

\$~13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 10113/2017 & CM No. 41331/2017
JAPREET SINGH BHATIA Petitioner
Through : Mr. Sandeep Singh, Adv.

versus

SOUTH DELHI MUNICIPAL CORP. AND ORS. Respondents
Through : Mr. Ajjay Aroraa, Standing Counsel
and Mr. Jayendra, Adv. for SDMC
Ms. Anam Ahmad, Adv. for Ms. Jyoti
Taneja Adv. for GNCTD
Mr. Sonal Anand and Mr. Aayush
Sai, Advs. for R-5.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
% **22.02.2019**

The petitioner is aggrieved by alleged unauthorized construction on the terrace of property bearing No. D-45B (D-45), Block D, near Mayapuri Chowk, Rajouri Garden, New Delhi. The petitioner also alleges misuse of the subject property by respondent No.5, who is stated to be the petitioner's cousin brother.

2. Comprehensive affidavit/status report dated 29.01.2019 has been filed by respondents Nos.1 and 2/SDMC which states that a sealing show cause notice dated 25.04.2018 was issued to all owners/occupiers of the subject property ; replies were received from three out of four owners/occupiers ; sealing of the property was approved by the competent authority on 12.10.2018. Thereafter, the owners /occupiers are stated to have filed four separate appeals before the Appellate Tribunal MCD, in which the Tribunal

has *vidé* order dated 24.09.2018 granted stay against demolition order dated 13.04.2018 passed by the respondents Nos. 1 and 2/SDMC. The next date of hearing in the matter before the ATMCD is stated to be 28.02.2019. The status report also says that there is an order dated 20.12.2018 in one of the four appeals restraining demolition of a portion of the subject property that is under regularization. The status report further says that some partial demolition action has also been taken against the subject property.

3. Be that as it may, it is evident that there are disputes as between the owners/occupiers of the subject property, who are stated to be related to each other; and also that there are statutory appeals pending before the Appellate Tribunal MCD in relation to the subject property. It is also evident that the petitioner is not satisfied with whatever action has ensued in the matter.

4. 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.

5. *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.

6. 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.

7. 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.

8. 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.

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 proceedings pending before the ATMCD.

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

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

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 22, 2019

sr