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

+ W.P.(C) 10336/2024

ABHISHEK BABU

.....Petitioner

Through: Mr. Satyendra Kumar Singh, Advocate.

versus

MUNICIPAL CORPORATON OF DELHI

AND ORS

.....Respondent

Through: Counsel (appearance not given)

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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29.07.2024

CM APPL. 42333/2024(exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 10336/2024

1. The petitioner in the present writ petition has prayed for the following reliefs:

“a). Issue a writ, order or direction including a writ of mandamus/quo warranto or prohibition or of like nature for directing the respondent no.1 for executing its order dated 14.11.2022 and demolish the unauthorized and illegal construction raised on property no. S4/87, Street No.7, Old Mahavir Nagar, New Delhi-110018; we have not received the copy of order dated 14.11.2022; and

b) pass any other or further order which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case and in the interest of justice.”

2. The learned counsel appearing for the petitioner submits that the



respondent in their written submission filed before the Civil Court has stated that on 18.10.2022, the property in question was booked under Section 344(1) and 343 of the Delhi Municipal Corporation Act, 1957 and thereafter, on 14.11.2022, an order of demolition has been passed and despite the aforesaid admitted position, the respondent have not taken any action against the person concerned.

3. The petitioner therefore submits that in view of the stand taken before the Civil Court the respondent/Corporation be directed to take necessary steps to take the issue to its logical end.

4. I have heard the learned counsel appearing for the parties and perused the record.

5. The Court is cognizant of the misuse of writ remedy in cases where the parties have their vested interest and are readily invoking the writ jurisdiction of this Court to settle their personal grievances. Writ being a discretionary and equitable jurisdiction often being exploited as the remedy to settle the personal score or for arm twisting the rival contestant. Writ remedy, which was envisaged to protect the individual or legal rights of the *bonafide* litigants, often turned up to be battleground for rival parties to pursue their personal vendetta. This Court in the W.P. (C) No. 9828/2015 titled as ***Kotak Mahindra Bank Ltd. v. Bank of Baroda***, has considered the consequences of liberal approach adopted while entertaining the writ petitions under Article 226 of the Constitution. The relevant extracts of the said decision reads as under:-

“The jurisdiction of the High Court under Article 226 of the Constitution of India is an extraordinary remedy, to be not invoked or allowed to be invoked ordinarily, as is found being done increasingly, leaving very little time for the High Court to



deal under Article 226 with issues really deserving consideration there under. Supreme Court, as far back as in Rashid Ahmed v. Municipal Board, Kairana 1950 SCC 221 : AIR 1950 SC 163 and Nain Sukh Das v. The State of Uttar Pradesh AIR 1953 SC 384 held that prerogative writs are extraordinary remedies intended to be applied in exceptional cases in which the ordinary legal remedies are not adequate but in the last over half century the said principle appears to have been forgotten, with the writ remedy being considered as a cure for all ordinary ailments also and for which the ordinary legal remedies under the civil law are adequate. The same has resulted in the High Court being inundated with writ petitions, the disposal whereof axiomatically is found to be taking, in most cases, as much time as the disposal of an ordinary civil lis, and which has resulted in the High Court facing difficulty in providing immediate relief even in deserving cases in writ jurisdiction and/or being left with little time to ponder over the important constitutional issues coming before it in the writ jurisdiction. In my humble view, a time has thus come for the High Court to send out a clear message of the writ remedy being an extraordinary remedy not available as an alternative to the remedy already available under the civil and general laws.”

