

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

APPEAL NO. 305/ATMCD/25

**Mrs. Savita Kaushik,
R/o Flat No. 32, Pkt.-01,
Green Hill Apartments, Sector-23,
Rohini, Delhi-110085.**

..... Appellant

Vs

**1. Municipal Corporation of Delhi.
Through its Commissioner,
Civic Centre, 17th floor, Minto Road,
New Delhi-110002.**

**2. RWA of Green Hill Apartment (Regd.)
Through its President/Secretary,
Green Hill Apartment, Sector-23,
Rohini, Delhi-110085**

**3. Sh. Kundan Singh Gaira
R/o Flat No. 28, Pkt.-01,
Green Hill Apartments, Sector-23,
Rohini, Delhi-110085.**

**4. Sh. Preet Pal Singh
R/o Flat No. 23, Pkt.-01,
Green Hill Apartments, Sector-23,
Rohini, Delhi-110085.**

**5. Nisha Gusain
W/o Sh. Preet Pal Singh
R/o Flat No. 23, Pkt.-01,
Green Hill Apartments, Sector-23,
Rohini, Delhi-110085.**

**6. Sh. Ashok S. Ghodeswar
R/o Flat No. 31, Pkt.-01,**

**Green Hill Apartments, Sector-23,
Rohini, Delhi-110085**

.....Respondent

Date of Filing of Appeal : 13.05.2025
Date of Order : 11.06.2026

ORDER

1. This is an appeal challenging the revocation order dated 15.01.2025 vide which the MCD revoked the NOC dated 10.10.2024 to install the lift at flat no. 19-32, Green Hill Apartments, Pkt-1, Sector-23, Rohini, Delhi-110085.
2. The appellant who is the beneficiary of this lift NOC, has challenged this revocation order on the ground that MCD did not appreciate the fact that respondent no. 3 withdrew his consent only because he was not willing to bear the annual maintenance cost of the lift. More than 50% owners of the flats other than ground floor flats have given their consent for installation of lift. The MCD failed to consider that neither there is any misrepresentation nor concealment of facts. The lift is to be installed at common area only. The light and ventilation of respondent no. 3 shall not be affected yet the NOC was revoked vide impugned order and should be set-aside.
3. Ld counsel for the respondent no. 3, who is the only person opposing this lift has argued that the consent of more than 50% flat owners has not been obtained. The owner of flat no. 23 has already sold this flat and the NOC from the previous owner was procured by the appellant. The easementary rights of respondent no. 3 shall be curtailed by installation of lift at the present site as the light and air of his bedroom through only window shall be obstructed and therefore the appeal should be dismissed.
4. Ld counsel for the respondent/MCD on the other hand argued that the lift is being installed at public land. The NOC was rightly revoked since the light and ventilation of the habitable rooms of the residents shall be affected and further the criteria of minimum of 50% consent of the owners was not fulfilled and therefore the appeal should be dismissed.

5. I have perused the record. The MCD revoked the permission on following grounds: -

(a). The site of lift installation is located on common area, walking passing/garage area of the residents of these flats and is an encroachment on Public Land.

(b). The light and ventilation of the habitable rooms of the residents will be affected and permanent darkness will prevail in the common staircase.

(c). The applicant Sh. Kundan Singh Gaira, secondary member had withdrawn his consent for installation of lift, thereby the criteria of minimum 50% consent from owners using the common staircase is not fulfilled.

6. Let these grounds be examined.

7. The first ground was that the lift is an encroachment on the public land. I have perused the building plan submitted by the appellant and respondent no.3 while seeking NOC for installation of lift. The lift site is a common area of the society and not public land as mentioned in point 1 of the revocation order. The entire land within the boundary wall of this society known as Green Hill Apartments is the land of the society and is common area belonging to all. It cannot be called as public land or encroachment on public land. The appellant is not suppose to install lift in her flat. The lift is to be installed only on the common area and present site is the common area of the society and therefore the first ground for revocation is not sustainable.

8. Coming to the second ground of light and ventilation being affected, the site map submitted while obtaining NOC show that there will be a gap of 3 feet 3 inch between the blind wall of the lift and the side wall of the nearest flat of the ground floor. This is sufficient gap between the wall of the society and the blind wall of the lift and cannot obstruct the light and air of the bedroom of respondent no.3 as claimed. 3 feet 3 inches distance is sufficient considering the fact that the lift is now an essential necessity and not a luxury. The residents of the ground floor flats may face some in convenience but same cannot be a ground to deny the appellant the necessity of lift. The second ground of revocation is also incorrect.

9. The third ground of revocation is the criteria of minimum 50% consent. NOC of lift show that there are total 6 flats other than the ground floor flats in this block. Out of these 6 flats, the appellant, respondent no. 4 & 5 and respondent no. 6 who are three in number have given their consent which makes it 50% consent of the owners of the upper flats. Respondent no. 3 has claimed that respondent no. 4 & 5 who are the owners of second floor flat no. 23 have sold this flat. There is no material on record to substantiate this submission. Otherwise also initially respondent no. 3 gave his consent and withdrew later and thereafter respondent no. 6 has given his consent and therefore the consent of respondent no. 3 is replaced by the respondent no. 6 and as such the criteria of minimum 50% is made out. Even the third ground of revocation is not sustainable.
10. In these facts, the revocation order dated 15.01.2025 is set-aside and the NOC dated 10.10.2024 is restored in respect of installation of lift with connected bridge of flat no. 19 to 32 Green Hill Apartments, Pkt-1, Sector-23, Rohini, Delhi.
11. Record of the respondent, if any, returned along with copy of this order and appeal, file be consigned to record room.

**Announced in the Open Court.
Today i.e. on 11.06.2026**

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