

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

APPEAL NO. 175/ATMCD/2024

In the matter of :-

**Ms. Ritu Jaiswal
D/o Sh. S.K. Jaiswal
R/o Flat no. 1349, Sector-C,
Pocket-1, Vasant Kunj,
New Delhi-110070.**

..... **Appellant**

Versus

**1. Municipal Corporation of Delhi
Through its Commissioner
17th Floor, Dr. S.P. Mukherjee Civic Centre,
Minto Road, New Delhi,
Through its Commissioner**

2. Sh. Satish Chandra

**3. Mrs. Smita Chandra
Both 2 & 3 R/o Flat no. 1351,
Sector C, Pocket-1,
Vasant Kunj,
New Delhi-110070**

..... **Respondent**

Date of Filing of Appeal : 07.03.2024

Date of Judgment : 15.05.2026

JUDGMENT

1. This is an appeal seeking setting aside of the NOC/Sanction dated 18.01.2024 granted by respondent no.1/MCD for installation of lift and connecting bridges in DDA Flats No. 1345 to 1352, Sector C, Pkt.-1, Vasant Kunj, New Delhi filed by the resident/owner of a flat at third floor bearing no. 1351 out of this block.
2. The appellant, who resides at third floor has challenged this sanction for lift on ground that initially the sanction for lift was given on 26.07.2023 for

constructing a smaller lift to accommodate four people but the respondent no.1 revised this sanction on 18.01.2024 on an application filed by the respondents nos. 2 & 3 and gave sanction for bigger lift to accommodate more than 10 people without having any powers to revise the sanction once granted. It was further argued that the respondent nos 2 & 3 have made structural changes in their flat and the stability of the columns of the flat of the appellant as well as of respondent nos 2 & 3 has already been compromised and installation of lift shall further weakens the structural stability. There is negligible gap between the structure of the lift and balcony of the first floor and the property of the appellant is easily accessible from the connecting bridge of second floor, jeopardizing the security of the appellant. The impugned sanction is in clear cut violation of the policy for installation of lift and connecting bridges. There is encroachment on public land and sanction has been accorded in mechanical manner without analyzing that the pre requisite conditions for grant of NOC have not been fulfilled. The physical verification at site was not carried out and permission is destroying the aesthetic sense of the flats of this block. The respondents 2 & 3 concealed the pendency of a civil suit filed against them by the appellant and NOC was obtaining on misrepresentation of the facts and therefore the same should be revoked.

3. Ld counsel for the respondent no.1/MCD on the other hand has argued that the proposal of installation of lift was received on 17.04.2023 moved by private respondents and certain deficiencies were communicated to them which were complied and then the NOC dated 26.07.2023 was granted. The private respondents filed for revised sanction on 16.01.2024 to increase the size of lift to make it user friendly for ailing respondent No. 2 and the revised sanction dated 18.01.2024 was granted. There is no regularity or deviation in the process of installation of lift as observed.
4. Ld counsel for the private respondents on the other hand has argued that the lift is being constructed as per sanction granted by the respondent. The appellant has no cause of action to challenge this sanction which fulfills all the requirements of the policy pertaining to sanction of lift. This appeal has been filed only to harass the respondents and respondent no. 2 who has suffered a hip surgery requires this essential facility of lift and the appeal should be dismissed.

5. I have perused the record. The initially sanction of lift was granted on 26.07.2023 for a size measuring 1600 X 1600 mm. The same was revised by the increasing the size to 1800X1600 mm. The size was increased only by 200 mm which is roughly about 7.87 inches. The revised sanction was accorded because of request of the private respondents as respondent No. 2 had suffered a hip surgery and needs more space to utilize the lift. The site, where the lift was to be installed remains the same in both sanctions. The appellant has claimed that the earlier lift was sanctioned for a capacity to accommodate four persons and the revised sanction is for a lift to accommodate 10 persons. There appear no merits in this submissions since by increasing the size of the lift just by 7.87 inches, 6 additional persons cannot be accommodated as argued for the appellant. MCD further has ample powers to issue revise sanction as is in the case of construction of a building. A sanction once accorded can always be revised.
6. Further, as per the policy governing the lift, consent of 50% residents of the upper floors excluding residents of the ground floor is required. There are two flats each on the first, second and third floor of this block using common stairs. Out of these 6 flats, the consent was given by flat no. 1348 (first floor), 1349 (second floor) and the private respondents 1352 (third floor). Three out of six i.e. 50 % gave consent for installation of lift and this equipment was duly fulfilled.
7. The sanction plan of the lift available in the office record at page 80/C show that there is sufficient gap between the walls of the flats and the lift well & connecting bridge. The gap between the walls of the flat and lift well is 1007 mm equal to 40 inches which is sufficient distance. The distance from the connecting bridge to the wall of the flat is 900 mm equal to 35 inches which is more than sufficient gap. The argument of the appellant that her security shall be compromised is factually incorrect. Further, the structural safety certificate submitted by the competent architect/engineer along with application seeking sanction is sufficient to hold that the argument of the appellant that the structural safety has been comprised is only an apprehension. A registered architect has given certificate and is to be believed.
8. As far as, concealment of a court case is concerned, a perusal of the lift policy show that there is no requirement to disclose that any court case is pending

relating to the property of the private respondents. The policy says that in any court case the NOC will be inoperative and will be kept in abeyance till outcome of the court case. This clause refers to a court case filed against the sanction like present appeal and not any other case pending in respect of the property of the private respondents. Any alleged unauthorized construction in the property of private respondents has no concern with installation of lift. Unauthorized construction is to be de linked from installation of lift. Reliance can be placed on the judgments of our own High Court passed in ***K.M.Gupta & Ors. Vs. DDA 2017 SCC Online Del 2865 and Anupama Wadhwa & Ors. Vs. DDA & Ors. 2022:DHC:3378.***

9. It is now settled law that lift is an essential amenity and not a luxury. The ground floor flat owner may face some inconvenience but that cannot be a reason to deny the residents of the upper floors to have the benefit of lift which is essential for them not only for movement but also for availing medical facilities in old age. Reliance in this regard can be placed on the judgment of Hon'ble Division Bench of our own Hon'ble High Court passed in the case titled as '***Shaik Abdul Hameed Vs. Delhi Development Authority & Ors., 2013, SCC OnLine Del 4354.***'
10. In view of this discussion, there are no merits in this appeal. The appeal is hereby 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 15.05.2026**

**(AMIT KUMAR)
Addl. District & Sessions Judge-cum-P.O.
Appellate Tribunal, MCD, Delhi**