

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

Appeal no. 132/ATMCD/2023

Appeal no. 133/ATMCD/2023

In the matter of :-

SMT. PRARTHNA KASANA
W/O SH. RAJ KUMAR KASANA
R/O H-16, DUGGAL COLONY,
KHANPUR, NEW DELHI.

....Appellants

Vs.

MUNICIPAL CORPORATION OF DELHI
THROUGH ITS COMMISSIONER
CIVIL CENTRE, MINTO ROAD, NEAR
ZAKIR HUSSAIN COLLEGE,
NEW DELHI.

.....Respondents

Date of Filing of Appeal	:	14.03.2023
Date of Judgment	:	30.04.2026

JUDGMENT

1. These are 02 appeals challenging the sealing order dated 15.09.2010 in appeal no. 132/23 and demolition order dated 29.07.2010 in appeal no. 133/23 in respect of property no. 159/1 and 159/A, Khasra no. 440/2021, Gujar Dairy, Masjid Moth, New Delhi.
2. The brief facts necessary for disposal of these two appeals are that these two properties were initially owned by one Mr. Maan Singh Tosaria, who mortgaged the same with M/s JM Financial Assets Reconstruction Company Pvt. Ltd. He could not repay the loan and this company filed OA no. 42/14 before Debt. Recovery Tribunal from where the appellant purchased these properties in e-auction on 03.05.2019. The appellant however, came to know that the properties had been sealed by the orders of Monitoring Committee appointed by the Hon'ble Supreme Court of India, but later found that the

same were booked and directed to be demolished and sealed by the impugned orders and therefore, these two appeals.

3. The basic question in these appeals are whether these properties are situated in Khasra No. 217, 222 which is an acquired land or exist in Khasra No. 669/440/221 which is non-acquired private land of Village Masjid Moth, New Delhi. .
4. Ld. counsel for the appellants have argued that the construction in the properties is old one and prior to 1998 and impugned orders have been passed without considering the protection available under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 and are liable to be set aside.
5. It was also argued that Khasra Nos. 217, 222 & 231, Village Masjid Moth were acquired vide Award No. 1268 and physical possession was handed over by LAC to DDA on 13.03.1972 and therefore, the question of subject-property falling in these Khasras does not arise.
6. Ld. counsel for MCD on the other hand argued that the Monitoring Committee passed order dated 30.11.2011 after considering the report of the Revenue Department that the property falls in Khasra No. 217 which admittedly is government land. The subsequent survey also show that the subject-property is part of Khasra No. 217 which is acquired land and therefore, these appeals are without merits and should be dismissed.
7. I have perused the record.
8. In the other connected appeals decided by this Tribunal on 06.02.2026 relating to several other properties in Gujar Dairy, Masjid Moth, New Delhi, the Monitoring Committee, MCD and DDA filed their status reports and time was sought to file demarcation reports. Vide status report filed by the SDM on 07.11.2016, it was stated that the revenue records are maintained as per khasra-wise and not property-wise and since village Masjid Moth has been urbanized, it is not possible to file report whether the subject-properties are on government land or other-wise. The same was contrary to earlier status report dated 05.12.2014 filed by SDM, Hauz Khas stating that the subject-properties are part of government land.
9. It is also relevant to note that this report dated 05.12.2014 stated that the property is situated in Khasra No. 217 contrary to the report of M/s Maverick

Engineers Pvt. Ltd which stated that the subject- property falls in Khasra No. 221. It will be relevant to note that M/s Maverick Engineers were engaged by the SDM itself to demarcate Khasra No. 440/221. When this agency being engaged by the government gave specific report on 08.07.2013 demarcating Khasra No. 440/221 and also submitted the location map showing that subject-property falls in khasra no. 440/221, what was the occasion for engaging one more agency M/s Dhayani Consultant to carry out fresh demarcation remains unexplained. This Dhayani Consultant, as per report fixed new reference point. How and why new points were fixed remains unclear.

10. It is also relevant to mention that Ashok Kumar, the then Kanoongo who joined the proceedings of demarcation with M/s Maverick Engineers was also the part of demarcation proceedings conducted by M/s Dhayani Consultants. M/s Maverick as well as M/s Dhayani Consultants used Total Station Mapping (TSM) method to ascertain the location of Khasra No. 440/221. Why Dhayani Consultants did not consider report of M/s Maverick Engineers. It clearly shows that the respondents have failed to establish the exact location of Khasra No. 440/221 or the Khasra No. of subject-properties.
11. Respondents have been filing different reports without proper verification of the exact khasra of the subject-property. It is also unclear that when the physical possession of Khasra No. 217, 222 and 231 was handed over to DDA by LAC, then how the subject-properties which are private properties are situated on the acquired land. There is no reason to disbelieve the report of M/s Maverick Engineers Pvt. Ltd.
12. Further, it is relevant to note that vide office order dated 11.09.2007 passed by Land & Building Department. (Land Acquisition Branch), it was decided by Hon'ble LG of Delhi as under:

“In view of the policy decision to regularise certain unauthorised colonies, the land falling within the boundaries of such colonies as per the survey which had been carried out by the Divisional Commissioner, whether built-up or not, will not be now taken over by the govt”.

In view of this circular whether the subject-properties falls in acquired land or not is an immaterial question. The govt. admittedly did not take over the possession of the subject-property, even presuming that it is part of acquired

land and therefore, is now precluded from taking over the possession of the subject- properties in view of this circular dated 11.09.2007.

13. As already discussed, the respondent has failed to establish that the subject-properties are on govt. land. Even as per the case of respondent, the construction of the property is prior to 01.06.2014. Therefore, same is protected under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act 2011. The respondent therefore is directed to de-seal property no. 159/1 and 159/A, Khasra no. 440/2021, Gujar Dairy, Masjid Moth, New Delhi on the undertaking of the appellant that the same shall be used only for the purposes permissible under MPD-2021 and if any use other than residential is permitted and the appellants choose to use it for any other purpose than residential, the same shall be done on payment of conversion charges.

12. Further, the impugned demolition order dated 29.07.2010 records that there is unauthorized construction in the shape of basement to third floor which was booked vide show cause notice dated 22.07.2010. This booking is prior to 01.06.2014 which is the cut-off date for protection of the existing construction under National Capital Territory of Delhi Laws (Special Provision) Second Amendment Act, 2011 for the subject property.

13. In these facts the demolition order dated 29.07.2010 and sealing order dated 15.09.2010 are upheld, but kept in abeyance.

14. Both the appeals are accordingly disposed off in terms of above findings.

15. Record of the respondents, if any, be returned along with copy of this order and appeals file be consigned to record room.

**Announced in the open Court
today i.e. on 30.04.2026**

(AMIT KUMAR)

**Addl. District & Sessions Judge-cum-P.O.
Appellate Tribunal, Delhi**