

\$~23

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

+ W.P.(C) No.1314/2018 & CM No. 5472/2018

SH. ROHIT BARARIA

..... Petitioner

Through: Mr. Nishant Rai and Mr. Bhavtosh
Sharma, Advs.

versus

NORTH DELHI MUNICIPAL CORP. AND ORS..... Respondents

Through: Ms. Puja Kalra, Adv. for R-1
& 2/North-DMC
Mr. Naushad Ahmad Khan, ASC with
Mr. Zahid and Ms. Manisha Chauhan,
Advs. for GNCTD
SI B. S. Meena, P.S. Kotwali
Mr. O. P. Verma, Adv. for R 5-7.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

%

19.02.2019

The petitioner is aggrieved by alleged unauthorized construction in premises bearing House Nos. 1004-1005, Gali Lade Wali, Mali Wara, Chandni Chowk, Delhi and shop No. 1000, Mali Wara, Chandni Chowk, Delhi.

2. All respondents in the matter are represented. Ms. Puja Kalra, learned Standing Counsel for North-DMC states that as per status report dated 14.02.2019, the subject premises stand booked for unauthorized construction ; demolition order has been passed; and steps to execute the demolition order have also been taken, last on 21.06.2018. She further states that sealing orders were also passed and the subject premises have been sealed

on 26.06.2018. She further states that an appeal against the demolition order passed has been filed by the owners/occupiers before the Appellate Tribunal MCD but since there was no stay against demolition, further action, if any, would also be taken in accordance with law.

3. Mr. O.P. Verma, learned counsel for respondents Nos. 5, 6 and 7 states that the said respondents have themselves completed the removal of all unauthorized construction from the subject premises, except some pillars which still remain, which would also be removed by the said respondents on their own.

4. That being said, however the petitioner is not satisfied with the action that has been taken by respondent No.1/SDMC or by respondents Nos. 5, 6 and 7/owners of the subject premises.

5. 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 Ministry of Housing & Urban Affairs ("MHUA") 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 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. It is clarified that nothing in this order shall, in any manner, prejudice or pre-judge the statutory proceedings pending before the ATMCD and / or the District Judge.

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

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 19, 2019

sr