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

+ **W.P.(C) 1681/2018**

RAVI KUMAR VERMA

..... Petitioner

Through:

versus

**THE COMMISSIONER, SOUTH DELHI MUNICIPAL
CORPORATION & ANR.**

..... Respondents

Through: Mr. Mukesh Gupta, Standing Counsel
with Mr. Vaibhav Sharma, Adv. for
R-1.

Mr. Rajat Aneja & Ms. Chandrika
Gupta, Advs. for R-2.

Mr. Varun Goswami & Mr. Rahul
Sinha, Advs. for R-15

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **11.03.2019**

By this petition, purported to have been filed by the petitioner in public interest, the petitioner prays as follows:

“1. To get demolished the illegal amalgamation and unauthorized construction at the property bearing No. 61/1 & 61/2, Welcome House, Main Market, Yusuf Sarai, New Delhi-110016 as the illegal amalgamation materially affects the right of safety and security to pedestrians by covering and closing the passage in the Market for General Public which increase the death rates of pedestrians hitting by vehicles at roads because the joint stairs are constructed in the passage of two separate properties comprises one building which are dangerous to life of the general public as

there is no protection of lives of the public. There is continuous apprehension of accident in the dangerous situation in the market road for pedestrians and the residents residing at vicinity so the illegal amalgamation is need to be get demolished in the welfare of public at large and interest of justice.

2. This is further prayed to kindly pass an order or direction to get suspended the officials of respondent who have nexus with the owners just to make illegal earning and vigilance enquiry be initiated against the corrupt officials of the respondent to punish in the interest of justice. ”

2. In substance therefore, the petitioner’s grievance is regarding alleged unauthorized construction and amalgamation of properties bearing Nos. 61/1 and 62/2 Welcome House, Main Market, Yusuf Sarai New Delhi. The petitioner also complains about the narrowing of the passage in the market for the use of general public, thereby amounting to encroachment on a public street, resulting in risk of accident to pedestrians using the road. The petitioner has also prayed for action against officials of respondent No. 1/SDMC, alleging that the nexus between the owners of the subject property and such officials is the cause for such unauthorized activities.

3. At the time of issuing notice in the matter, *vide* order dated 23.02.2018, this court had ordered physical inspection of the entire Yusuf Sarai area by respondent No. 1; with a direction that a list of *all* unauthorized guest houses be placed before the court alongwith an action taken report in respect thereof.

4. The status report dated 11.07.2018 filed by SDMC in compliance of the order furnished a list of 13 guest houses in the area; which were therefore directed to be impleaded as party-respondents in the matter.

5. Status report dated 11.07.2018 also stated that upon identifying and noticing illegal guest houses being run from the area, SDMC had issued

notices under Section 345A of the Delhi Municipal Corporation, 1957 (DMC Act); and that further action against such guest houses would be taken in due course of time, as per law.

6. Now an application bearing No. CM APPL. No. 1596/2019 has been filed by respondent No. 2, being the owners/partners of *Welcome Guest House* that was the property targeted in the petition as originally filed, wherein respondent No. 2 has prayed for dismissal of the writ petition with exemplary costs alleging *inter-alia* that the petitioner has not acted in public interest or *bona fide* in filing the present petition. Respondent No. 2 contends that the petitioner is a resident of a place some 8 kms away from the subject property; the petitioner is a liaison officer working in a company; the petitioner does not even claim to be a social activist or a member of any charitable organisation engaged in social welfare measures and has no reason to have reported alleged unauthorized construction in the subject property.

7. In the application, respondent No. 2 further states that the petitioner is a chronic litigant; is habitual of filing writ petitions with the assistance of the same lawyer; and that, with some effort, respondent No. 2 has discovered that the petitioner has filed atleast 11 writ petitions in the year 2018 itself targeting unauthorized construction and encroachment in relation to certain properties. The list of such writ petitions is annexed to the application. Respondent No. 2 further alleges that it is the *modus operandi* of the petitioner that he targets individual properties in an area, so as to extort money from the owners for illicit self-gain.

8. Respondent No. 2 points-out that in order dated 18.12.2018 made by this court in W.P. (C) No. 5931/2018 titled **RAVI KUMAR VERMA vs. COMMISSIONER SDMC AND ANR.**, filed by the same petitioner, while

finding fault with the petitioner's action of choosing to file a purported public interest litigation against *only one floor of a particular building*, without referring to other unauthorized construction in the area (in that case in South Extension, New Delhi), this court observed that *that* petition was not maintainable as a public interest litigation; and declined to exercise its extraordinary jurisdiction under Article 226 of Constitution of India. This court disposed of the said petition, leaving the petitioner to avail his remedy before the Special Task Force set-up by Ministry of Housing & Urban Affairs (MHUA) *vide* Office Memorandums dated 25.04.2018 and 23.05.2018 under directions of the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors.***

9. Respondent No. 2 contends that the present petition is *yet another attempt* by the same petitioner to misuse and abuse the salutary constitutional jurisdiction of this court, to bring illicit pressure to bear upon respondent No. 2, for ulterior motive.

10. Upon a conspectus of the petitioner's conduct, as evident from the multiple, supposedly public interest petitions filed by the petitioner targeting only select, specific properties, we find merit in the contention that the petitioner is not acting *bona fide*. We are convinced that this petition is not maintainable as a public interest litigation; and further that, in any event, considering the facts and circumstances, we are not inclined to exercise our extraordinary jurisdiction to look into the petitioner's allegations in this matter any further.

11. Moreover, 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. As mentioned above, this has been done in compliance of directions of the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors.***

12. 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.

13. 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.

14. 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.

15. 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 may 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 of premises. In such cases prudence and pragmatism would demand that the same agency be tasked to deal with all connected issues. It is 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.

16. 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.

17. 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.

18. 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.

19. While, as stated above, we would not stand in the way of the petitioner approaching the Special Task Force for amelioration of his grievance, at the same time we would *caution* the petitioner against any misuse of the legal machinery, whether the process of this court or of the Special Task Force, for ulterior motive or illicit self-gain. Any such action brought to the notice of this court, would invite severe consequences.

20. This writ petition is disposed of in the above terms.

21. Pending applications, if any, are also disposed of.

THE CHIEF JUSTICE, J.

ANUP JAIRAM BHAMBHANI, J.

MARCH 11, 2019/uj