6. In the instant case, admittedly, the Civil Suit is already pending before the Civil Court and a stand has been taken by the corporation as has been stated hereinabove. The petitioner can approach the Civil Court and can raise all the contentions before the said Court, where the matter is already pending. Furthermore, there exists a Special Task Force in view of the directions passed by the Supreme Court on 24.04.2018 in **M.C. Mehta v. Union of India**, which reads as under:-

“In view of this situation, we direct that there should not be any further construction in unauthorized colonies including on public land beyond the existing building and other bye-laws. Consequently, all building and construction activity in the unauthorized colonies including on public land is stopped with immediate effect beyond the existing building and other bye-laws applicable to authorized colonies. The concerned authorities will ensure compliance. It has been submitted by learned Additional Solicitor General (Mr. Nadkarni) that a Task Force is contemplated that will ensure that the orders of this Court and the applicable byelaws are implemented and encroachments, etc. as well as unauthorized constructions are removed. The Task Force



as suggested by learned Additional Solicitor General (Mr. Nadkarni) may be constituted with immediate effect.

As a first step, the Task Force should remove encroachments on public roads, public streets and pedestrian streets, as mentioned in the immediate action submitted by Mr. Nadkarni in a Revised Note dated 18th April, 2018. The needful should be done within a period of two weeks from today.

We make it clear that the Monitoring Committee may suggest to the Task Force the areas where immediate action is required to be taken. It is stated by learned Additional Solicitor General (Mr. Maninder Singh) that about 27.02 acres of public land has been taken over by the Delhi Development Authority since 1st April, 2018. The details of this have not been mentioned.

An affidavit should be filed giving full details of the 27.02 acres of public land that has been taken over by the Delhi Development Authority from unauthorized encroachments.”

7. In pursuance to the directions passed by the Supreme Court the Government has constituted the Special Task Force (“STF”). The aim and purpose of the constitution of the STF is to ensure that the omnipresent problem of illegal constructions and encroachments including public lands, parking spaces, roads, pavements etc can come to notice to the authorities and they can take stern action to remove the illegal construction and encroachment. Due to the lack of coordination between the various agencies, the STF was formed to streamline the process of the complaint resolution system and for timely resolution of complaints. As per the Notification dated 25.04.2018 by Ministry of Housing and Urban Affairs, the STF was constituted with the following objectives:-

- *Identify encroachments on Government land in different localities of NCT Delhi and to reclaim the encroached Government land;*
- *Suggest course of action to the Government of India with respect to the unauthorised colonies of NCT, Delhi and regular follow-up till*



its resolution;

- *Over see the effective and proper enforcement of the applicable laws by the local bodies particularly with respect to use violation and unauthorised construction;*
- *Monitor action taken by the local bodies with respect to the use violations and unauthorised construction;*
- *Identify the areas of congestions of traffic in different parts of NCT, Delhi and suggest measures to remedy the same to the local bodies and other agencies;*
- *See that the traffic management strategies are devised and implemented with or without consultation with traffic experts, planners and the Unified Traffic & Transportation Infrastructure (Plg. & Engg.) Centre (UTTIPEC);*
- *Oversee compliance of fire safety measures and disaster management requirements particularly, in schools, colleges, hospitals etc.*
- *The STF may modify/ add any other object which is in line with improvement of habitat in Delhi.*

8. The petitioner, if being aggrieved by illegal construction in property in question, at first instance, is entitled to take up the issue before the concerned court where the matter is pending. Moreover, the petitioner can very well avail the remedy by approaching the STF. This Court as well in the case of W.P.(C) 1807/2018 titled as ***Devender v. Govt. NCT of Delhi & Ors.***, LPA 245/2019 titled as ***Abdul Gaffar v. South Delhi Municipal Corporation***, W.P.(C) 1773/2019 titled as ***Sneh Lata & Anr. v. North Delhi Municipal Corporation*** have dismissed the cases and given the liberty to the litigants to approach the STF.

9. Admittedly, in the present case, the Civil Suit is already pending and the alternate remedy is available at the behest of the petitioner.



Therefore, under the facts of the present case, this Court is not inclined to entertain the present petition the same is accordingly dismissed.

10. Accordingly, the liberty is reserved in favour of the petitioner to approach the Civil Court or approach STF or avail any other remedy available as per law.

PURUSHAINDRA KUMAR KAURAV, J

JULY 29, 2024/KG