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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 10833/2016 & CM APPL. Nos. 42485/2016, 42487/2016,
32117/2017, 40320/2018, 8957-8958/2019

AGNIVESH GUPTA

..... Petitioner

Through: Petitioner-in-person.

versus

LT. GOVERNOR OF DELHI, CHAIRMAN DDA & ORS

..... Respondents

Through: Ms. Manika Tripathy Pandey,
Mr. Ashutosh Kaushik & Mr. Brahm
Kumar Pandey, Advs. for DDA.
Mr. Surender Sinha, Adv. for SDMC.
Mr. Gautam Narayan, ASC with
Ms. Shivani Vij, Adv. for GNCTD.
SI Hemant, PS, Vasant Kunj, North.
Mr. Anoop Prakash Awasthi, Adv. for
Ms. Nupur, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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26.02.2019

1. The petitioner's grievance is in relation to alleged unauthorized construction and encroachment by the owner/builder of Flat No. 8441 Sector C-8, Vasant Kunj, New Delhi.
2. All respondents in the matter are represented.
3. Learned counsel for respondent No. 2/DDA states that the area in which the subject property is situate has been handed-over by the DDA to respondent No. 3/SDMC and accordingly the relief sought for is not against respondent No. 2/DDA but against respondent No. 3/SDMC. Accordingly, this is the correct Roster Bench to entertain the present petition.
4. After some submissions made on behalf of the petitioner and

respondent No. 4/private respondent, it is evident that there are serious disputes as between the said parties in relation to construction undertaken by respondent No. 4 on the property; with respondent No. 4 claiming that there is no unauthorised construction in the subject property; and that deviations, if any, already stand regularized. Mr. Agnivesh Gupta, petitioner appearing in-person however disputes the same.

5. Upon being informed that in view of the mandate of the Supreme Court as well as the Division Bench of this court, matters relating *inter-alia* to unauthorized construction and encroachment are being disposed of, with liberty to the aggrieved party to approach the Special Task Force constituted by Ministry of Housing and Urban Affairs (MHUAs) *vidé* Office Memorandums dated 25.04.2018 and 23.05.2018, petitioner appearing in-person states that considering the long pendency of the matter, this court *must* decide the same.

6. Affidavit dated 23.03.2018 has been filed on behalf of respondent No. 3/SDMC stating that the unauthorized construction in the subject property was booked on 15.07.2015; demolition order was passed on 31.07.2015 and demolition action was taken on 24.08.2015 with the help of local police. The affidavit further states that sealing action has also been initiated by issuing a show-cause notice to the owner/occupier on 20.08.2015. The affidavit however further states that unauthorized construction on the subject property was regularised under Self-Assessment Scheme, 2014 on 30.09.2015 and even post demolition, respondent No. 3/SDMC has regularized the deviation in the subject property under the aforesaid scheme.

7. It is evident from the vociferous and relentless opposition by the

petitioner appearing in-person to the action taken by respondent No. 3/SDMC that the petitioner is far from satisfied with the action that has ensued.

8. In the context of the grievance made in the petition, 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.

9. *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 headed 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.

10. 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.

11. 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.

12. Ergo, the binding observation of the Division Bench 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, *must not* in my view, be restricted *only* to matters relating to unauthorised construction but *must also apply to all other matters* which the Special Task Force is mandated to deal with, including misuse and encroachment. In many instances, it may well be that there are multiple violations of Building Bye Laws and Master Plan in the same property, say unauthorised construction, encroachment as well as misuser of premises; in which case the same agency must be left to deal with such connected issues.

I should think it is for this reason 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.

13. 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.

14. 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.

15. 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.

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

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

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 26, 2019/uj