

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

APPEAL NO. 88/ATMCD/2025.

- 1. Sh. Saurabh Aggarwal
S/o Sh. Pradeep Aggarwal
R/o Flat No. C-4, Adarsh Bhawan Apartments
Plot No. 37, Sector-9, Rohini, Delhi-110085.**
- 2. Smt. Rekha Gupta
W/o Sh. Deepak Gupta
R/o C-2, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085.**
- 3. Sh. Manoj Kumar
C/o Late Shri Khub Singh
R/o C-5, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085.**
- 4. Sh. Jai Prakash Goel
S/o Sh. Hari Chand Goel
R/o C-3, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085.**

....Appellants

Vs.

- 1. Municipal Corporation of Delhi
Through its Commissioner
17th Floor, Civic Center, Minto Road, Delhi**
- 2. Sh. Sushil Kumar Sharma
S/o Late Sh. Nitya Nand Sharma
R/o Flat No. C-6, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085**
- 3. Smt. Isha
W/o Sh. Kaushal Kishore
R/o Flat No. C-7, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085**
- 4. Smt. Arti Garg
W/o Sh. Vinod Kumar Garg
R/o Flat No. C-8, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085**

5. **Smt. Indra Rani Datta**
W/o Sh. N. P. Datta
R/o C-13, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085
6. **Smt. Saroj Khosla**
W/o Late Sh. Kamal Khosla
R/o C-14, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085
7. **Smt. Nirmala Chawla**
W/o Sh. Yashwant Rai Chawla
R/o C-15, Adarsh Bhawan Apartment, Plot No. 37,
Sector-9, Rohini, Delhi-110085

..... Respondent

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| Date of Filing of Appeal | : | 17.02.2025 |
| Date of Order | : | 10.11.2025 |

ORDER

1. Appellants who are the owners of flat no. C-2, C-3, C-4 and C-5 of Plot no. 37, Sector-9, Rohini known as Adarsh Bhawan Apartment have challenged the sanction of installing lift dated 24.12.2024 vide which respondents no. 2 to 7 have been permitted to install lift with bridges connecting two blocks of the apartment. It has been argued for the appellants that installation of lift is in violation of DDA policy, violation of NOC issued by RWA of the society and breach of undertaking regarding shifting of water pipelines. Pipelines have been shifted on 11.02.2025 and not before installation of lifts. The DDA policy provides that shifting of services should be avoided which was not done in this case. The pit of the lift was dug directly at the site of water pipe lines. The pipelines have been shifted without prior permission of RWA, DJB and affected flat owners. The permission is liable to be revoked by MCD, if obtained on misrepresentation of facts. As per DDA policy the proposing members must be resident of one common stair case for lift which has been violated in this case. The two blocks are using completely different stair cases and

lift NOC is liable to be revoked. No permission was obtained from inspector of lifts. The lift can be installed only on separate RCC structure but in this case same is being installed on light gauge iron pipe. No prior permission has been obtained from Delhi Co-operative Housing Finance Corporation with whom the property is mortgaged. The foundation and plinth of the existing building has been damaged and all these acts are sufficient to revoke the sanction dated 24.12.2024 given by the MCD.

2. Ld. counsel for the MCD on the other hand argued that the permission was given on undertaking of residents of the apartment and any violation to the sanction can be verified only after installation of the lift and thereafter only action can be taken, if any required and at this stage no action can be taken.
3. Ld. counsel for respondents 2 to 7 on the other hand argued that lift will be installed as per DDA policy and in compliance to the sanction granted and no provision shall be violated. It has been stated that water pipes have already been shifted. The structure of the lift shall be away from the existing building structure and shall not put any weight on the building. There will be no hindrance of any service like electricity, gas pipeline etc. Only one outer unit of split AC has to be shifted which the respondent will do at their own cost. The lift is essential service for senior citizen and persons facing health issues residing on the upper floors and the appeal is malafide. Ld. counsel for respondents has placed reliance on the following judgments:

1. K. Deshaprabhu & Ors. Vs. Meera Abhichandani & Ors.- RFA No. 17 of 2010. Dated 19.12.2011 of Hon'ble Delhi High Court.
2. Shaik Abdul H Jameed Vs. Delhi Development Authority- 2013 SCC online Delhi 2865.
3. K.M. Gupta & Ors. Vs. Delhi Development Authority- WP(C) No. 712 of 2017 dated 14.03.2017 of Hon'ble Delhi High Court.

4. N.S. Sharma & Ors. Vs. South Delhi Municipal Corporation & Anrs – WP(C) No. 369 of 2017 dated 16.01.2017 of Hon'ble Delhi High Court.
5. N.S. Sharma & Ors. Vs. South Delhi Municipal Corporation & Anrs – LPA No. 146 of 2017 dated 22.03.2017.
6. Deepak Sharma Vs. Delhi Development Authority and Ors. –WP(C) No. 11913 of 2016 dated 27.11.2019 of Hon'ble Delhi High Court.
7. Saurabh Jain & Ors. Vs. EDMC & Ors. – WP(C) No. 8621 of 2017 dated 30.11.2017 of Hon'ble Delhi High Court.
8. Anupama Wadhwa and Ors. Vs. DDA & Ors. – WP(C) No. 4093 of 2022 dated 30.08.2022 of Hon'ble Delhi High Court.

4. Record shows that lift is yet to be installed and only a pit has been dug. The respondents have already given undertaking to abide by all the rules. As far as the necessary services are concerned, the water pipelines though late but have been shifted. The easementary rights of the appellants shall not be affected as they will enjoy light and air as visible from the photographs placed on record. The appellants must introspect to see as to what benefit they will get by blocking the installation of lift. The plea of structural safety cannot be judged by the appellants since the architect has already given his clearance. Whether the lift shall violate the sanction accorded can be seen only after installation of lift and not on the apprehension of the appellant. It has already been said that no additional burden shall be put on the existing structure nor any service of the residents of the apartment including appellants shall be hindered. The lift shall be on a blind wall not attached to the main building. Further the photographs shows that appellant no. 2 is a resident of ground floor and cannot be affected. Appellant no. 3 & 4 are on the other side of the building. The only appellant who can have a cause to challenge the sanction is appellant no. 1 resident of second floor. The bridge to be

constructed shall not cause any hindrance to his light and ventilation as argued. The sanction accorded by the respondent MCD is not in violation of any rules or policy guidelines. Whether the sanction or its terms will be violated or not can be ascertained only after the lift is installed. The appellants if aggrieved after installation of lift shall be entitled to challenge the same and the same cannot be challenged only on assumptions and presumptions.

5. The appeal is without merit and dismissed.
6. 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 10.11.2025**

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