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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1671/2018 & CM No.6880/2018
BIJENDER KUMAR Petitioner
Through: Mr. Sharvan Dev, Adv.

versus

EAST DELHI MUNICIPAL CORP. & ANR Respondents
Through: Mr. Amit Sinha and Mr. A. S.
Singh, Advs. for R-1.
Mr. Gaurav Puri, Mr. Aditeya and
Mr. Sarthak Gupta, Advs. for R-2

+ W.P.(C) 14085/2018 & CM Nos. 54912-54913/2018
PARAS RAM NAGAR Petitioner
Through : Mr. Gaurav Puri, Mr. Aditeya and
Mr. Sarthak Gupta, Advs.

versus

EAST DELHI MUNICIPAL CORPORATION Respondent
Through : Mr. Mukesh Gupta, Standing Counsel
for EDMC
Mr. Parvinder Chauhan, Standing
Counsel and Mr. Nitin Jain, Adv.
for R-2/DUSIB.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER
% **14.02.2019**

It is noticed that the prayers in these two matters relate to unauthorized construction in House No. 120 situate in Khasra No. 310, Khichdipur, Delhi.

While the petitions have been filed by different persons, it appears

that the petitions involve allegations and counter-allegations of unauthorized construction in respect of the same subject property.

Accordingly, these petitions are being taken-up together.

In Writ Petition (Civil) No. 1671/2018 various status reports have been filed by respondent No.1/EDMC, the last one being status report dated 06.02.2019, which states that the subject property was booked for unauthorized construction ; that demolition order in respect thereof was passed ; but demolition action could not be taken for various reasons as stated in the said status report. It is further stated that a regularization application was received in respect of the subject property but the same was rejected on 24.09.2018. Thereafter, demolition action was again initiated on several occasions and partial demolition was also conducted. However, further demolition action could not be executed in view of interim order dated 31.12.2018 granted by this court in the second Writ Petition (Civil) No. 14085/2018, which interim order is still subsisting.

The prayer in Writ Petition (Civil) No. 14085/2018 is to restrain respondent No. 1 /EDMC from taking action against the subject property. In counter-affidavit dated 24.01.2019 filed by respondent No. 2/DUSIB in this matter, in response to the allegation contained in the petition that respondent No.1/EDMC does not have jurisdiction over the subject property and that respondent No. 2/DUSIB has jurisdiction, DUSIB has stated that the provisions of the Delhi Municipal Corporation Act, 1957 (DMC Act) are applicable throughout Delhi *insofar as building regulations are concerned* notwithstanding that DUSIB has been entrusted with certain functions in relation to the area where the subject property is situate.

What is evident from the above is that there are allegations and

counter-allegations as between the parties in the aforesaid two writ petitions. In one, demolition of the subject property is sought, whereas in the other, restraint against demolition is sought.

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***, 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.

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 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.

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

This petition is disposed of in the above terms.

Pending applications, if any, also stand disposed of.

In view of above, *status quo* order dated 31.12.2018 in Writ Petition (Civil) No. 14085/2018 also stands vacated.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 14, 2019

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