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

+ W.P.(C) No. 1253/2019

SANDEEP KHANNA & ORS

..... Petitioners

Through: Mr. Rajat Aneja and Mr. Sambit
Nanda, Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Through: Mr. Richa Dhawan, ASC.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **06.02.2019**

CM APPL. No. 5651/2019(for exemption)

Exemption allowed, subject to just exceptions.

The application is disposed of.

W.P.(C) No. 1253/2019 & CM APPL. No.5650/2019 (for interim relief)

The petitioners seek restraint against the respondent/SDMC from taking any coercive action or demolition in relation to properties being LIG flats bearing Nos. B-2B/50, B-2B/207, B-2B/210 and B-2B/222 situate at Janakpuri, New Delhi.

It is the petitioners' contention that the frontage of the flats has been enclosed by *all* flat owners thereby creating boundary walls; that these boundary walls have existed for several decades; and that similar boundary walls also exist in DDA's own staff quarters in the same block. Learned counsel appearing for the petitioners submits that there are some 1536 flats

spread-over six blocks in the same area. He further submits that the construction so made is also protected by the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 having been constructed prior to the cut-off date mentioned in the Act, which law still continues to be in force.

Prima facie I am of the view that merely because some unauthorized construction is old or widespread, does not accord any protection to such construction or legitimize it, in law.

That being said, petitions seeking demolition of unauthorized construction are being disposed of by this Court, giving liberty to petitioners to approach the Special Task Force set-up by the Delhi Development Authority under Office Memorandums dated 25.04.2018 and 23.05.2018 under directions issued by the Supreme Court in W.P.(C) 4677 of 1985 titled ***M. C. Mehta vs. Union of India & Ors.*** Equally therefore I am of the view that a petition seeking *protection against demolition of unauthorized construction* for any reason must also be disposed of, leaving the parties to resort to their remedies before the aforesaid Special Task Force. I say so for the reason that the entire purpose and effort of setting-up the Special Task Force under directions of the Supreme Court to address the widespread malaise of unauthorized construction, encroachment and misuse of land/buildings would go into jeopardy, if *all* matters relating to unauthorized construction, encroachment and misuse are *not* sent to the same body, namely the Special Task Force, which has representation of the highest level from all concerned municipal, civic, revenue and law enforcement agencies of the city.

However, at this stage, learned counsel appearing for the

respondent/SDMC seeks time to take instructions on the above.

Let respondent/SDMC file status report within one week ; response to such status report, if any, be filed by the petitioners within one week of receiving the status report.

Re-list on 28.03.2019, to consider why this petition should not be disposed of, leaving the petitioners to avail remedies before the Special Task Force.

Dasti.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 06, 2019

Pallavi