IN THE COURT OF SH. PREM KUMAR BARTHWAL
PRINCIPAL DISTRICT & SESSIONS JUDGE
NORTH DISTRICT : ROHINI COURTS : DELHI

CNR No. DLNT01-002454-2026
MCD Appeal No. 03/2026

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

Versus

1. **Municipal Corporation of Delhi**
Through Its Commissioner
Civic Centre, Minto Road,
New Delhi-110002.

2. **Smt. Asha Gupta**
W/o Shri Anand Kumar
R/o B-39, First Floor,
Gujrawala Colony, GTB Nagar,
Delhi-110009. **...Respondents**

Date of institution : 27.02.2026
Date of arguments : 12.05.2026
Date of Judgment : 18.05.2026

<u>JUDGMENT :</u>

1. Vide this judgment, this court shall dispose of the appeal u/s 347(D) of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as "the DMC Act") assailing the judgment dated 13.02.2026 (hereinafter referred to as the impugned judgment) passed by Ld. P.O. Appellate Tribunal, MCD, Delhi in

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appeal No. 25/TMCD/2026 titled‘Asha Gupta vs. Municipal Corporation of Delhi & Anr.’, whereby the Ld. Appellate Tribunal, MCD allowed the appeal filed by the respondent No. 2-herein and revoked the building sanction dated 26.07.2025 granted under section 336 of DMC Act in respect of IGL CNG Station situated at Khasra Nos. 46/16, 46/17, 46/24, 46/29, situated at Village Bakoli, Tehsil Narela, Delhi-110036.

2. The brief facts, according to the appellant, are that the appellant-herein is the lawful/registered owner and in possession of land comprised in Khasra Nos. 46/16, 46/17, 46/24, 46/29 and 49/4, situated at Village Bakoli, Tehsil Narela, Delhi-110036. It is submitted that the relevant revenue records, including consolidation/revenue verification do not reflect any notified public road, recorded public raasta or vested/recorded public right of way over or across the appellant’s aforementioned land or any part thereof. It is further submitted that the jurisdictional Tehsildar/SDM Alipur vide clarification bearing F.No. 58900 dated 28.02.2023 has categorically recorded a finding, based upon Halqa Patwari’s verification, that no recorded pathway/raasta exists in the appellant’s subject land bearing Khasra Nos. 46/16, 46/17, 46/24, 46/29 and 49/4. It is submitted that the controversy raised by respondent no. 2, in substance is regarding access dispute with ulterior motives to secure access from front/main Palla Bakhtapur Road to which she is not entitled and she could not secure the said relief despite pursuing a civil suit bearing no. CS SCJ 992/2022 before Civil Court i.e.

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before Ld. Sr. Civil Judge, North District, Rohini. It is submitted that the appellant had submitted application dated 16.06.2025 to respondent no. 1 / MCD for lawfully developing its said land for an IGL CNG station and after due scrutiny and verification of the relevant documents, the respondent no. 1 had granted sanction of an IGL CNG Station on the appellant's land on 26.07.2025. It is submitted that respondent no. 2 had falsely claimed/asserted that a public road exists between the appellant's land and her Farmhouse and she has wrongly claimed about encroachment upon public road by the appellant. It is further submitted that the appellant has consistently denied the said assertion of respondent no. 2 maintaining that the land in question forms part of appellant's privately owned land.

3. It is submitted that respondent no. 2, over a period of time has engaged in initiating multiple and overlapping proceedings before different Authorities i.e. proceedings under section 133 Cr.P.C. were initiated by respondent no. 2 and others before the jurisdictional SDM Alipur alleging obstruction in the year 2022 but the said proceedings were subsequently withdrawn at the stage of final judgment and did not culminate in any adjudication or declaration on merits due to withdrawal by the applicants including the respondent no. 2. Subsequently, the respondent no. 2 filed civil suit no. CS SCJ 992/2022 before the Court of Ld. Sr. Civil Judge, North District Rohini in July, 2022 wherein she had herself pleaded that there was no public passage and she had sought relief on the basis of alleged private Easement right under

section 15 of the Indian Easement Act, 1882 but the said suit was also withdrawn on 17.11.2025 with liberty to file fresh suit. Thereafter the respondent no. 2 filed WP (C) No. 17181/2025 on 11.11.2025 raising grievance arising out of same factual background and respondent no. 1/MCD has confirmed before the Hon'ble High Court that the area is agricultural and no approved layout plan or development plan exists for the said area and no recorded public raasta exists or existed in the appellant's land. Notwithstanding the pendency of Writ Petition, the respondent no. 2 preferred Appeal No. 25/ATMCD/2026 challenging the sanction u/s 336 of DMC Act granted by respondent no. 1/MCD and the said appeal was allowed vide the impugned judgment dated 13.02.2026.

