanction building plan dated 09.11.2023 has been obtained on misrepresentation of facts regarding ownership and a fresh revised application was sought from private respondents Mr. Krishan Bansal and Smt. Renu Bansal who were the recorded owners. In these facts it cannot be said that appellant was not heard on his representation after the matter was sent back by the Hon'ble High Court. It was not the direction of Hon'ble High Court that appellant should be present when the order dated 01.03.2024 was passed.
12. It was also contended for the appellant that Ms. Shakshi Mittal, the then Additional Commissioner had no authority to pass order dated 01.03.2024 as she was already transferred with immediate effect on 20.02.2024.
13. I have perused the record which show that Ms. Shakshi Mittal approved this note on 23.02.2024 and the order was formally signed on 01.03.2024. Though, the approval was also signed after the date of transfer order dated 20.03.2024 but generally while passing orders on the administrative side, the

person transferred is supposed to sign all the proceedings already conducted by him/her and can sign the proceedings, approvals till the actual charge from that post is handed over and person is relieved from the post and fresh joining is submitted in the new department. Ms. Shakshi Mittal heard the appellant and the private respondents prior to 20.02.2024 and therefore, was competent to sign the order 01.03.2024 approved on 23.02.2024.

14. The next argument of the appellant was that the respondent MCD had no authority to ask the private respondents to submit revised sanction building plan and was required only to reject or revoke the sanction plan dated 09.11.2023 as there is no power to call for revised sanction plan as done in the order dated 01.03.2024. I have perused this order. The Quasi Judicial Authority noted in this order that the error of obtaining sanction building plan on 09.11.2023 can be rectified once fresh revised application is submitted by the rightful owners who have already given their consent for such approval. I do not find any restrictions under law which prohibits the respondent from asking revised sanction plan from the applicant. The private respondents otherwise always had right to file fresh application for sanction building plan, if the earlier sanction building plan is revoked. If that is the situation, there is no illegality, if the MCD sought afresh revised building plan from the private respondents. This contention therefore is also without merits.

15. Lastly, it was argued for the appellant that at best the respondents can obtain sanction building plan for remaining portion of plot measuring 1650 sq. yards and not of part thereof which is 1270 sq. yards. I do not find any merit even in this submission for the reason that the appellant's right to FAR of his portion of the property measuring 1350 sq. yards remains unaffected, if the sanction building plan is taken for remaining 1650 sq. yards or for 1270 sq. yards. Further, late Sh. SNS obtained revised sanction plan for 1270 sq. yards in 1966 and the same has never been challenged by the appellant and once the revised sanction for 1270 sq. yards was there since 1966, there is no bar to the respondents to seek sanction building plan for 1270 sq. yards. As already said that the appellant's right to FAR of 1350 sq. yards remains unaffected. Once the revised plan for addition and alteration was sanctioned for 1270 square yards in 1966, the private respondents had every right to take fresh sanction building plan for this area.

16. In view of these, both the appeals are meritless and are dismissed.

17. Record of the respondent, if any, be returned along with copy of this order and appeal files be consigned to record room.

**Announced in the open Court  
today i.e. on 24.04.2026**

**(AMIT KUMAR)  
Addl. District & Sessions Judge-cum-P.O.  
Appellate Tribunal, MCD, Delhi**