

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

APPEAL NO. 927/ATMCD/2024

1. Vandana Gupta
W/o Sh. R.C. Gupta
R/o Flat No. 135, Pocket C-8,
Sector-8, Rohini, Delhi-110085

2. Shiv Kumar Bhandari
S/o Late Sh. Khusi Ram
R/o Flat No. 133, Pocket C-8,
Sector-8, Rohini, Delhi-110085.

3. Usha Gupta
W/o Sh. Raj Kkumar
R/o Flat No. 136, Pocket C-8,
Sector-8, Rohini, Delhi-110085

4. Nitin Devgun
S/o Sh. Paramjeet Devgun
R/o Flat No. 130, Pocket C-8,
Sector-8, Rohini, Delhi-110085.

..... Appellants

Versus

1. Municipal Corporation of Delhi
Through its Dy. Commissioner
Dr. S.P.M. Civic Centre, Minto Road
New Delhi-110002.

..... Respondent No. 1

2. Rajni Jain
W/o Sh. R.K. Jain
R/o Flat No. 141, Pocket C-8,
Sector-8, Rohini, Delhi-110085.

.....Respondent No. 2

3. Subash Chand Jain
S/o Lt. Sh. Basant Lal
R/o Flat No. 137, Pocket C-8,
Sector-8, Rohini, Delhi-110085.

.....Respondent No. 3

4. Savita Mishra
R/o Flat No. 138, Pocket C-8,
Sector-8, Rohini, Delhi-110085.

.....Respondent No. 4

5. Anita Bansal
R/o Flat No. 139, Pocket C-8,

Sector-8, Rohini, Delhi-110085.

.....Respondent No. 5

**6. Sunita Luthra
W/o Sh. Kishan Lal Luthra
R/o Flat No. 140, Pocket C-8,
Sector-8, Rohini, Delhi-110085.**

.....Respondent No. 6

**7. Rajesh Kumar Jain
S/o Sh. R.C. Jain
R/o Flat No. 142, Pocket C-8,
Sector-8, Rohini, Delhi-110085.**

.....Respondent No. 7

**8. Naval Bhasin
S/o Sh. Vijay Kumar Bhasin
R/o Flat No. 143, Pocket C-8,
Sector-8, Rohini, Delhi-110085.**

.....Respondent No. 8

**9. Amrit Lal Singhal
S/o Bhishan Dass
R/o Flat No. 144, Pocket C-8,
Sector-8, Rohini, Delhi-110085.**

.....Respondent No. 9A

**10. Renu Goel
W/o Amrit Lal Singhal
R/o Flat No. 144, Pocket C-8,
Sector-8, Rohini, Delhi-110085.**

.....Respondent No. 9B

**Date of Filing of Appeal : 18.10.2024
Date of Judgment : 03.02.2026**

JUDGMENT

1. This is an appeal challenging the permission dated 25.01.2024 granted for installation of lift with connecting bridge in respect of DDA MIG Flats no. 137-144, Block C-8, Sector 8, Rohini, Delhi-110085. The appellants are the residents of four flats no. 130, 133, 135 and 136 out of these flats whereas respondents 2 to 9 are the residents of the remaining flats.

2. The appellants have challenged this permission on the ground that the NOC was granted by MCD without any site verification as mentioned in the NOC itself. The dimension of the site where proposed lift is shown is completely contradictory to the site plan submitted by respondent no. 2 to 9 in the office of MCD. As per site, not even a single person would be able to pass, if the lift is installed and the same will curtail the right of passage. The proposed lift is in common passage

way measuring 8X8 feet between the four buildings containing four flats each and the lift will block the light and ventilation for the residents. The area is also use for two wheeler parking and the passage will be completely blocked. The policy of the DDA provides that basic amenity and essential services can be removed only after permission from RWA and no such permission has been obtained from the RWA. The connecting bridges cannot be installed without demolishing the stair case as the landing of two stair case is not identical and breaking of stair case will be in violation of building-by-laws. It was also stated that respondent no. 4 & 5 have now revoked their NOC and therefore the essential requirement of NOC by more than 50% occupants is also not fulfilled and it was stated that this permission should be revoked. It was also argued that the appellants have filed architectural survey report as per which the building is very old and required major repairs and is not capable of bearing the load of the connecting bridges and the right of way of the residents shall affected and therefore it is not possible to install lift at the proposed site.

