



2025:DHC:7089-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 371/2025, CM APPL. 34798/2025, CM APPL. 34799/2025, CM APPL. 34800/2025 & CM APPL. 34801/2025

CHHATARPUR FARM WELFARE SOCIETY (REGD.)

.....Appellant

Through: Mr. Rajshekhar Rao, Senior Advocate with Mr. Sumit Gahlot, Ms. Smita Mann, Mr. Vishal Mann, Mr. Kartik Dabas, Mr. Yuvraj Bajaj and Ms. Zahid Laiq Ahmed, Advocates.

Versus

PRIYANSHU AGRAWAL & ORS.

.....Respondents

Through: Mr. Anup Kumar, Ms. Neha Jaiswal, Ms. Shruti Singh and Mr. Shivam Kumar, , Advocates for R-1 to 13.
Mr. Siddhant Nath, Standing Counsel with Mr. Bhavishya Makhija and Mr. Amaan Khan, Advocates for MCD.
Mr. Sameer Vashisht, Standing Counsel (Civil) with Ms. Harshita Nathrani, Advocate for R-12, 14 and 15/GNCTD.
Mr. Ajay Jain, Senior Panel Counsel with Ms. Bijay Lakshmi, Ms. Kashish Gupta, Mr. Manoj, Mr. Krishna Sharma and Mr. M.N. Mishra, Advocates for R-16 and 17.
Mr. Tushar Sannu and Ms. Aqsa, Advocates for DDA.

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Date of Decision: 18.08.2025



CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J: (ORAL)

1. Present Letters Patent Appeal has been filed by the appellants challenging the order dated 19.05.2025 (hereinafter referred to as “*impugned interim order*”) passed by this Court in W.P.(C) 6353/2021 titled “*Priyanshi Agarwal & Ors. vs. State (Govt. of NCT of Delhi) & Ors.*”, wherein the learned Single Judge has directed that the private respondents/writ petitioners as well as the general public shall be allowed access through the roads in question, and that they shall not be charged any money for using the said roads.

2. It is the case of the appellant/society that the streets/passages in question at DLF Chattarpur Farms are not “*public streets*” within the meaning of Section 2(44) of the Delhi Municipal Corporation Act, 1957, (hereinafter referred to as “*DMC Act*”) but are “*private streets*” as defined under Section 2(38) of the DMC Act. The appellant submits that these passages were carved out voluntarily by individual farm owners from their private lands for their own ingress and egress, and the ownership thereof was transferred to Qutab Garden Colony Co-operative Multipurpose Society Ltd., which is responsible for their maintenance. The appellant further states that the revenue records duly reflect the said passages as being in the private ownership and possession of the above-mentioned Co-operative Society.

3. The appellant submits that had these passages been public roads, the same would have been reflected as such in the revenue records and Aks Sizra/Map of Village Chattarpur. The absence of such recording demolishes the case of the private respondents/writ petitioners. The appellant further



submits that neither Municipal Corporation of Delhi (MCD), Delhi Development Authority (DDA), nor the Revenue Authorities have any right, title, authority, or jurisdiction in respect of these passages, which are private in nature, maintained at the expense of the Society and exclusively used by its members for their access, convenience, safety, and security.

4. The appellant submits that despite the above factual and legal position, the private respondents/writ petitioners have filed the underlying writ petition seeking demolition and removal of the gates installed at points A, B, C and D on the subject property.

5. The appellant further submits that the learned Single Judge *vide* impugned interim order dated 19.05.2025 has directed that the private respondents/writ petitioners as well as the general public shall be allowed access through the roads in question, and that they shall not be charged any money for using the said roads. Hence, the appellant/society filed the present appeal.

6. Mr. Rao, learned senior counsel, submits that learned Single Judge *vide* the impugned interim order has infact granted the final prayer sought by the private respondent nos.1 to 11 who are the original writ petitioners, which is contrary to law. He submits that it is trite that where the interim prayer as also the final prayer sought in the legal proceeding are identical, interim relief ordinarily ought not to be granted. He submits that the fundamental issue raised by the appellant in respect of the subject area and the roads/streets constructed therein is whether they fall within the definition of “*private streets*” under section 2(39) of the DMC Act or “*public streets*” under section 2(44) of the DMC Act. He asserted that the entire area of the appellant is a private land and the roads which were constructed therein were common areas surrendered/relinquished by the members of the appellant for



their own convenience or thoroughfare. He emphasizes that the learned Single Judge overlooked that the Act itself contemplated existence of private roads, and had assumed that all roads in Delhi would invariably be “*public roads*”. If that were the case, according to learned senior counsel, the definition of “*private street*” in Section 2 (39) of the Act would be rendered otiose. He submits that there is no layout plan of the area in question. He further forcefully submits that the roads in question are not maintained by the MCD and therefore, the order impugned could not have been passed opening up the private streets for the public.

7. Mr. Anup Kumar, learned counsel for private respondents vehemently opposed the submission made on behalf of the appellant and states that all the roads falling within the subject area are “*public streets*”. He emphasizes that the area under the appellant society is very large and the illegal and unlawful prohibition and restriction enforced by the appellant society from accessing such roads is contrary to the MPD 2021 and various provisions of the Act. He submits that before the outbreak of COVID-19 pandemic in the year 2020, the appellant society never stopped the public residing in areas surrounding the appellant society from accessing these roads, and therefore, the submission that these are private roads/private streets is an afterthought and contrary to law. He stoutly defended the observations and findings recorded by the learned Single Judge and prayed that the appeal be dismissed.