4. Aggrieved by the impugned judgment dated 13.02.2026 passed by the Ld. Appellate Tribunal, MCD, the appellant has filed the present appeal on the grounds that the Ld. Appellate Tribunal has exceeded its jurisdiction by declaring about the existence of an alleged 'raasta/Shaare-e-Aam,' which is a disputed question of fact which could not have been adjudicated except by leading of evidence before a competent Civil Court and the Ld. ATMCD did not call upon the parties to lead any evidence in this regard and assumed a particular document to be correct despite a contrary authentic document being available; that the Appellate Tribunal lacked jurisdiction to adjudicate disputed foundational facts pertaining to existence of public road like in the case in hand and such exercise is solely available

within the domain of a competent civil court; that the alleged public road is non-existent and also not recognized as per the Master Plan of Delhi- 2021; that the alleged public road was not an admitted or notified public road and the alleged public road never existed as per the revenue records including the latest verification report by the concerned Tehsildar dated 21.02.2026; that respondent No.2 herself had filed one Aks-Sizra in her Civil suit which clearly showed no such public road and she had merely claimed private easementary rights which were never granted; that respondent No.2's own pleadings in CS SCJ 992/2022 established absence of any 'recorded passage' and she had claimed only a private easement and she could not have been permitted to raise a mutually destructive plea of a public road in summary municipal appellate proceedings but the Ld. Tribunal completely ignored this foundational fact.

5. It is further submitted that statutory revenue verification (including consolidation records of 1997-98) by the competent revenue authority expressly recorded that there is no recorded pathway/raasta in the appellant's land; that the public roads have to be duly notified by the competent authorities in accordance with law and the property in question, being the private land of the appellant, cannot partake the character of a public road in the manner sought to be done by way of the impugned judgment; that public roads are duly provided for in the zonal plans and no such public road is either notified or so provided in any layout of the locality; that the Ld. Tribunal has acted perversely in

disregarding the Municipal Corporation of Delhi's own Status Report filed before it which, upon verification from the Tehsildar (Alipur) and revenue records, categorically recorded that no recorded public road exists in the subject Land; that the Ld. Tribunal proceeded on a non-pleaded 'concealment' theory regarding a prior sanctioned plan of the year 2005; that the sanctioned plan of the year 2005 was a document generated by the MCD itself and it was lying in its own custody and it could not be treated as a fact 'concealed' by the Appellant from the very same authority/MCD while applying for the sanction of the IGL CNG Pump; that the Ld. Tribunal wrongly relied upon a sanctioned plan dated 24.03.2005 to conclude 'concealment' against the appellant despite the fact that the said document never formed part of the judicial record before the Ld. Tribunal; that the said document was not available before the Ld. ATMCD and therefore, reliance thereupon to adjudicate the matter was against settled principles of law and equity; that the statutory ingredients of Section 338 DMC Act namely 'material misrepresentation' or 'fraudulent statement' in the notice or information given by the applicant of sanction are entirely absent in the present case.

6. It is further submitted that the Ld. Tribunal picked up few incorrect lines of MCD's status report dated 11.12.2025 which were mere narrative reference and Ld. ATMCD ignored the operative, record-based conclusions of MCD/revenue verification negating any recorded public raasta across the subject Land; that the finding that the alleged road is 'maintained by government

agency' is perverse and contrary to the record as no work order, maintenance register, or notification was ever brought on record before the Ld. ATMCD to demonstrate that any government agency has ever spent public funds on the said strip; that the Ld. Tribunal failed to appreciate that respondent no. 2 had taken mutually destructive stands across different forums. Having founded her civil suit on the 'absence of any recorded passage' and a claim of private easement, she could not have been permitted to subsequently assert a mutually destructive case of the existence of a statutory public road before the Ld. Tribunal; that the Ld. Tribunal itself records in paragraph 16 of the impugned judgment that respondent No. 2 has alternate access to her property from the Bakoli Bakhtawarpur Road; that Ld. ATMCD is authorized to check the legality of a sanctioned plan but it could not lawfully burden the appellant's private property to secure a preferred access route for a neighbour who already possesses ingress and egress to her property; that once the existence of access from Bakoli–Bakhtawarpur Road stood recorded by the Ld. ATMCD itself then the very foundation of respondent No.2's case, as pleaded by her, stood fundamentally contradicted; that the Ld. Tribunal misapplied the doctrine of estoppel to declare the existence of public road in a private immovable property; that the impugned judgment unlawfully deprives the appellant of property rights guaranteed under Article 300A of the Constitution of India by converting the appellant's private landholding into a public road through a summary appellate proceeding without adherence to the prescribed rules of land acquisition and without payment of any compensation for said land; that the Ld. Tribunal failed to appreciate that respondent No. 2 is guilty of flagrant forum shopping and abuse of the process of law, having successively and simultaneously invoked the jurisdiction of (i) the SDM under Section 133 CrPC, (ii) the Civil Court in CS SCJ 992/2022, (iii) the Hon'ble High Court in W.P.(C) 17181/2025, and (iv) the Ld. ATMCD, all in pursuit of the same relief concerning the alleged public road; that such re-litigation of the same cause of action across multiple forums is legally impermissible and ought to have resulted in the dismissal of the appeal; that the impugned judgment is even otherwise perverse and unsustainable in law in view of the conclusive clarification dated 20.02.2026 issued by the Office of the Sub-Divisional Magistrate, Narela, after verification from the Halqa Patwari and comparison with the official Aks-Sizra, wherein it has been categorically recorded that the Aks-Sizra relied upon by respondent No.2 does not correspond with official revenue records and that the alleged road/passage shown therein is an unauthorized addition not forming part of the authentic revenue record. The appellant has prayed that the impugned judgment dated 13.02.2026 be set aside and to restore and uphold the building sanction dated 26.07.2025 granted by respondent No. 1/MCD in favour of the Appellant.

