

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

APPEAL NO. 290/ATMCD/2026

- 1. Anil Agarwal
R/o C-01, Plot No. 80, Ground floor
Delhi Rajdhani Apartment Society
I.P. Extn. Delhi-110092**
- 2. Kamal Joshi
R/o C-02, Plot No. 80, Ground floor
Delhi Rajdhani Apartment Society
I.P. Extn. Delhi-110092**

..... Appellants

Versus

- 1. Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**
- 2. Anurag Gupta
R/o C-301, Plot No. 80, Ground floor
Delhi Rajdhani Apartment Society
I.P. Extn. Delhi-110092**
- 3. Sh. Bhagwan Singh Samant
R/o C-302, Plot No. 80, Ground floor
Delhi Rajdhani Apartment Society
I.P. Extn. Delhi-110092**
- 4. Bina Rani Gupta
R/o C-201, Plot No. 80, Ground floor
Delhi Rajdhani Apartment Society
I.P. Extn. Delhi-110092**
- 5. Vibha Gupta
R/o C-202, Plot No. 80, Ground floor
Delhi Rajdhani Apartment Society
I.P. Extn. Delhi-110092**

..... Respondents

Date of Filing of Appeal : 08.04.2026
Date of Judgment : 12.06.2026

JUDGMENT

1. This is an appeal challenging the sanction order dated 17.12.2025 granted permission/ NOC for installation of lift & connecting bridge in respect of Flats no. C-01, C-02, C-101, C-102, C-201, C-202, C-301, C-302, Plot No. 80, Delhi Rajdhani Apartment, I.P. Extension, Patparganj, Delhi-110092.
2. The brief facts necessary for disposal of this appeal are that the appellants are the owners of two ground floor flats no. C-01 & C-02 of these apartments and have challenged this NOC for installation of lift on the ground that this sanction has been given in violation of the policy and norms for installation of lift. The appellants are not opposing the installation of lift but have issues at the location where it is being installed. This lift at the present site shall completely block the passage of the appellants to access the park in the rear of their flats and will amount to violation of their easementary rights. Further, the private respondent number 2 to 5 have encroached upon the basement of the society, sanctioned by DDA which is being used for holding small functions. The construction of lift shaft is in the middle of the basement by cutting the roof of the basement and is not only unauthorized but also an encroachment. The NOC was granted hastily within a day by ignoring the procedure and guidelines. The respondents are required to raise a separate lift structure independent of the existing building with connecting bridges but in the present case, the lift structure is not independent of the building and has also encroached on the basement. This sanction of lift is contrary to the building plan of the society sanctioned by the DDA and in the absence of any fresh plan being sanctioned by DDA, the construction of lift shaft in the basement is an encroachment and therefore, the same should be revoked.
3. Ld. counsel for MCD on the other hand stated that the lift NOC was given as per policy dated 07.07.2022. There is no illegality as all the requirements of the lift policy were dully fulfilled by the private respondents and the appeal should be dismissed.
4. Ld. counsels for the private respondents on the other hand have argued that lift is now an essential necessity. There are old age parents suffering from different ailments of the respondents and cannot use stairs because of old age related ailments. There is no other space where the lift can be installed

except of the site in question. The passage of the appellants to have access to the rear side park shall not be completely obstructed as they can always access the park from the passage between the adjoining blocks. The lift cannot be constructed in the front portion where there is shortage of parking space as well as main entrance to the block. On the rear side, there is park and lift cannot be constructed in the park.

5. It was further stated that the RWA has already given permission to construct the lift shaft in the basement and the decision of RWA is binding on the appellants. Otherwise also, the basement has been used only thrice since last more than 25 years and the claim of the appellants that it is regularly used for small functions is incorrect. Further, the lift shaft will occupy only an area of 1.45 % of the entire basement area which has a total area of 327.84 sq. meters and shall not in any way curtail the right of the appellants to use the basement and therefore, the appeal should be dismissed. Reliance has been placed on the judgments of Hon'ble High Court passed in "*Deepak sharma Vs. DDA writ petition(c) no. 11913 /16 dated 27.11.2019*" and "*Saurav Jain & Ors. Vs. MCD writ petition(c) no. 8621/17 dated 30.11.2017.*"
6. I have perused the record. The basic grievance of the appellants is encroachment in the basement and blocking of their access to the rear side park.
7. As far as the encroachment in the basement is concerned, the RWA has already given the NOC in respect of construction of lift. The decision of the RWA is binding on the residents of the society as has been taken by the elected executive body. Th Hon'ble High Court in the case of Saurav Jain (supra) held that once a decision is taken by the society through its elective executive, all the members of the society are bound by it. In view of this law, the decision of the RWA to accord NOC is binding on appellants. It is also relevant to mention that the lift shaft occupies only 1.45 % of the area of the basement and only 3 functions in last 25 years have been held in this basement. The contention of the appellants that their right to enjoy the basement will be obstructed is baseless.
8. The other argument that the roof of the basement has been damaged or has been changed without sanction from DDA is concerned, this argument is also baseless since the architect and engineer have already given structural safety

certificate and further, no sanction is required from DDA for constructing a lift in the basement.

9. Coming to the next argument of the appellants regarding their access to the park in the rear of their flats. The appellants can access to the park from the passage of the adjoining blocks and it is not a case where the access to the park shall be completely blocked. It is now settled law that the lift is not a luxury but an essential necessity of a multi-storey building for aged and sick residents of the upper floors. The ground floor residents may face some inconvenience but that cannot be a ground to revoke the lift sanction.
10. Otherwise also, a perusal of the site map of the society show that there is no other alternate place where lift can be installed in this block. The front side of this block is not so wide and is completely used for car parking. The lift cannot be constructed in the front portion. Similarly in the rear portion of this block, there is no open space except of park. Lift cannot be installed in the park and there is every likelihood that the residents of the L - block which is in the rear of C-block, will raise objections for installation of lift in the park facing their block.
11. There is no alternate place where lift can be installed. The structure of the lift shall be on the blind wall and will not be on the walls of the building and will be independent of the existing building. Only because it is in the passage, it cannot be said that it is not independent of the existing building. There is no other space where the lift can be installed in this block of the society and further, the access of the appellants to the rear park shall not be completely blocked as they can have access to the park from the adjoining blocks.
12. There is no merit in the appeal and the appeal is dismissed.
13. Record of the respondent, if any, be returned along with copy of this order and appeal files be consigned to record room.

**Announced in the open Court
today i.e. on 12.06.2026**

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