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

+ **W.P.(C) 2459/2019**

MANJEET SINGH Petitioner
Through: **Mr. Jatin Sharma, Adv.**

versus

THE NCT OF DELHI (GOVT. OF DELHI) Respondent
Through: **Mr. T.S. Nanda, Adv. for GNCTD.**
Mr. Kunal Vajani, Mr. Paras Anand,
Mr. Jaibir Sethi & Mr. Junaid
Qureshi, Advs. for R-2.
Mr. Sunil Fernandes, Standing
Counsel for BSES with Ms. Anju
Thomas, Adv. for R-5.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **12.03.2019**

CM No. 11442/2019 (for exemption from filing certified copies)

CM No. 11443/2019 (for exemption from filing legible copy)

Allowed, subject to just exceptions.

Applications stand disposed of.

W.P.(C) 2459/2019

1. The petitioner is aggrieved by alleged unauthorized construction and encroachment at property bearing No. 275-276, Church Lane, Hospital

Road, Jangpura, Bhogal, New Delhi.

2. The petitioner also complains about installation of lift and drilling of bore-well as also provision of electricity to the subject property.

3. The petitioner has made complaints *inter-alia* to respondent No. 2/SDMC against the subject property and has also obtained confirmation in response to queries under the Right to Information Act, 2005 to the effect that no building plan is found sanctioned nor any completion certificate has been issued in respect of the subject property.

4. Although documents on record show that the subject property has been booked for unauthorized construction and sealing action has also been initiated; however, the petitioner contends that no precipitate action has been taken in the matter.

5. It is further noticed from the record that by complaint dated 22.10.2018, the petitioner has also placed his grievance before the Monitoring Committee appointed by the Supreme Court by directions issued in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors.***

6. In relation to the matter at hand we note that 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. This has also been done in compliance of directions issued by the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors.***

7. This court in 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) 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 the matters granting liberty to the respective 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.

8. In a subsequent matter, being Writ Petition (Civil) No. 9938/2018 titled ***Suresh Chand Goel vs. East Delhi Municipal Corporation***, by order dated 24.09.2018 this court has followed its earlier order dated 20.09.2018 in Writ Petition (Civil) No. 1807/2018, and has similarly disposed of the writ petition, granting liberty to the petitioner to file a complaint before the Special Task Force.

9. To be sure, the petitions that were subject matter of the aforesaid proceedings before this court 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

10. The observations of this Court 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, are not restricted *only* to matters relating to unauthorised construction but *apply to all other matters* which the Special Task Force is mandated to deal with, including misuse and encroachment. It must be borne in mind that there are likely to be cases where there are multiple violations of Building Bye Laws and Master Plan in one and the same property, e.g. unauthorised construction, encroachment as well as misuser in a given premises. In such cases prudence and pragmatism would demand that the same agency be tasked to deal with all connected issues. It is also for this reason perhaps 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.

11. It is also noticed that 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 and concerted action against rampant breach of various laws, rules and regulations relating to building construction and land-use in Delhi.

12. We are 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, we are of the view that the appropriate course of action in this matter 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. The petition stands disposed of in the above terms.

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

THE CHIEF JUSTICE, J.

ANUP JAIRAM BHAMBHANI, J.

MARCH 12, 2019/sr