7. The respondent No. 2 has filed reply to the present appeal contending that the impugned judgment is a well reasoned order and that there was a raasta aam/public street/public road on the

east side of the property of the respondent No. 2 of width 30 ft. 3 inch; that after perusal and consideration of all the official records, the Ld. ATMCD has rightly held that there is a Shaare-e-aam road of 30 ft 3-inch width which is not only recognized by MCD but also by Patwari and Tehsildar (HQ); that the MCD/Respondent No.1 cannot be permitted to take contradictory stands against its own record. It is further contended that Ld. ATMCD has rightly observed that sanction issued in favour of the previous owner Sh. Subhash Chand Aggarwal in 1998 depicts existence of said public road and same is also visible in the sanction issued to the Respondent No.2 in 2003. It is contended that the sanction to construct the CNG Pump was obtained through fraud and concealment of facts and therefore, the Ld. ATMCD has rightly revoked the sanction dated 26.07.2025.

8. It is further contended that the appellant vide the present appeal is trying to mislead the Court by producing clarification bearing F. No. 58900 dt. 28.02.2023 and 20.02.2026 to show that there is no public ROW (Right of Way) between appellant's and R2's land holdings. It is contended that the Ld. ATMCD has rightly observed about existence of a public road admeasuring 30’3” abutting the eastern boundary of Respondent No.2’s land estate. It is submitted that neither MCD/respondent no. 1 nor Revenue Authorities can be allowed to assert subsequently that no recorded pathway exists when their own record confirms the existence of a Shaare-e-aam road in 1998 as well as in 2003.

9. It is further submitted that as per the MCD/Respondent

No. l's own sanction plan issued to the Respondent No.2 on 10.06.2003 vide File No. 509/B/HQ/2003, there is a clearly delineated public road running in front of the Respondent No. 2's farmhouse; that, as per MCD's own records received through RTI, even the concerned Tehsildar has confirmed that a road 30'3" ft width is found abutting the respondent No.2's land. Another sanction obtained by a neighboring farmhouse from MCD in 1999 also verifies the status of subject road to be a public road and therefore the sanction issued to appellant vide File No. 10120377 dated 26.07.2025 was not valid and has been rightly revoked by Ld. ATMCD.

10. It is further contended that even when the sanction was granted in favour of the Petitioner in 2003 as well as the previous owner in 1988, MCD/Respondent No.2 required the parties to furnish an affidavit undertaking to surrender the road portion from its farmhouse whenever road widening is undertaken which establishes the pre-existence of the road at that time as no widening could be contemplated or required in the absence of an existing road. It is contended that the Ld. ATMCD has rightly observed that the fact that the Respondent No.2 has not surrendered 34 ft. & 10-1/2-inch strip of her land cannot be a ground to permit appellant to block this road.

11. It is further submitted that no forum shopping has been undertaken by respondent No. 2, as falsely alleged by the appellant. A bare perusal of the reliefs sought will make it evident that the reliefs sought before the Hon'ble High Court are

entirely different from the reliefs sought before the Ld. ATMCD. It is contended that on account of the continuous illegal acts of the appellant who is working hand in gloves with the respondent No.1, the answering respondent had to avail its legal remedy and approach the Ld. ATMCD challenging the illegal sanction dated 26.07.2025 when it came in knowledge of the respondent No.2 from the status report was filed before the Hon'ble Delhi High Court. It is submitted that the previous suit as filed by the respondent No. 2 stood withdrawn vide order dated 17.11.2025 with liberty granted to the respondent No. 2 to seek its appropriate legal remedy.

