

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

APPEAL NO. 535/ATMCD/2022

**Sunil Bagai
Son of Late B.L. Bagai
R/o C-8/8235, First Floor
Vasant Kunj
New Delhi -110070**

..... Appellant

Versus

- 1. Municipal Corporation of Delhi
Through its Commissioner
Civic Centre, Minto Road
New Delhi**
- 2. Assistant Engineer (Bldg.)
MCD, Najafgarh Zone
Najafgarh, New Delhi**
- 3. Mr. Saurabh Yadav
Son of Shri Suresh Yadavendra
Owner/Resident of C-8/8238
Third/Top Floor
Vasant Kunj
New Delhi - 110070**
- 4. Shri Suresh Yadavendra
Son of Not Known
Owner/Resident of C-8/8238
Third/Top Floor
Vasant Kunj
New Delhi – 110070**
- 5. Mrs. Pranchal Sharma
Wife of Shri Saurabh Yadav
Owner/Resident of C-8/8238
Third/Top Floor
Vasant Kunj
New Delhi – 110070**

..... Respondents

Date of Filing of Appeal : 31.08.2022
Date of Judgment : 21.09.2026

JUDGMENT

1. This is an appeal challenging the sanction order dated 22.07.2021, issued for the addition/alteration in DDA Third Floor Flat No. 8238, Pocket-8, Sector-C, Vasant Kunj New Delhi (Barsati) (here in after referred as subject property).
2. The brief facts necessary for disposal of this appeal are that the appellant is the owner/occupier of the first floor flat bearing no. C-8/8235, Vasant Kunj, New Delhi and the subject property is in the same vertical stack at the third floor with terrace above it. The respondent vide impugned sanction dated 22.07.2021 accorded sanction to the private respondents for constructing a barsati at the terrace of the subject property as per DDA Policy and guidelines permitting construction of barsati at the terrace of three or four storey DDA flats. The private respondents apart from this barsati, also constructed a toilet on the terrace which has been booked by MCD and has been sealed in pursuance to the sealing order dated 19.05.2022.
3. The appellant has challenged the sanction even for construction of barsati at the subject site which is towards the north side of the terrace, primarily on the ground that the plumbing fittings and fixtures fitted with air-vent pipe meant for water supply to the bathroom at first floor of appellant's property, has been encroached and covered by the construction of the said barsati and thus not only violates the policy and procedure for permission and regularization of addition/alterations in DDA Flats, but also infringes the appellant's right in periodical inspection and maintenance of his plumbing system.
4. Ld. counsel for MCD on the other hand argued that the sanction was accorded as per DDA policy. The private respondents deviated from the sanction plan and therefore, the additional construction of the toilet was booked followed by the demolition order dated 22.04.2022 and sealing order dated 19.05.2022 and the deviation in the shape of toilet was sealed. The

barsati is permitted at the terrace of the third floor DDA flats and there is no ground to revoke the impugned sanction.

5. None appeared for the private respondents for reply and arguments, despite service and opportunities.
6. I have perused the record. The MCD accorded sanction for construction of barsati as per DDA policy and procedure in this regard. The construction of barsati at the terrace is permitted with prior permission, which was taken by the private respondents as per law. However this policy provides that a barsati can be constructed with prior permission but subject to certain riders. All additions/alterations are governed by five basic principles as under:

- 1) There is no encroachment on public land.
- 2) Structural stability of the building is ensured.
- 3) Light and ventilation of the habitable rooms is ensured as per the building bye laws.
- 4) There is no infringement of others rights.
- 5) The service elements such as manhole, rain water fittings, sanitary fittings etc. are not disturbed and remain exposed for periodical inspection and maintenance.

7. In the present case, the appellant has placed on record photographs of the terrace existing prior to the construction of the barsati and after construction of barsati. The plumbing system to the flat of the appellant passes through the site where the barsati has been constructed and the water pipelines have been covered by the private respondents in the barsati. The water pipelines going to the bathroom of the first floor flat of the appellant are no longer exposed for periodical inspection and maintenance and this barsati, at the present site has infringed the appellant's right to maintain and inspect his water pipelines.
8. Though, no incident of obstruction of water supply has been reported by the appellant but the DDA policy provides above-mentioned five basic principles for giving permission of additional coverage, which cannot be violated. The private respondents by constructing the barsati towards the northern side of the terrace have infringed the rights of the appellant by covering the pipelines

which are no longer exposed for maintenance. The impugned sanction is therefore liable to be set aside since it does not adhere to the basic principles governing additional coverage in DDA Flats.

9. Further, the private respondents choose not to challenge or rebut the appeal and remained silent on the aspect of infringement of appellant's right. In this facts, the appeal is allowed and the sanction accorded vide letter dated 22.07.2021 is revoked.
10. The appeal stands disposed of. Records 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 21.09.2026**

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