8. We have considered the arguments of the learned counsel for the parties, examined the impugned interim order and scrutinized the records of the case.

9. Conceptually, the DMC Act envisages existence of not only public streets but also private streets. The private street is defined under sub section



(39) of Section 2 of the Act to mean any street which is not a public street and includes any passage securing access to two or more places belonging to the same or different owners. Whereas sub-section (44) of Section 2 defines public street to mean any street which vests in the Corporation as a public street or the soil below the surface of which vest in the Corporation or which under the provisions of this Act becomes, or is declared to be, a public street. It is apparent from these definitions that a private street is clearly not a public street and a public street would mean a street which vests in the Corporation or the land below vests in the Corporation or has been declared to be a public street. Apparently, the observation of the learned Single Judge in para 14 of the judgment appears to have overlooked the statutory definition given to “*private street*”.

10. Notwithstanding the aforesaid analysis, we are purposely not entering into the arena to decide whether the subject streets are “*private*” or “*public*”, since that is yet to be decided by the learned Single Judge in the underlying writ petition. The aforesaid analysis was necessitated only to cull out the proposition that the Act does, in fact, envisage existence of “*private street*”.

11. Another relevant aspect which needs consideration by this Court is as to whether the learned Single Judge could have passed the impugned interim order which, according to the appellant, amounts to adjudication and disposal of the writ petition itself. A perusal of the prayers of the writ petition indicates that prayers (II) and (III) have literally been decided and disposed of *vide* the impugned interim order. For a clarity, prayers (II) and (III) are extracted hereunder:

“II. Issue a writ in the nature of mandamus and/or an appropriate writ(s)/order (s)/direction(s) commanding Respondent No.8 and 9 not to obstruct the free movement of the residents of Chhatarpur Extension including petitioners and/or other adjoining areas arid also not to



obstruct the movement of their vehicles and other vehicles including ambulances/autorickshaw/taxi/cab services hired/used by Residents of Chhatarpur Extension and other adjoining areas; and

III. Issue a writ in the nature of mandamus and/or an appropriate writ(s) /order(s)/direction(s) commanding Respondent No.3 to 6 to ensure the unobstructed and unhindered free movement of the residents of Chhatarpur Extension including petitioners; and”

In order to appreciate the aforesaid submission, it would also be appropriate to extract the operative portion of the impugned interim order. It would be apposite to extract paras 14 to 18 of the impugned order which reads thus-

“14. Accordingly, the submissions made by learned counsel for respondent no. 8, i.e., Chhatarpur Farm Welfare Society, that the DLF Chhatarpur Farm is a private area, with private existing roads, seems out of sync with the statutory provisions, which govern the various lands in Delhi.

15. Accordingly, the matter is referred to the Chief Secretary, Government of NCT of Delhi (“GNCTD”), to call all the requisite authorities, including, concerned officials from the Delhi Government, Delhi Development Authority, MCD, to assess as to how roads are being claimed as private roads, by certain private parties.

16. The Chief Secretary, GNCTD is also requested to assess the status of the area of DLF Chhatarpur Farms.

17. Further, the Chief, Secretary, GNCTD, shall also assess as to whether any private roads can exist in Delhi after the commencement of the DDA Act, 1957 and the DMC Act, 1957, when private colonisation is completely barred in Delhi.

18. In the meanwhile, considering the submissions made before this Court, it is directed that the petitioners and the general public shall be allowed access from the roads in question. Further, they shall not be charged any money for accessing the said roads.”

12. By virtue of the directions contained in para 18 above, the learned Single Judge, by way of the impugned interim order, has literally allowed prayers (II) and (III) of the underlying writ petition even before a decision as to whether such roads are or are not private or public roads has been



considered. That in our humble opinion could not have been arrived at by learned Single Judge before such consideration. It is clear that even the learned Single Judge appears to have some doubt as to whether roads could be claimed as private roads by parties, inasmuch as directions in that regard have been passed to the Chief Secretary of the GNCTD. In that context, it would, perhaps, be appropriate to have the benefit of such report as called for before passing impugned directions.

13. In that view of the matter, we are inclined to modify the direction contained in para 18 of the impugned interim order dated 19.05.2025.

14. During the course of hearing, the parties agreed to convene a meeting to iron out an interim arrangement during the pendency of the writ petition, since the underlying petition is yet to be decided on merits. After deliberation, certain suggestions were conveyed by both the parties, keeping the map at page 502 of the appeal paper book as the central document, on the basis whereof the residents of the surrounding areas of the appellant society shall have ingress and egress from Gate 1 to Gate 3 and *vice versa*. Keeping in mind such suggestions, the following order, modifying the impugned order, is passed:-

(a) The residents of the surrounding colonies shall have unhindered access from Gate 1 to Gate 3 by using North Drive; taking a right to Link Road; taking a left to Oak Drive till Gate no.3. Such access would also be available from Gate 3 to Gate 1 in the reverse.

(b) The unhindered access noted in '(a)' shall be available from 5.00 a.m. through till 11.00 p.m. only, to pedestrians, cyclists, two-wheelers, four wheelers and vehicles of essential services like ambulance and municipal vehicles etc.

(c) Commercial vehicles like Laden Trucks would be prohibited from



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16. It is made clear that the aforesaid arrangement is temporary in nature during the pendency of the underlying writ petition and shall be subject to the outcome of the same. We have not made any observations on merits of the matter and all the rights and contentions of the parties are left open.

17. With the aforesaid modification of the impugned interim order dated 19.05.2025, the appeal and the pending applications, if any, are disposed of.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

AUGUST 18, 2025/*rl*