12. It is further submitted that under the DMC Act, the Ld. ATMCD has ample power to revoke any sanction if the same is obtained through misrepresentation and fraud. It is submitted that the Appellant had concealed material fact that there existed a metallic road/Shaare-e-aam road and the Ld. ATMCD has rightly revoked the sanction dated 26.07.2025. The present appeal is nothing but a frivolous attempt to raise unauthorised and illegal construction on a public road illegally encroached by the appellant relying on a sanction dated 26.07.2025 which was obtained through fraud, misrepresentation and concealment of facts. It is further submitted that respondent No. 2 had purchased her land in 1998 after sanction was already issued by MCD/Respondent No. 1 which clearly shows a public road in front of her property. It is further submitted that the appellant purchased the property in the year 2005 when the respondent No.

2 already had the gates of her property on 30 ft. road facing the appellants property and the appellant was aware of the existence of the road as well as the access of the respondent No. 2 on the said road. It is submitted that the respondent No. 2 is unable to access her property on account of illegal construction and encroachment on a public road by the appellant. The respondent No.2 filed a civil suit bearing No. CS SCJ 992 of 2022 before the Ld. Senior Civil Judge, North, Rohini Court seeking injunction qua the objection created by the appellant at the time of filing of suit but subsequently the appellant completely blocked her access to her property. On account of repeated change in status quo of the suit property the respondent No.2 withdrew the said suit with liberty to file fresh. It is further submitted that the reliefs sought before the Hon'ble High Court are entirely different from the reliefs sought before the Ld. ATMCD.

13. It is further submitted that as per MCD's own records received through RTI, even the concerned Tehsildar has confirmed that a road 30’3” ft width is found abetting the Respondent No.2’s land. Another sanction obtained by a neighboring farmhouse from MCD in 1999 also verified the status of subject road to be a public road and therefore the sanction issued to Appellant vide File No. 10120377 dated 26.07.2025 was not valid and has been rightly revoked by Ld. ATMCD. The Appellant itself claimed that Respondent No.2 has access from Bakoli Bakhtawarpur Road which amounts to an implicit admission that a public road/access road undeniably

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exists right up to the Appellant's Khasra number, which cannot end abruptly thereafter. It is submitted that the Aks Sizra as relied upon by the Respondent No.2 is an official record received under RTI and therefore any submission that the same does not correspond with the authenticated Aks Sizra is completely baseless and misleading and calls for strict action against the concerned department. It is further submitted that the present appeal is devoid of merits and is liable to be dismissed with exemplary costs.

14. I have heard the arguments advanced by the Ld. counsels for the parties and have also carefully gone through the entire cord.

15. Ld. Counsel for the appellant has argued that the Ld. ATMCD exceeded its jurisdiction by adjudicating on the existence of a disputed "raasta/Shaare-e-Aam," which is a foundational question of fact. It has been argued that such disputes can only be decided by a competent civil court after proper evidence is led. It is contended that the clarification dated 20.02.2026 issued by the Office of the Sub-Divisional Magistrate (Narela), based upon the verified report of the Halqa Patwari, categorically records that the Aks-Sizra/Sizra relied upon by the respondent No. 2 before the Ld. ATMCD does not correspond with the official authenticated revenue records, that no such road/ passage exists at the east side of Khasra Nos. 46/18-23 & 49/3 and that the road/rasta shown in the contested Sizra 'appears to be an unauthorized addition' not forming part of authenticated

revenue record. It is argued that the Ld. ATMCD assumed one document to be correct while ignored the contrary and authentic revenue records without calling for any evidence. It is argued that the revenue records, including the Tehsildar's verification report dated 21.02.2026, categorically confirm that no public road exists on the subject land and same is also corroborated by the consolidation records of 1997–98. It is contended that even the Master Plan of Delhi–2021 does not recognize any such public road in the locality. The Tribunal's finding of a "Shaare-e-Aam" road is directly contrary to statutory records and MCD's own status report and the same is liable to be set aside.

16. It is further contended that the respondent No. 2 has taken mutually destructive and irreconcilable stand across multiple proceedings. It is submitted that in CS SCJ no. 992/2022 it was averred by the respondent no. 2 that there was 'no recorded public passage' between her farmhouse and the alleged pathway originated from a private mutual arrangement claiming relief under Section 15 of the Indian Easements Act, 1882 on the basis of private easmentary rights. However, in the present appeal, before Ld. ATMCD she completely resiled from that foundational case. It is further contended that as confirmed by MCD's Status report filed before the Hon'ble High Court in December 2025, the respondent No. 2 was obligated to surrender a 34'010 ½" wide strip of her land to MCD as a pre-condition of her own building sanction obtained in 2003 but the said strip was never surrendered and rather the respondent No. 2 encroached upon it

by constructing a pucca boundary wall and the MCD has even passed demolition orders against her.

