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

+ **W.P.(C) 7822/2017**

PARAMJEET SINGH

..... Petitioner

Through : None

versus

ARCHAEOLOGICAL SURVEY OF INDIA AND ORS

..... Respondents

Through : Mr. Vikas Mahajan, CGSC with
Mr. Aakash Varma and Mr. Deepak
Goyal, Advs. for R-1.
Mr. Ajjay Aroraa with Mr. Kapil
Dutta, Advs. for SDMC
SI Prem Kumar, P.S Mehrauli

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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19.03.2019

The present petition, filed in public interest, raises the issue of alleged unauthorized construction in what is stated to be the prohibited area of Lalkot Wall, Rai Pithora Fort, behind plot No. 115/1, Sidhivinayak Apartment, DESU Road, Mehrauli, New Delhi.

2. The petitioner who is a resident of the area complains that due to inaction on the part of respondent No.1/ Archaeological Survey of India (ASI) and respondent No. 2/ SDMC, unauthorized buildings comprising flats have come-up on the subject land, which land has been of attraction to builder/ mafia due to its proximity to Qutub Minar.

3. The petitioner alleges that he has made various complaints to the respondent authorities but no action has ensued.

4. A short affidavit dated 03.01.2018 filed by respondent No.1/ASI confirms that Lalkot Wall is a notified, centrally protected monument under the Ancient Monuments & Archaeological Sites and Remains Act, 1958; and that the area extending to a distance of 100 metres in all directions from a protected monument would be a 'prohibited area'; and the area extending up to 200 metres in all directions from the boundary of the prohibited area would be a 'regulated area' for purposes of building regulation, which areas would invite stringent regulation of construction and even repair or renovation of existing structures. The affidavit however states that respondent No.1/ASI is not the land owning agency for the subject area and accordingly does not have a record of encroachments therein, if any. Respondent No.1 also states that it reports any unauthorized construction in a prohibited area to the concerned civic agency. The affidavit further states that though the petitioner has not mentioned any specific property number or address where unauthorized construction has been carried out; however respondent No.1 has initiated action against unauthorized construction in certain properties in the subject area as detailed in the affidavit, for which show cause notices have been issued and further action will follow.

5. In status report dated December, 2018 filed by respondent No. 2/SDMC it is stated that inspection of the subject area was carried-out on 18.09.2018 alongwith the petitioner, who identified a certain property for action; which property already stands booked for unauthorized construction on 04.08.2017 and demolition order also stands passed in respect of such property on 16.08.2018. The status report filed on behalf of respondent No.

2 further states that communication for disconnection of electricity and water supply to the subject property has also been sent to the concerned authorities; apart from communication to the Sub-Registrar of Assurances with a request not to register any transactions in respect of the subject property. It is also stated that sealing action against the subject property has been initiated alongwith issuance of vacation notice, as a pre-cursor to taking demolition action against it.

6. In spite of detailed affidavits filed on behalf of respondents Nos. 1 and 2 however, it appears that the petitioner's grievance has not been redressed.

7. In matters relating to unauthorised construction, this court has, by detailed 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) taken note of the fact that the Hon'ble Supreme Court is seized of the issue of unauthorised construction in Writ Petition (Civil) No. 4677/1985 titled ***M.C. Mehta vs. Union of India & Ors.***, in which case the Apex Court has passed various directions, including those contained in orders dated 24.04.2018 and 18.07.2018. In the backdrop of that matter the Ministry of Housing & Urban Affairs ("MHUA") of the Government of India has *vide* Office Memorandum No. O-33011/1/2006-DDI 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 No. O-33011/1/2006-DDI 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. The Special Task Force comprises 15 members from various municipal, civic, revenue and law enforcement agencies of Delhi; and even has its own dedicated website and mobile application to facilitate making of complaints. The Special Task Force is therefore a specially constituted agency to address grievances relating *inter-alia* to unauthorised construction; and an aggrieved person may avail the alternate, efficacious remedy before the Special Task Force.

9. 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 extraordinary jurisdiction in matters relating to unauthorised construction; and we would therefore dispose of the present petition, granting liberty to the petitioner to raise the grievance before the Special Task Force so constituted, in accordance with the scheme and procedure formulated under the aforesaid two Office Memorandums.

10. This petition is disposed of in the above terms.

11. Pending applications, if any, also stand disposed of.

THE CHIEF JUSTICE

ANUP JAIRAM BHAMBHANI, J.

MARCH 19, 2019

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