

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

APPEAL NO. 813/ATMCD/23

Sudha Ramanathan
W/o Sh. N. Ramanathan,
R/o T-6, 301, Commonwealth Games Village,
New Delhi-110092. Appellant

Vs

3.1 Municipal Corporation of Delhi
Office of Executive Engineer (Building)-II
2nd Floor, Zonal Office Building,
Shahdara South Zone
419, F.I.E. Udyog Sadan,
Patparganj Industrial Area
Through its Commissioner,
Delhi-110096

3.2 Management Committee
68, Medha Apartments (Educational
Cooperative Group Housing Society)
Plot No. 7, Mayur Vihar Ph-1, Extension
Delhi-110091

3.3 Dr. Suneera Kasliwal
Flat No 3, Medha Apartments (Educational
Cooperative Group Housing Society)
Plot No. 7, Mayur Vihar Ph-1, Extension
Delhi-110091

3.4 Mr. Abhimanyu Gahlot
Flat No. 5, Medha Apartments (Educational
Cooperative Group Housing Society)
Plot No. 7, Mayur Vihar Ph-1, Extension
Delhi-110091

3.5 Vandana Aggarwal
Flat No. 6, Medha Apartments (Educational
Cooperative Group Housing Society)
Plot No. 7, Mayur Vihar Ph-1, Extension
Delhi-110091

3.6 Mrs. Raj Kanchhal
Flat No. 7, Medha Apartments (Educational
Cooperative Group Housing Society)
Plot No. 7, Mayur Vihar Ph-1, Extension
Delhi-110091

3.7 Mrs. Deepika Kachha
Flat no. 8, Medha Apartments (Educational
Cooperative Group Housing Society)
Plot No. 7, Mayur Vihar Ph-1, Extension
Delhi-110091

.....Respondent

Date of Filing of Appeal : **19.12.2023**
Date of Order : **07.11.2025**

JUDGEMENT

1. This is an appeal challenging the sanction letter dated 10.10.2023 issued by the MCD for grant of installation of lift and connecting bridge in respect of flat No.01-08 Medha Aptment, Mayur Vihar, Phase-I, Delhi.
2. The appellant is the owner and resident of flat No.2 on the ground floor. Respondent no 3.1 is the MCD, 3.2 is the Managing Committee of the Medha Apartment and respondent No.3.3 to 3.7 are the residents of flat No. 3, 5, 6, 7 and 8 respectively.
3. The brief facts necessary for disposal of this appeal are that respondent MCD granted sanction to respondents 3 to 7 for installation of lift in the building comprising flat No.1 to 8 in this apartment on 10.10.2023. When the respondent 3 to 7 started installing the lift, the appellant found that instead of installing the lift on the left side of the building block as was the case in case of lifts installed earlier in other building of this apartment, respondent 3 to 7 started digging on the right side of the building on the property owned by the appellant and she immediately filed a complaint with MCD and later approached Hon'ble High Court in W.P.(C) No.15788/23. That writ was withdrawn with liberty to file this appeal.
4. In this appeal it is contended that the right side of the building where the respondent 3 to 7 are trying to install the lift is an area marked –I for type A-2 flat on the front portion and the respondent cannot be permitted to install lift in the property owned by the appellant. It was also stated that the respondent

misrepresented the stairs before respondent No.1 while applying the sanction for lift. The stairs are exactly opposite to the one shown to MCD by respondent 3 to 7. It was argued that all other lifts installed in this apartment is on the left side of building and respondents are trying to unlawfully install lift on the right side to block light and air of the appellant. No site verification was done by the MCD before granting sanction. Lift can be installed only in the common area and not on the property of the appellant and the sanction is liable to be cancelled.

5. Ld. counsel for MCD submitted that lift was installed on the representation of respondent 3 to 7 and it will abide by the orders passed by this Tribunal.
6. Respondent No.2 the Managing Committee of the society in its reply stated that the layout and site plan of the apartments cannot be violated. MCD had granted sanction for three lift only at the left side and never granted for the right side of the flat and earlier no objection was raised for already installed lifts. The act of demolition done in the portion of appellant property under occupation of the appellant is attributable to respondents 3 to 7. The fact of digging up a pit in the garden area in front of the house of the appellant was not denied. Though during his arguments the installation of lift was not opposed by respondent No.2 but in the pleadings it was opposed.
7. Respondent 3 to 7, in their reply stated that lifts are already installed in the space available in the blocks. The appellant has wrongly claimed that the area –I is her property and the same is a common area. The appellant is not staying in her apartment which has been rented to tenants. She does not need lift being resident of ground floor. The front portion of her property is a common area used as a kitchen garden. The sun light will stop even if the lift is installed on the left side of the building. No window or opening of the appellant shall be obstructed by construction of lift on the right side. The issue of easementary rights does not arise in this case and the respondent MCD sanctioned the lift after considering all these aspects and therefore, the appeal is liable to be dismissed.
8. It is undisputed by the parties that already installed lifts in this apartment are on the left side of the building. In the present case it is the first time that the lift is tried to be installed on the right side of the building which is towards the property

of the appellant. The sanction building plan shows that the appellant is the owner of type-A-2 flat and the portion marked J where the lift is tried to be installed is an area of the property of the appellant. The sanction building plan shows that type-A-2 consists of area shown as (H+I+J) – (K+L+M+N). The portion-J is adjoining the portion-I and is a part of A-2 flat i.e. the property of the appellant. The lift has to be installed in the common area and not in the property of the appellant unless consented by her.

9. Further, respondent 3 to 7 while applying for sanction of installation of lift showed the stairs leading to the first floor on the wrong side. The stairs going up are on the right side of the passage but were shown on the left side. The photographs on record show that lifts already installed are on the left side of the building and it is only in this case respondent 3 to 7 chose to install the lift on the right side in the property of the appellant by misrepresenting the location of the stairs. The sanction accorded by the respondent MCD is based on misrepresentation of facts and without considering that the place where the lift is tried to be installed is owned by appellant. The photograph shows that there is ample space on the left side near the electricity meter to install the lift. The action of the respondent 3 to 7 of installing lift on the property of the appellant is malafide and cannot be allowed.

10. In facts the sanction dated 10.10.2023 is quashed. Respondents 3 to 7 are at liberty to apply for fresh sanction for installing the lift in the common area which shall be considered by the MCD on merits. Appeal is allowed.

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 07.11.2025**

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