17. It is further contended that a clarification dated 20.02.2026 has been issued by the office of SDM (Narela) based upon the verified report of the Halqa Patwari which categorically records that the Aks-Zizra relied upon by Respondent No. 2 before the Ld. Appellate Tribunal, MCD does not correspond with the official authenticated revenue records; that no such road/passage exists at the east side of Khasra Nos. 46/18-23 & 49/3 and that the road/rasta shown in the contested Sizra 'appears to be an unauthorized addition' not forming part of the authenticated revenue record. It is further contended that respondent No. 2 always had access to her farmhouse through the Bakoli Bakhtawarpur Road but is deliberately harassing the appellant by filing frivolous petitions/applications. It is contended that as per certified true copies of the building plan application file bearing No. 993/B/HQ/2005 maintained by the Executive Engineer (Building), Narela Zone, MCD pertaining to Bhartiyam's farmhouse building sanction of 2005 the western boundary of Bhartiyam's land being the boundary adjoining the appellant's property has no road, rasta or passage of any nature whatsoever marked upon it. The Ld. Counsel has argued that the Seamless Revenue Map prepared by the DDA for Planning Zone P-II, after due correction with the Revenue Department forms a statutory instrument notified under section 11 of the Delhi Development Act, 1957 r/w Section 9(2) thereof and the said Seamless

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Revenue Map shows no road whatsoever between the Khasra numbers of the appellant and respondent no. 2. It is submitted that in Civil Suit No. CS SCJ 992/2022, Respondent No. 2 expressly pleaded in para 3 of her plaint that 'there was no recorded passage' between the parties' lands, and in para no. 11 she invoked Section 15 of the Indian Easements Act, 1882, a claim founded on a private prescriptive easement. Having anchored her claim on the undisputed absence of a public road, she has completely resiled to now characterize the same strip as a statutory public road before the court and before Hon'ble High Court in W.P.(C) No. 17181/2025. It is submitted that a party cannot blow hot and cold in same breath and the irreconcilably contradictory pleadings of the respondent no. 2 constitute a textbook case of approbation and reprobation disentitling her from any relief.

18. It is further contended that the Ld. ATMCD wrongly relied on a sanctioned plan dated 24.03.2005, which was not part of the judicial record. The SDM's clarification dated 20.02.2026 confirms that the Aks-Sizra relied upon by respondent No.2 is an unauthorized addition not part of authentic revenue records and reliance on such documents vitiated the findings. It is further contended that Section 338 MCD Act requires material misrepresentation or fraudulent statement by the applicant and no such misrepresentation has been shown in the appellant's sanction application for the IGL CNG Pump. It is further argued that the Ld. ATMCD's theory of "concealment" is baseless since

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the 2005 plan was in MCD's own custody and not concealed by the appellant. The Tribunal itself recorded that respondent No.2 has alternate access from Bakoli-Bakhtawarpur Road. Respondent No.2's own pleadings in CS SCJ 992/2022 admitted absence of a recorded passage and claimed only a private easement. She cannot now raise a mutually destructive plea of a public road. The Tribunal misapplied the doctrine of estoppel to declare a public road over private property and that the impugned judgment unlawfully deprives the appellant of its property rights guaranteed under Article 300A of the Constitution of India. It is submitted that the conversion of private land into a public road through summary appellate proceedings without acquisition or compensation is unconstitutional. Public roads are required to be duly notified and provided in zonal plans but in the present. No such notification has been issued by any competent Authority. Therefore, the impugned judgment is perverse, unsustainable, and contrary to statutory records and is liable to be set aside and the building sanction dated 26.07.2025 may be restored. The Ld. Counsel for the appellant has placed reliance on Mudit Goyal & Ors. Vs. State of Karnataka Vidhana Soudha & Ors., Writ Petition No. 4812/2020 (GM-RES-PIL); Surinder Pal Singh Chadha Vs. SDMC & Ors., W.P.(C) 5388/2021 and Sohan Lal Vs. Union of India & Anr., (1957) 1 Supreme Court Cases 439.

