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

+ W.P.(C) No. 1298/2019 & CM APPL. No. 5878/2019

MUMTAZ BANO

..... Petitioner

Through: Appearance not given, with petitioner
in person.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS.

..... Respondents

Through: Mr. Amit Singh Chauhan, Standing
Counsel for SDMC.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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08.02.2019

CM APPL. No. 5878/2019 (for exemption)

Allowed, subject to just exceptions.

Application stands disposed of.

W.P.(C) No. 1298/2019

The petitioner is aggrieved by alleged unauthorised construction in premises bearing No. F-14/10, Joga Bai Extension, Batla House, Jamia Nagar, New Delhi.

Learned counsel for the petitioner states that although pursuant to an earlier order dated 29.11.2011 made in W.P. (C) No. 7314/2011, the unauthorised construction in question was demolished, however

subsequently the errant party has again reconstructed such unauthorised portion after breaking seals put by the authorities on the property.

Certain photographs annexed to the petition show a dismal state of affairs inasmuch as the photographs show that there is serious damage to the petitioner's premises. The petitioner who is present in-person explains that the unauthorised construction has also caused flooding in her premises due to bursting of sewage pipes apart from other serious structural damage to the building in which the petitioner's premises is situate; and the petitioner's own premises is in an unliveable state.

In the context of the petitioner's grievance, 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 presided-over 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.

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.

Considering the past history of the matter, as explained by learned counsel for the petitioner in the presence of the petitioner herself, who is a retired school teacher living alone, it is evident that this is a case of defiant breach of orders made by this court; whereby it appears, that in spite of action having been taken by the authorities in compliance of such orders, the errant persons have, with impunity, gone ahead to break the seals put on the property and have reconstructed unauthorised portions in gross violation of building bye-laws, rules and regulations.

While I am cognizant that instances of unauthorised construction in the city are widespread and rampant, I am compelled to observe that this case seems to represent an egregious violation of the law, inter alia the breach of previous order dated 29.11.2011 made by this court in W.P. (C) No. 7314/2011.

In the circumstances, while disposing of this petition, the Special Task Force is requested to give its urgent attention to this matter if the petitioner approaches it, subject of course to the other constraints within which the Special Task Force obviously operates.

This petition is disposed of in the above terms. Pending applications, if any, also stand disposed of.

Dasti under signatures of the Court Master.

FEBRUARY 08, 2019/uj

ANUP JAIRAM BHAMBHANI, J.