3. Ld counsel for the respondent/MCD argued that the permission has been granted as per law. The NOC of more than 50% occupants was submitted at the time of seeking permission and therefore was rightly granted. No work has been done at site physically and therefore all the arguments of the appellants are based on presumptions.

4. Ld counsel for the respondent 2, 3 and 6 to 9 argued that the appellants themselves have raised unauthorized construction in their flats. Their ventilation and right to light shall not be affected through this lift since there is no opening provided in their flats in the original DDA plan towards the area where the proposed lift is to be installed. The respondent/MCD shall verify if any rule is violated when the completion certification of the lift shall be sought from the MCD by the private respondents. No sewer lines nor any parking space of the appellants shall be effected by construction of the lift and therefore the appeal is meritless. Reliance was 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.***'

5. I have perused the record. The respondents 2 to 9 applied for sanction of lift sometime in October, 2023 the MCD accorded permission on 25.01.2024. At that time 10 residents of the four buildings having 16 flats applied for the sanction. The

necessary documents including undertaking by the Architect, Structural Engineer and Indemnity Bonds with proposed site of the lift were submitted. The respondent/MCD granted the permission though without site verification. It was argued for the appellant that since no site verification was done, the sanction should be revoked. The status report was sought from the MCD and it was stated that the permission was granted following due process of law and as per policy for installation of lift. In these facts, it cannot be said that permission can be revoked only because the site verification was not done.

6. The original sanctioned building plan of DDA show that there is no door nor window of the flats exists or opening in the area where the lift is proposed to be installed. If any of the appellants have opened any such window/opening in that area, the same is unauthorized and contrary to sanctioned building plan issued by DDA. The appellants therefore cannot claim that their ventilation or light shall be affected.

7. Coming to the right of way, as per sanction plan submitted by the respondents 2 to 9 with MCD, there will be a passage of 2.59 X 1 meter left in front of the proposed lift and on one side there will be a passage 0.83 meter. The sanction plan of the building show that the passage to the stair case on either side is not from the area where the proposed lift is to be installed. The passage to the stairs is from the other side of the building and therefore the right of way of the appellants shall not be affected. Otherwise also a passage of 2.59 x 1 meter in front of the lift and 0.83 meter on the side of the lift is sufficient space. The same is irrespective of the fact that sufficient stair way is available on the other side of the building. So, the appellants cannot claim that their right of passage shall be curtailed.

8. Coming to the architectural survey report relied by the appellants, this survey report show that as per sanction plan an area of 2.286 x 1 meter shall be available in front of the lift but as per lift installer working dimensions only an area of 2.286 meter x 0.55 meter shall be available. This survey report is only based on assumption and presumption as the lift is yet to be installed and the respondents are required to ensure that the lift is installed strictly as per the plan submitted with MCD by their architect with the lift proposal.

9. Coming to the stability of the building, the respondents have submitted the certificate of their Structural Engineer with the permission application and the

same is sufficient to ensure the safety of the building. The survey report submitted by the appellants cannot be considered to be proper document to consider the stability of the building when the certified engineer has already given his undertaking with MCD in this regard.

10. Coming to the withdrawal of NOC by respondent no. 4 & 5, these two respondents revoked their NOC only in May, 2024 while the permission was already granted on 25.01.2024. Subsequent withdrawal of NOC cannot be a ground to revoke the permission and therefore is of no consequence.

11. Admittedly, lift is now a necessity and not a luxury. The residents of the ground floor may face some inconvenience but the same cannot be a reason to not to permit installation of lift. The Hon'ble High Court in several judgments has laid that lift should be permitted to be installed though may cause some inconvenience to other residents. Reliance can be placed on the judgment passed in 'Shaik Abdul Hameed (supra). In the present case the lift is yet to be installed and all the apprehensions of the appellants are based on assumption and presumption. The respondents are required to install lift strictly as per the permission given to them and strictly as per the site plan submitted by them. The installation of lift shall not cause any hindrance to easementary rights of the appellants. The respondents shall ensure that essential services like sewer etc. if any existing at the proposed site are properly shifted. The respondent/MCD shall ensure due compliance of the permission while granting completion certificate. The appeal therefore is dismissed.

12. 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 03.02.2026**

**(AMIT KUMAR)
Addl. District & Sessions Judge
PO: Appellate Tribunal, MCD, Delhi**