

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

APPEAL NO. 690/ATMCD/26

**1. Smt. Sumitra Devi
W/o Sh. Virender Singh Dahiya,
R/o Flat No. 83, Taj Apartments,
BAMCEF CGHS Ltd., Plot No. 03,
Sector-15, Rohini, Delhi-110089.**

**2. Smt. Krishna Dahiya
W/o Sh. Devinder Singh Dahiya
R/o Flat No. 86, Taj Apartments,
BAMCEF CGHS Ltd., Plot No. 03,
Sector-15, Rohini, Delhi-110089.**

..... Appellants

Vs

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

**2. The Deputy Commissioner,
Rohini Zone, MCD, Sector-V,
Rohini, Delhi-110085.**

**3. The Executive Engineer (Bldg.)-I,
Rohini Zone, MCD, Sector-V,
Rohini, Delhi-110085.**

**4. The Assistant Engineer-II (Bldg.)-I,
Rohini Zone, MCD, Sector-V,
Rohini, Delhi-110085.**

**5. BAMCEF Co-operative Group Housing
Society Ltd. (Also known as Taj Apartment),**

**Regn. No. 456 (G/H) Dated 01.01.1974
Through its President Secretary,
Plot no. 3, Sector-V,
Rohini, Delhi-110085.**

**6. Smt. Raveena
Owner/occupant of Flat No. 88,
Taj Apartments,BAMCEF CGHS Ltd., Plot No. 03,
Sector-15, Rohini, Delhi-110089.**

**7. Sh. Joginder Mann
Owner/occupant of Flat No. 89,
Taj Apartments,BAMCEF CGHS Ltd., Plot No. 03,
Sector-15, Rohini, Delhi-110089.**

**8. Smt. Rajni
Owner/occupant of Flat No. 90,
Taj Apartments,BAMCEF CGHS Ltd., Plot No. 03,
Sector-15, Rohini, Delhi-110089.**

**9. Sh. Akshit Bisht, Architech
R/o C-1/175, Sector-16, Rohini, Delhi.Respondents**

**Date of Filing of Appeal : 08.05.2025
Date of Order : 21.08.2026**

ORDER

1. This is an appeal challenging the NOC dated 06.01.2026 issued in favour of the private respondents No.6 to 8 giving permission to construct lift in flats No.88, 89 and 90 at Taj Apartments, Sector-15, Rohini, Delhi.
2. The appellants are the residents of one ground floor and one first floor flat of this block and have challenged this NOC on the ground that there is single staircase for flats No, 83 to 90 and the walkway is in front of the stairs and the private

respondents are constructing lift just in front of this walkway and the same shall obstruct the passage for ingress and egress of the residents. The lift is being installed at a distance of 10-11 feet from the oil filled transformer of TPDDL and same is highly dangerous. Further, the site of the lift is in the way of emergency exit and the construction of lift shall obstruct this emergency exit and therefore the impugned NOC should be revoked.

3. It was argued for the appellants that the MCD has given this NOC in complete violation of Building Bye-laws. The width of the passage shall be less than 1.5 meters, if the lift is constructed at the proposed site. The site of the lift is in close proximity to the existing electricity transformer and any mis-happening can take place, if the lift is installed at the proposed site. There is society drain near to the site of lift and constructing lift at this site can be extremely dangerous. The MCD issued a work stop notice on the complaint of appellants on 06.04.2026 followed by a letter dated 19.05.2026 yet the private respondents are bent upon to construct a lift and therefore this NOC should be revoked.
4. Ld. counsel for the respondent/MCD on the other hand argued that in pursuance to a complaint received from the appellants, work stop notice dated 06.04.2026 was issued. Thereafter, the power supply authority vide letter dated 19.05.2026 clarified that the transformer is at sufficient distance from the site of the lift and therefore the work stop notice was withdrawn and the private respondents have been permitted to install the lift. All the mandatory compliances were followed by the private respondents as per the policy relating to the lift and the appellants are only trying to harass the private respondents and the appeal should be dismissed.
5. Ld. counsel for the private respondents on the other hand argued that already two lifts are functional in the society. The respondents have followed all the mandatory requirements and have obtained the NOC as per Rules. 50% residents of the upper floors have given their consent for installation of the lift as required under the policy. One of the appellant is at ground floor and no NOC is required from the ground floor flat. The other appellant is at first floor flat but since 50% residents have given their consent, the objection of the appellant

having residence at first floor is immaterial. The MCD issued the work stop notice on frivolous complaint of the appellants. The electricity service provider gave clearance certificate on 19.05.2026 and thereafter the MCD issued letter dated 11.06.2026 granting permission to proceed with installation of lift. The appellants are only trying to create hurdle in installation of lift which is a necessity and therefore the appeal should be dismissed.

6. I have perused the record. The private respondents while obtaining the NOC did not show the electricity transformer in the site map but when the appellants brought this issue to the notice of MCD, work stop notice dated 06.04.2026 was issued. Thereafter the private respondents submitted revised site map and the comments from the electricity service provider were sought. The service provider, namely, TPDDL stated that the distance between the transformer and the lift should not be less than 1.2 meters and in the present case the distance is more than 3 meters and required distance is maintained at site. In these facts the objection of the appellants in respect of proximity between the transformer and the proposed lift is meritless.
7. Coming to the arguments that only a passage of less than 1.5 meters shall be left between the stairs and the lift, the distance of 1.5 meters is sufficient distance for having access to the stairs. Same is almost 5 feet and a gap of 5 feet is sufficient to access the stairs and this argument also is of no help to the appellants.
8. The next argument raised by the appellants was the proximity of the lift to the drain. Respondent No.5 who is the Managing Committee of this society, has already given its NOC for installation of lift at this site. Once the Managing Committee has given NOC, an individual flat owner cannot be permitted to question the same as the NOC granted by the Committee shall prevail over the objection of a flat owner.
9. The appellants also raised objection in respect of obstruction of the emergency gate by installation of the lift at this site. I have perused the site map. Not only that there will not be complete obstruction to approach the emergency gate, the

Managing Committee has given its NOC in this regard and therefore even this objection is not plausible.

10. It was also argued for the appellants that unauthorized construction exist in the flats of the private respondents. It is sufficient to note that any alleged unauthorized construction in the flats of the private respondents is a different subject matter and cannot be a ground to revoke the NOC for installation of lift since all the residents of the upper floor flats shall be beneficiary of the lift and unauthorized construction in couple of flats cannot be a ground to deprive the facility of lift to the other flats owners.
11. NOC of 50% or more upper floors flat owners is required. There are six upper floor flats and three of them have given their consent.
12. 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.***'
13. In view of the above facts and circumstances, the appeal is devoid of merits. Same is dismissed.
14. 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 21.08.2026**

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