

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

APPEAL NO. 809/ATMCD/25

**Sh. Sahil Kapoor
S/o Sh. Navin Kapoor,
R/o 2134, Sector B-2, Park View
Apartments, Vasant Kunj,
New Delhi-110070.**

..... Appellant

Vs

**1. Municipal Corporation of Delhi.
Through its Commissioner,
Civic Centre, Near ITO,
New Delhi.**

**2. Manjeet Kataria (Architect)
Regn. No. CA/2019/110142
47-B/2, Basement Corner Market,
Maharshi Dayanand Marg,
Malviya Nagar, New Delhi.**

**3. Mr. Nipun Sharma/Mrs. Supriya Sinha
2143, Sector B Pocket 2, Park View
Apartments Vasant Kunj,
New Delhi-110070.**

**4. Anand Dureja/Mrs. Rashmi Ghosh
2138, Sector B Pocket 2, Park View
Apartments Vasant Kunj,
New Delhi-110070.**

**5. Mr. Narender Kumar Meena/Mrs. Meenakshi Meena
2140, Sector B Pocket 2, Park View
Apartments Vasant Kunj,
New Delhi-110070.**

**6. Ms. Wangchuk Dolma
2142, Sector B Pocket 2,**

Date of Filing of Appeal : 28.11.2025
Date of Order : 23.12.2025

JUDMENT

1. This is an appeal seeking revocation of sanction dated 09.09.2025 granted by the respondent no. 1 for installation of lift to private respondents 2 to 6 at Sector-B, Pocket-II, Park View Apartments, Vasant Kunj, New Delhi.
2. It is the case of the appellant who is resident of flat no. 2134 first floor, Sector-B, Pocket-II, of these apartments that this sanction is in violation of UBBL-2016, MCD office order dated 07.07.2022, National Building Code-2016 and appellants Fundamental Rights. It was stated that this sanction has been obtained by misrepresentation of facts and without site inspection. The proposed lift infringes the right of safe, free and unhindered access of the residents and visitors to the apartments. The sanction violates clause 2.0.4 of UBBL-2016 and clause 7.28.1 of UBBL-2016 and pre-requisite consent of 50% or more owners using common and only staircase of the block. The sanction is arbitrary and unreasonable and given without application of mind. There are other suitable sites available for installation of lift. The lift shall put extra burden on the existing structural and thus the safety of the structure shall be at risk. There is no sanction for construction stair or ramp for using lift and that shall be an encroachment on public land. The lift therefore should not be installed at the proposed site and the sanction should be revoked. Reliance was also placed on the judgment of Hon'ble Supreme Court of India passed in **Supertech Limited Vs. Emerald Court Owner Resident Welfare Association & Ors 2021 INSC 427**.
3. Ld counsel for the MCD on the other hand argued that the site was got inspected through field staff before submitting the status report. The NOC for installation of lift and connecting bridge was approved as per terms and conditions in pursuance to office order dated 15.02.2016 and 07.07.2022. There exist common steps in the passage which are unauthorized construction in the shape

of encroachment. The sanction of lift has been accorded as per rules and any violation thereof can be considered only after lift is constructed and completion certificate is sought by the respondents.

4. Ld counsel for the private respondent 2 to 6 argued that the present appeal is mala-fide. The appellant was carrying unauthorized construction in his flat for which complaint was lodged on 25.08.2025 and thereafter MCD passed demolition order against the appellant on 19.11.2025 and thereafter the appellant filed this appeal being motivated and concealed facts from this court. This appeal is an abuse process of law. The construction does not violate any law or fundamental rights of the appellant. There is about 2 meter space between the lift and the nearest stair on one side and 2 meter space toward wall on the other side which is sufficient for safe and free movement. The installation of lift is being carried out under valid building sanction. More than 50% owners using the common staircase in that block have given their consent. There is no encroachment on public land. The structural stability is ensured. The light and ventilation to the exiting flats remain unaffected and there is no misrepresentation of facts at the time of obtaining sanction and therefore the appeal should be dismissed.
5. I have perused the record. There is about 2 meter space between the lift and the stair on one side and between the lift and the wall on the other side. The same is sufficient for free movement of the appellant in normal circumstances as well as in the case of emergency. As far as the structural safety is concerned, the apprehension of the appellant is based only on assumption and has no basis. NOC from more than 50% owners using the common staircase in the same block has been obtained. The status report of MCD clearly show construction of stairs on one side of lift which is encroachment on public land and is liable to be removed. The other alternate side proposed by the appellant are not feasible as at location number 1 there is some construction of flat no. 2136 on the first floor. At location no. 2 original gate of flat no. 2133 presently closed exists, and at location no. 3 every resident will be required to climb at least 5 stairs to reach their floor. None of these locations are suitable.

6. The appellant has claimed that the sanction of lift is in violation of UBBL-2016 clause 2.0.4 (h) and 7.28.1. I do not find any violation as claimed by the appellant. Whether the proposed lift shall violate any UBBL-2016 can be considered and decided only after the lift is constructed. The MCD shall issue the completion certificate only if the lift is in accordance with UBBL-2016. All the apprehensions of the appellant are based on assumption and presumption.
7. It is a matter of fact that the lift is now an essential requirement for the residents of the upper floor and the residents of ground and first floor may face some inconvenience but that inconvenience has to be tolerated for the benefit of residents of upper floors. Reliance in this regard can be placed on the judgment of Hon'ble Division Bench of our own Hon'ble High Court titled as '***Shaik Abdul Hameed Vs. Delhi Development Authority & Ors., 2013, SCC OnLine Del 4354.***'
8. The sanction in this case has been accorded as per law. It is also worth mentioning that sanction of the lift was granted on 09.09.2025 and the construction of the lift started thereafter. The present appeal was filed on 28.11.2025 only after the demolition order dated 19.11.2025 was passed against the unauthorized construction carried by the appellant in his first floor flat. This shows that this appeal is not bona-fide but has some malice attached with it and the appellant has not approached the court for a good cause but with mala-fide intention.
9. Be that as it may, there are no merits in this appeal.
10. The same is dismissed.
11. 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 23.12.2025**

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