19. Per contra, Ld. Counsel for the respondent has argued that the property owned by the respondent no. 2 used to be accessed

through public road which is being encroached upon by the appellant and the sanction dated 26.07.2025 was obtained by practicing deception and fraud. Further, the official records since 1998 and 2003 consistently show a Shaare-e-Aam road of 30 ft. 3 inch width abutting respondent Nos. 2's property. It is contended that as per certified true copies of the building plan application file bearing No. 993/B/HQ/2005 maintained by the Executive Engineer (Building), Narela Zone, MCD pertaining to Bhartiyam's farmhouse building sanction of 2005 the western boundary of Bhartiyam's land being the boundary adjoining the appellant's property has no road, rasta or passage of any nature whatsoever marked upon it. It is further contended that the appellant obtained sanction for the CNG pump by concealing the existence of the public road despite being aware of it since purchase in 2005. It is contended that under Section 338 DMC Act, Ld. ATMCD has rightly revoked the sanction as it was obtained through misrepresentation and fraud.

20. It is contended that respondent no. 1/MCD's own sanction plans i.e. 1998, 1999 and 2003 and affidavits requiring surrender for road widening confirm the pre-existence of the road. It is further contended that reliefs sought before High Court and ATMCD are distinct i.e. one concerning obstruction and the other challenging illegal sanction. The respondent acted within her rights to protect access to her property against appellant's encroachment. It is further contended that a public road cannot be blocked or converted into private property. Appellant's claim of

property rights under Article 300A fails because the land in question is part of a recognized public road. The Ld. ATMCD's judgment is well reasoned, based on statutory records, and Ld. ATMCD correctly revoked a sanction obtained through concealment. Therefore, the appellant's appeal is devoid of merit and deserves dismissal.

21. Before considering the rival contentions of the parties, let me, at the outset refer to Section 347D DMC Act, 1957, under which the present appeal has been filed. Same reads as under:-

> "347D. Appeal against orders of Appellate Tribunal-(1) An appeal shall lie to the Administrator against an order of the Appellate Tribunal, made in an appeal under section 343 or section 347B, confirming, modifying or annulling an order made or notice issued under this Act.
>
> (2).......
>
> (3)......."

22. From the plain reading of the above provision it is evident that it provides for appeal only against the judgment of Ld. ATMCD confirming, modifying or annulling an order made or notice issued under the DMC Act. Further, Section 338 of DMC Act, 1957 postulates as under:-

> "**338.** Sanction accorded under misrepresentation. If at any time after the sanction of any building or work has been accorded, the Commissioner is satisfied that such sanction was accorded in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information further under sections 333, 334 and 335, he may by order in writing cancel for reasons to be recorded such sanction and any building or work commenced, erected or done shall be deemed to have been commenced, erected or done without such sanction: Provided that before making any such order the Commissioner shall give reasonable opportunity to the person affected as to why such order should not be

made".

23. Thus, under Section 338 DMC Act, the Commissioner of the MCD is empowered to cancel the sanction if at any time after the sanction of any building or work have been accorded, the commissioner is satisfied that such sanction is accorded consequent to any material mis-representation or fraudulent statement then he may by order in writing cancel the sanction reasons to be recorded.

24. In the present case, respondent no. 2, who has challenged the grant of sanction dated 26.07.2025 has not filed any complaint before the concerned Commissioner regarding any misrepresentation or fraudulent statement and has filed the appeal bearing no. 25/TMCD/26 assailing the said sanction. Vide impugned judgment, the said sanction has been revoked by the Ld. ATMCD. The procedure for sanction or refusal of building or work is provided in Section 336 DMC Act and the same postulates as under :

> **"336. Sanction or refusal of building or work –** (1) The Commissioner shall sanction the erection of a building or the execution of a work unless such building or work would contravene any of the provisions of sub-section (2) of this section or the provisions of section 340.
>
> (2) The grounds on which the sanction of a building or work may be refused shall be the following, namely :-
>
> (a) that the building or work or the use of the site for the building or work or any of the particulars comprised in the site plan, ground plan, elevation, section or specification would contravene the provisions of any bye-law made in this behalf or of any other law or rule, bye-law or order made under such other law;
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> (b) that the notice for sanction does not contain the particulars

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> or is not prepared in the manner required under the bye-laws made in this behalf;
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> (c) that any information or documents required by the Commissioner under this Act or any bye-laws made thereunder has or have not been duly furnished;
>
> (d) that in cases falling under section 312, lay-out plans have not been sanctioned in accordance with section 313;
>
> (e) that the building or work would be an encroachment on Government land or land vested in {a Corporation};
>
> (f) that the site of the building or work does not abut on a street or projected street and that there is no access to such building or work from any such street by a passage or pathway appertaining to such site.
>
> (3) The Commissioner shall communicate the sanction to the person who has given the notice; and where he refuses sanction on any of the grounds specified in sub-section (2) or under section 340 he shall record a brief statement of his reasons for such refusal and communicate the refusal alongwith the reasons therefor to the person who has given the notice.
>
> (4) The sanction or refusal as aforesaid shall be communicated in such manner as may be specified in the bye-laws made in this behalf.

