

\$~5

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

+ W.P.(C) 3760/2017

JAGMOHAN SINGH

..... Petitioner

Through: Mr. A.K. P, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS

..... Respondents

Through: Ms. Archana Sharma, Adv. for R-1
and R-2.

Mr. Manoj Kumar Sharma, Adv. for
R-3.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

%

25.02.2019

The petitioner is aggrieved by alleged unauthorized construction on the second and third floor of property bearing No. A-51 New Friends Colony, New Delhi.

2. All respondents in the matter are represented.

3. Status report dated 23.09.2017 states that at the time of inspection, no construction activity was noticed in the subject property; the existing structure comprising a basement, ground floor, first floor, second floor and the third floor is a very old structure which is occupied as a residence. The status report also records that the second floor of the subject property was regularised, whereas an application seeking regularisation of the third floor

which was received in the year 2008, remained undecided until September, 2017.

4. It is also stated that regularisation of the third floor cannot be considered since the policy permitting floor-wise sanction and regularisation has since been discontinued and a new policy is being formulated. The status report also says that under Master Plan for Delhi-2021, the norms for construction of residential building have been substantially enhanced whereby on a plot of the size of the subject property, construction of a basement, stilts, ground, first, second and third floors is permissible.

5. On being queried as to the latest position of the regularisation application which was submitted way back in 2008, counsel appearing for respondents Nos. 1 and 2/SDMC states she has no instructions.

6. Be that as it may, it is evident that the petitioner is not satisfied with the action that has ensued. Learned counsel appearing for respondent No. 3/DDA states, that as per counter-affidavit dated 16.08.2017 filed by DDA in the matter, the subject property stands transferred to respondents Nos. 1 and 2/SDMC and accordingly respondent No. 3 has no role to play in the matter.

7. 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.

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 25, 2019/uj