

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

APPEAL NO. 16/ATMCD/26

**1. Sh. Parvesh Rathi,
Owner of Flat No. 283, DDA, SFS Flats,
Ashok Vihar, Phase-IV,
Delhi-110052.**

**2. Smt. Anshu
Owner of Flat No. 282, DDA, SFS Flats,
Ashok Vihar, Phase-IV,
Delhi-110052.**

**3. Smt. Anita Pandit
Owner of Flat No. 281, DDA, SFS Flats,
Ashok Vihar, Phase-IV,
Delhi-110052.**

**4. Sh. Anand Prakash
Owner of Flat No. 279, DDA, SFS Flats,
Ashok Vihar, Phase-IV,
Delhi-110052.**

**5. Sh. Sandeep Kapoor
Owner of Flat No. 278, DDA, SFS Flats,
Ashok Vihar, Phase-IV,
Delhi-110052.**

**6. Smt. Anita Gupta
Owner of Flat No. 275, DDA, SFS Flats,
Ashok Vihar, Phase-IV,
Delhi-110052.**

..... Appellants

Vs

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

**2. Dy. Commissioner,
Municipal Corporation of Delhi
Keshav Puram Zone, Delhi**

**3. The Executive Engineer
Municipal Corporation of Delhi
Keshav Puram Zone, Delhi**

**4. The Assistant Engineer
Municipal Corporation of Delhi
Keshav Puram Zone, Delhi**

.....**Respondents**

Date of Filing of Appeal : 12.01.2026
Date of Order : 12.06.2026

ORDER

1. This is an appeal challenging the revocation order dated 12.12.2025 vide which the NOC dated 17.08.2023 given in respect of installation of lift for flats no. 271 to 285 DDA SFS Flats, Ashok Vihar, Phase-IV, New Delhi was revoked. The six appellants have challenged this revocation order on the ground that there was no violation of this policy for lift dated 07.07.2022. The consent of more than 50% of the flat owners excluding ground floor flat owners still exists. The MCD revoked this sanction on the ground that it has obtained by concealment of facts though there was no concealment of facts. The alleged unauthorized construction in the flats of the appellants has no concerned with the permission for installation of lift and therefore the impugned revocation order should set-aside and NOC dated 17.08.2023 should be restored. Ld counsel for the appellant in support of his arguments has relied upon the following judgments of Hon'ble Delhi High Court: -

1. K. Deshaprabhu & Ors. Vs. Meera Abhichandani & Ors. – RFA No. 17 of 2010 dated 19.12.2011.
2. Shaik Abdul HJameed Vs. Delhi Development Authority – W.P.(C) No. 450 of 2013 reported as 2013 SCC online Delhi 2865.
3. K.M. Gupta & Ors. Vs. Delhi Development Authority W.P.(C) No. 172 of 2017 dated 14.03.2017.
4. N.S. Sharma & Ors. Vs. South Delhi Municipal Corporation & Anrs. W.P.(C) No. 369 of 2017 Dated 16.01.2017.

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 & Ors. – W.P.(C) No. 11913 of 2016 dated 27.11.2019.
7. Saurabh Jain & Ors. Vs. EDMC & Ors. – W.P.(C) No. 8621 of 2017 dated 30.11.2017.
8. Anupama Wadhwa & Ors. Vs. DDA & Ors. – W.P.(C) No. 4093 of 2022 dated 30.08.2022.

2. Ld counsel for MCD on the other hand argued that the appellants concealed the fact of unauthorized construction existing in their property. Three writ petitions were filed before Hon'ble High Court against the NOC dated 17.08.2023 and the Hon'ble High Court vide order dated 02.09.2024 directed MCD to consider the objections of the writ petitioners and the reply of the appellants and after given personal hearing pass fresh orders and till then kept the NOC in abeyance. In pursuant to that order, hearing was given to the appellants and the three writ petitioners and thereafter the NOC was revoked as there was misrepresentation of the facts while obtaining NOC. It was further argued that the petitioners before Hon'ble High Court are the necessary parties and have not been deliberately impleaded. The NOC was rightly revoked for non-compliance of clause 5 (ii) of the Policy dated 07.07.2022 and therefore the appeal has no merits.
3. I have perused the record. The respondent revoked the NOC vide impugned order dated 12.12.2025 on the ground of misrepresentation of facts which was concealing the alleged unauthorized construction in the flats of the appellants. The respondent did not appreciate the judgments relied upon by the appellants. These judgments were only mentioned in para 1 of the last page of the impugned order but it was not mentioned as to why these judgments are not applicable to the facts of the matter. The Hon'ble High Court in these judgments has specifically held that the alleged unauthorized construction in the flats of the persons who seek NOC for installation of lift has to be delinked. The Hon'ble High Court in all these judgments referred to the policy of installation of lift and came to the conclusion that installation of lift cannot be stalled only because there is some unauthorized construction.

4. Not only that the respondent ignored the law laid down in these judgments, it also brush aside the policy governing installation of lift dated 07.07.2022. There is no requirement under this policy for disclosing unauthorized construction in the property of the applicant at the time of seeking NOC. This policy only states that the MCD shall be at liberty to take action under DMC Act in respect of unauthorized construction but does not say that the unauthorized construction is to be mentioned by the applicant in the application seeking NOC for installation of lift. Even if it is presumed even for a while as argued by the respondent, that the policy dated 07.07.2022 contains any such condition of disclosing unauthorized construction, the same shall be contrary to the law laid down by the Hon'ble High Court in these judgments. The policy of MCD cannot be contrary to or in violation of the law laid down by Hon'ble High Court and Hon'ble Supreme Court of India.
5. The impugned order show that the NOC was revoked on the grounds of misrepresentation of facts of concealing the alleged unauthorized construction. There was no requirement to disclose this fact and therefore the question of concealment and misrepresentation does not arise. Further, as per UBBL-2016, Annexure C Form C, the condition of submitting affidavit about unauthorized construction on the building for installation of lift has been repealed. Respondent is bound by it.
6. As far as the impleadment of the petitioners before Hon'ble High Court in this appeal is concerned, they are neither necessary nor proper party as the NOC was accorded to the appellants and was revoked by the MCD and there is no requirement to implead them in this appeal.
7. The revocation order is bad in law and is not sustainable. The same is set-aside. The original NOC dated 17.08.2023 is restored. The appeal is allowed.

**Announced in the Open Court.
Today i.e. on 12.06.2026**

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