25. The sanction in question is at page nos. 61 to 65 of the documents filed alongwith the instant appeal and the same is in the name of Mr. Divye Ratna Dixit. The respondent no. 2 did not array said Mr. Divye Ratna Dixit as a party before the Ld. ATMCD. The Ld. Counsel for appellant, during the course of arguments, gave up arguments qua non-impleadment of Mr. Divye Ratna Dixit before Ld. ATMCD and by extension in the present appeal since said Mr. Divye Ratna Dixit is a lessee of the appellant for 30 years vide duly registered lease deed dated 07.01.2020 bearing registration no. 35 in Book No. 1 Vol. 302 Page 48 to 54 and he is also a director of the appellant company entitled for applying for the sanction as per law.

26. Perusal of the impugned judgment dated 13.02.2026 passed by the Ld. ATMCD reveals that the main reasoning of the Ld. ATMCD's judgment rests upon its findings qua existence of a metallic/Shaare-e-Aam road and concealment of the same while obtaining the sanctioned building plan dated 26.07.2025 by the appellant. The relevant paras of the impugned judgment in this regard are as under :

> "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 road, how can it be now submitted that there does not exist road.
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> 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."

27. The Ld. ATMCD has held that there was material misrepresentation and hence the sanction could be revoked by the Commissioner under section 338 and also by the Tribunal under section 347-D DMC Act. However, the foundational case of the respondent no. 2 is falsified from independent and converging documents namely (i) The Aks-Sizra dated 28.08.2023 filed by respondent no. 2 herself in Civil Suit No. CS SCJ 992/2022 falsifies her claim of the alleged road as it did not show any road or passage on the eastern side of her khasras and (ii) The Sub-Divisional Magistrate, Narela vide its clarification dated 20.02.2026 and upon verification by the Halqa Patwari against the authenticated Aks-Sizra and Field Book has issued a formal clarification (F. No. TEH/NL/2025/1636) categorically recording that the Aks-Sizra relied upon by respondent no. 2 "does not correspond with the official authenticated revenue records' and that the road/passage shown therein 'appears to be an unauthorized addition' not forming part of the authentic revenue record. Since contradictory claims regarding revenue documents in respect of the road in question were being made by the parties, it was incumbent upon the Ld. ATMCD to direct the parties either to lead evidence in their support or to prove their rival claims through a full-fledged trial. The competent revenue authorities on two separate occasions have categorically recorded the absence of any recorded pathway or raasta in the subject land, first, the Tehsildar (Alipur) vide letter F. No. 58900 dated

28.02.2023 based upon the consolidation records of 1997-98 and secondly, the SDM (Narela) vide report dated 20.02.2026. Both the reports are stated to be the determinations of the authority statutorily competent to certify the character of land under the Delhi Land Reforms Act, 1954 and the consolidation scheme.

28. Significantly, a ‘public street’ under the scheme of the DMC Act 1957 comes into existence only by due statutory vesting/notification by the Corporation as per Section 2(44). The said provision postulates “public street means any street which vests in a corporation as a public street or the soil below the surface of which vests in (a Corporation) or which under the provisions of this Act becomes, or is declared to be, a public street.” Chapter XV of DMC Act deals with streets and Section 298 of DMC Act provides for vesting of public street in the Corporation. The documents regarding vesting or declaration of the public street/public road/Shaare-e-Aam raasta by due notification had to be proved in accordance with law before the Ld. ATMCD and no document regarding declaration/vesting of the said strip of land as a public street has been filed on record or brought to the notice of this court. When two rival parties claim declarations regarding title of a particular strip of land in question then, in the considered opinion of this court, the appropriate mode is recording of evidence and proving the documents as per law after giving the opportunity to the parties to prove their claims by examining witnesses in their support. However, the Ld. ATMCD, while passing the impugned

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judgment, ignored the powers of recording evidence vested in it vide Section 347C(7) of DMC Act. The said provision vested the powers conferred on the appellant Tribunal akin to the powers of the Civil Courts while trying a suit under CPC in respect of summoning, requiring discovery and inspection of documents, receiving evidence on affidavit, requisitioning any public record, issuing commissions for examination of witnesses etc. Significantly, the respondent no. 2 had filed Civil Suit No. CS SCJ 992/2022 before the Civil Court in respect of the land in question and the respondent No. 2 expressly pleaded in para 3 of her plaint that 'there was no recorded passage' between the parties' lands, and in para no. 11 she invoked Section 15 of the Indian Easements Act, 1882, a claim founded on a private prescriptive easement. However, the said Civil Suit was withdrawn by respondent no. 2 on 17.11.2025 with liberty to file fresh suit. Strangely, respondent no. 2 did not file fresh civil suit despite taking liberty at the time of withdrawal of the civil suit no. 992/2022. The respondent no. 2 cannot be permitted to wriggle out of her own pleadings made in CS SCJ 992/2022.

