



\$~34

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

+ W.P.(C) 17228/2024
SUMERPAL SINGH

.....Petitioner

Through: Ms. Honey Uppal, Mr. Aatreya
Singh, Advocates.

versus

GOVT OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Sanjay Kumar Pathak, SC with
Mrs. K. Kaomudi Kiran, Mr. Sunil
Kumar Jha, Mr. M.S. Akhtar,
Advocates for GNCTD.
Ms. Puja S. Kalra, Advocate for
MCD.
Mr. Prabhsahay Kaur, Ms. Palak
Mathur, Mr. Bir Inder Singh Gurm,
Advocates for DDA.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

%

13.12.2024

CM APPL. 73217/2024 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 17228/2024

1. The petitioner is the owner of the second floor of the House bearing No. 118, 2nd Floor, Lane no. 5 Anupam Garden, Sainik Farms, New Delhi -110068. Sainik Farms is admittedly an unauthorised colony.
2. The petitioner seeks a direction upon the respondents to permit him



to carry out repair work at his premises.

3. Ms. Puja S. Kalra, learned counsel for the Municipal Corporation of Delhi ["MCD"], who appears on advance notice, submits that issues concerning the status of various unauthorised colonies are pending before the Division Bench, *inter alia* in W.P.(C) 6455/2015. In the said writ petition, the Division Bench passed the following order dated 19.05.2023:

"The learned ASG has drawn the attention of this Court towards a meeting of High Powered Committee which took place on 18.05.2023. The minutes of the meeting read as under:

"Subject: Minutes of the meeting dated 18.5.2023

Vide order dated 11.5.2023 in the matter of Ramesh Dugar Convenor Area Development Committee, Sainik Farm Vs SDM & Others in W(C) No.6455/2015 & many CMs, the Hon'ble Court has directed as under :

"On 17.05.2022 Ms. Aishwarya Bhati, Learned ASG, was directed to explore the possibility of evolving a mechanism in the matter of repairs, minor alterations, etc. in this existing structure of the affluent unauthorized colonies. However, no concrete proposal has been submitted to this Court nor has any policy decision been taken up so far in the matter of regularization of affluent unauthorised colonies.

Mrs. Aishwarya Bhati, Learned ASG, is requested to take instructions from Municipal corporation of Delhi regarding regularization of the aforesaid colonies as well as for grant of permission to carry out minor repairs and address this court on the next date of hearing. As the present matter has been pending before this Court since 2015 and the affidavit filed by UOI reveals that they are yet to make a policy decision in matter, it is directed that a meeting between the Secretary, MoHUA, and Commissioner, MCD, be held to evolve a mechanism regarding permission to carry out minor repairs in the affluent unauthorized colonies till the issue of regularization of the same is not done."

In compliance of the order, a meeting was held on 18.05.2023 at 2.15 PM at MoHUA office, Nirman Bhawan, New Delhi. The meeting was attended by the following:

1. Shri Manoj Joshi, Secretary, MoHUA In chair



2. Shri S.K. Bagde, Additional Secretary, MoHUA

3. Shri Ganesh Bharti, Commissioner, MCD”

4. Shri Sandeep Kulharia, Director MoHUA

5. Shri Angel Bhati Chauhan, Dy. Commissioner, South Zone, MCD

6. Shri V.K. Bhatia, Chief Engineer (B) HQ, MCD

In the said meeting the following was discussed:

1. That the affluent unauthorized colonies have constructed buildings that are in clear violation of land use and layout plan

2. As far as the existing buildings in the affluent unauthorized colonies are concerned, as per provisions of NCT of Delhi Laws (Special Provisions) Act the same are protected against any punitive action till 31.12.2023.

3. No other special privilege with respect to relaxation of existing rules/regulations has been given to affluent unauthorized colonies under this Act.

4. If the permission of repairs is given, there is every likelihood that this will be misused and new unauthorised construction will come up in the name of repairs.

5. It will be next to impossible to devise a system/ mechanism to check this further growth of unauthorised construction.

6. Further this act of giving permission of repairs in unauthorised colonies will set a precedent which will result in similar demands from the residents of the other unauthorised developments in the city.

7. As the status of affluent unauthorized colonies still remains the same i.e. these colonies are still unauthorized colonies therefore, there are no provisions in existing Law/Rules/Regulation on the basis of which permissions can be granted to the occupants of unauthorized colony for carrying out repairs.”

The aforesaid minutes reveal that the Government of India/DDA/ Government of Delhi will not be taking any punitive action in the matter till 31.12.2023 in respect of repair, construction etc. is concerned and it has been stated that because the colonies are unauthorized, there is no provision under the existing law to grant any such permission.

Ms. Aishwarya Bhati, learned ASG has fairly stated before this Court that the Government of India shall be expediting the matter and shall be taking a policy decision in respect of the



colonies in question.

Let a fresh status report be filed before the next date of term.

List on 18.08.2023 before the same Bench.”

4. Ms. Kalra submits that the aforesaid order has been noticed by a coordinate Bench in W.P.(C) 165/2024 which, like the present case, also relates to repair/construction in property in Sainik Farms. The coordinate Bench passed the following order dated 24.07.2024:

“4. The petitioner has prayed for the following relief:-

“a) Issue a Writ / order/ direction in the nature of Mandamus, directing the Respondent No.1 to allow the petitioner to construct higher boundary wall/renovate the existing boundary wall in the property bearing no.K-500 and K- 506, Neb Sarai, W-12, Sainik Farms, New Delhi.”

5. The aforesaid prayer would indicate that the petitioner is seeking directions to respondent no.1 to allow the petitioner to construct higher boundary wall/ renovate the existing boundary wall in the property bearing no.K-500 and K-506, Neb Sarai, Sainik Farm, New Delhi.

6. Learned counsel appearing on behalf of the respondent-MCD points out that the Division Bench is already seized with the matter of various unauthorised colonies, including Sainik Farm. He places reliance on the order dated 19.05.2023 passed in W.P. (C) No.6455/2015, which reads as under:-

xxxx

xxxx

xxxx

6. In view of the aforesaid, the Court, at this stage, is not inclined to entertain the instant writ petition and leaves it open to the petitioner to either approach the Division Bench or to take any other remedial measure in accordance with law. Reserving aforesaid liberty in favour of the petitioner, the instant petition stands disposed of alongwith the pending application.”

5. The order of the Division Bench dated 19.05.2023 cites a meeting held under the Chairmanship of the Secretary, Ministry of Housing and Urban Affairs, in which it has been noted that “*affluent unauthorized colonies*” remain “unauthorised colonies” despite the moratorium granted



under the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 and there are no provisions for grant of permission as sought. The submission of the Additional Solicitor General was noted that Government of India would take expeditious policy decision with regard to such colony. In W.P.(C) 165/2024, the Court noted the order of the Division Bench and disposed of the writ petition with permission to the petitioner to approach the Division Bench or take any alternative remedies that may be available to her. The present case is similar to the case, which was before the coordinate Bench.

6. W.P.(C) 6455/2015 remains pending before the Division Bench, in which the Division Bench is in seisin of the status of such colonies, including Sainik Farms.

7. Following the order of the coordinate Bench dated 24.07.2024 in W.P.(C) 165/2024, the present petition is also disposed of with liberty to the petitioner to approach the Division Bench in the said writ petition for necessary permission or take any other alternative remedies that may be available to him.

PRATEEK JALAN, J

DECEMBER 13, 2024

“Bhupi/JM”/