

\$~32

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

+ W.P.(C) No. 1660/2019 & CM APPL. No. 7603/2019

SHRI AMRIT PAL SINGH BINDRA Petitioner
Through: Mr. Praveen Suri, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION
AND ORS. Respondents
Through: Mr.Kunal Sharma, Mr.Shubendu
Bhattacharya, Advocates for SDMC.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **19.02.2019**

CM APPL. No. 7603/2019 (for exemption)

Allowed, subject to just exceptions.

This application stands disposed of.

W.P.(C) No. 1660/2019

The petitioner seeks action against alleged unauthorised construction on property bearing Plot No. G-79C/B-2 Kiran Garden, near Jain Park, landmark Vanasthali Lane, Najafgarh Road, New Delhi.

2. The petitioner claims an interest in the area since he has entered into an agreement to purchase the subject property on which unauthorized construction is alleged.

3. It appears that a suit for specific performance of the said

agreement is also pending in a civil court.

4. The petitioner claims to have received a response under the Right to Information Act 2005 which further confirms that there is unauthorized construction in the subject property.

5. Learned Standing Counsel for respondents Nos. 1 , 2 and 3 /SDMC appears on advance copy and states that he has no instructions in the matter.

6. It is evident that there are disputes between the petitioner, who is the purchaser, and the seller of the subject property; which disputes are subject matter of a civil suit. However, the scope of the present petition must be restricted to alleged unauthorized construction in the subject property, regardless of who owns it.

7. In the context of the petitioner's grievance relating to unauthorised construction, 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***, the Ministry of Housing & Urban Affairs ("MHUA") of the Government of India has *vide* Office Memorandum dated 25.04.2018 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 MHUA 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.

8. *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.

9. 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.

10. 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.

11. The aforesaid Special Task Force is a 15-member body 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.

12. 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.

13. 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 MHUA's Office Memorandums dated 25.04.2018 and 23.05.2018 and avail the said alternate, efficacious remedy.

14. This petition is disposed of in the above terms.

15. Pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 19, 2019

j