29. The Ld. ATMCD exercises limited appellate jurisdiction under the DMC Act. While it may examine whether a sanctioned plan ignores an admitted and notified public road it manifestly lacked jurisdiction to adjudicate seriously disputed questions of fact, i.e. whether a public road/street/Sharre-e-Aam road existed or not or regarding the title/rights of the parties over the said land which necessarily requires oral and documentary evidence and

can only be determined by a competent Civil Court in a properly instituted suit. The private land of the appellant, which is duly registered in its name, was being developed into an IGL CNG Station, a regulated public utility authorized under the Petroleum & National Gas Regulatory Board Act, 2006 and due sanction was accorded by the competent Municipal Authority after verification of the details. The respondent no. 2 also has unimpeded access to her farmhouse via the Bakoli-Bakhtawarpur Road and it cannot be said that her property is landlocked from all sides. Admittedly, the respondent No. 2 had filed a Civil Suit bearing No. CS SCJ 992 of 2022 before the Ld. Senior Civil Judge, North, Rohini Courts and the respondent No. 2 in paragraph 3 of her said plaint stated that since there was no recorded passage so in order to have access to the farmhouse of the plaintiff, the road having width of 30 feet was left between the farmhouses of the plaintiff and the defendant no. 1 (the appellant herein i.e. M/s Bhartiyam Village Foods & Beverages Pvt. Ltd.) which ran upto Village Bakauli. The respondent No. 2 withdrew the said suit vide order dated 17.11.2025 with liberty to file fresh. However, no fresh suit was filed by the respondent no. 2 despite seeking liberty from the Civil Court. The Civil court was the most appropriate forum for deciding about the rights, title and interest of the parties particularly when rival claims regarding the ownership of the said strip of land is being made by the parties.

30. In the considered opinion of this court, the declaration

about the title of a property/suit land can be adjudicated by a civil court in a better manner rather than by an appellate court in summary proceedings as has been done by the Ld. ATMCD in the present matter. If the parties are making rival claims and contradictory revenue reports/stances are taken by the revenue or municipal authorities in respect of the land in question being public road or not then the said question can be adjudicated only by civil court by leading evidence and not in a summary proceedings before the Municipal Appellate Authority. A declaration qua title of the land in question by a competent authority i.e. Civil Court or a valid notification/vesting of the said land in respondent no. 1/MCD was sine qua non before Ld. ATMCD could have adjudicated of the matter. No sanction plan or Aks-sizra of the appellant of the year 2005 was placed or proved before the Ld. ATMCD by either respondent no. 2 or by MCD/R-1 but the Ld. ATMCD has relied upon the same to return a finding of 'concealment'. The foundation of the Section 338 regarding concealment/fraud/misrepresentation was not proved before the Ld. ATMCD by adducing evidence as per law. There is considerable force in the contention of the Ld. Counsel for the appellant that no statutory ingredient of Section 338 was attracted warranting any interference/revocation of the sanction granted by the competent Authority. It is not the case of the respondent no. 2 that the construction raised by the appellants violates the sanctioned plan or the building bye-laws. It is also not the case of respondent no. 1/MCD that the construction by the appellant contravenes any building regulation or it impinges adversely on

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any municipal condition/land. Rather the Ld. Counsel for respondent no. 1/MCD has vehemently argued that the sanction dated 26.07.2025 had been granted after following all the due process and there was no misrepresentation or fraud practiced by the appellant. In the considered opinion of this court, resolution of the disputes qua title of the subject land in question was not feasible through the mechanism of municipal regulation of building activity. Accordingly, the impugned judgment dated 13.02.2026 passed by the Ld. ATMCD is held to be perverse, erroneous and improper as it presumed the existence of a metallic road/Shaare-e-Aam road/public street between the properties of respondent no. 2 and appellant without letting the parties prove their rival cases/claims by adducing evidence or by establishing their claims through trial before competent civil court. Reluctantly, the impugned judgment dated 13.02.2026 passed by Ld. ATMCD in appeal no. 25/TMCD/2026 is hereby set aside and the building sanction dated 26.07.2025 granted under section 336 of DMC Act in respect of IGL CNG Station situated at Khasra Nos. 46/16, 46/17, 46/24, 46/29, situated at Village Bakoli, Tehsil Narela, Delhi-110036 stands restored. The original record of the Ld. ATMCD be sent back along with a copy of this judgment.

31. The appeal file be consigned to record room after necessary formalities.

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Announced in the open court
today on 18.05.2026

(PREM KUMAR BARTHWAL)
Principal District & Sessions Judge
North District/Rohini Courts/Delhi(NSR)