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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No. 1177/2019 & CM APPL. No. 5326/2019

BRIJ NANDA GUPTA Petitioner

Through: Mr. Karan Bansal, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION
& ORS

..... Respondents

Through: Mr. Gurpreet Hora, Advocates for Mr.
Nikhil Goel, Standing Counsel for
SDMC.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **04.02.2019**

W.P.(C) No. 1177/2019 & CM APPL. No. 5326/2019 (for interim relief)

The petitioner is aggrieved by alleged unauthorized construction of a Banquet Hall in property bearing plot No. 2, Shambhu Dayal Bagh, near NSIC Metro Station, Okhla Phase-III, Modi Mill Chowk, New Delhi and the misuse of the subject property, resulting in serious civic nuisance.

Alongwith this writ petition the petitioner has filed a copy of order dated 03.05.2017 made by a Division Bench of this court in W.P.(C) No. 11133/2016 titled *Nyaya Manch vs. South Delhi Municipal Corporation & Ors.*, which matter related to alleged unauthorized construction in 30 properties; and learned counsel

appearing for the petitioner states that the Banquet Hall that is subject matter of the present writ petition was one of the properties that were subject matter of the said writ petition before the Division Bench.

Counsel for the petitioner further submits that though the subject property has been booked for illegal construction and other bye-law and land use violations by respondent No. 1/SDMC, however no resolute action has been taken against such violations.

Mr. Gurpreet Hora, learned counsel appears for Mr. Nikhil Goel, learned Standing Counsel for respondent No. 1/SDMC on advance copy.

In the context of the grievance made in the petition, it transpires that in compliance of orders of the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors***, vide Office Memorandum dated 25.04.2018 the Delhi Development Authority (DDA) has constituted a Special Task Force to comprehensively address violations of the provisions of the Unified Building Bye Laws and Master Plan for Delhi-2021 relating *inter alia* to construction activity and land-use in Delhi. Vide another Office Memorandum dated 23.05.2018 the DDA has also formulated an action plan for monitoring construction activities in Delhi and for fixing responsibility in case of violations of the Unified Building Bye Laws and the Master Plan.

Vide order dated 20.09.2018 made in Writ Petition (Civil) No. 1807/2018 titled ***Devender vs. Government of NCT of Delhi & Ors***. (and connected matters) by the Division Bench of this Court headed by Hon'ble the Chief Justice, the Court has held that in view of the

setting-up of the Special Task Force under directions of the Supreme Court it is not appropriate for our court to exercise jurisdiction in matters relating to unauthorised construction; and has disposed of such matters granting liberty to the petitioners to raise their grievances before the Special Task Force so constituted, in accordance with the scheme and procedure formulated under the aforesaid two Office Memorandums.

By order dated 24.09.2018 made in a subsequent matter, being Writ Petition (Civil) No. 9938/2018 titled ***Suresh Chand Goel vs. East Delhi Municipal Corporation***, the Division Bench has followed its earlier order dated 20.09.2018 in Writ Petition (Civil) No. 1807/2018, similarly disposing of the writ petition, granting liberty to the petitioner to file a complaint before the Special Task Force. I am informed that the Division Bench has subsequently also made similar orders in other matters.

To be sure, the petitions that were subject matter of the aforesaid proceedings before the Division Bench were petitions filed *in public interest and otherwise*; and related to contravention *not only of sanctioned building plans but also of various laws*, including the Delhi Municipal Corporation Act, 1957, the Delhi Development Authority Act, 1957, the New Delhi Municipal Council Act, 1994, the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and the Ancient Monuments Preservation Act, 1904 as also encroachment on public land etc.

Ergo, the binding observation of the Division Bench that in view of the setting-up of the Special Task Force under directions of

the Supreme Court it is not appropriate for our court to exercise jurisdiction in such matters, *must not* in my view, be restricted *only* to matters relating to unauthorised construction but must also apply to *all other matters* which the Special Task Force is mandated to deal with, including misuse and encroachment. In many instances, it may well be that there are multiple violations of Building Bye Laws and Master Plan in the same property, say unauthorised construction, encroachment as well as misuser of premises; in which case the same agency must be left to deal with such connected issues. I should think it is for this reason that the objectives of the Special Task Force as enunciated in Office Memorandum dated 25th April 2018 include *inter-alia* matters relating to encroachment, unauthorised construction and use violations.

The aforesaid Special Task Force is a 15-member outfit with representation of the highest level from all concerned municipal, civic, revenue and law enforcement agencies of Delhi; and is therefore ideally suited for multi-agency, coordinated action against the rampant malaise of breach of various laws, rules and regulations governing building construction and land-use in Delhi.

I am informed that as of date the Special Task Force even has its own dedicated website and mobile application to facilitate making of complaints, thereby making it even easier for parties to take their grievances before the said agency.

Accordingly, I am of the view that the correct course of action in this matter also would be to dispose of the present writ petition, giving liberty to the petitioner to approach the Special Task Force in

accordance with the policy and procedure laid down for the purpose in DDA's Office Memorandums dated 25.04.2018 and 23.05.2018 and avail the said alternate, efficacious remedy.

This writ petition is disposed of in the above terms.

Pending applications, if any, are also disposed of.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 04, 2019

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