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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5909/2014, CM APPL. 14483/2014, CM APPL. 15403/2015,
CM APPL. 16362/2016 and CM APPL. 8565/2018

M/S CAPITAL LAND BUILDER PVT. LTD.Petitioner
Through: Mr. Shalabh Gupta and Ms. Himani
Aggarwal, Advs.

versus

MUNICIPAL CORPORATION OF EAST DELHI & ORS
.....Respondents
Through: Mr. Tushar Sannu, SC for MCD with
Mr. Manoviraj Singh and Mr. S.
Karan Singh, Advs.
Ms. Mehak Nakra, ASC for GNCTD
with Ms. Gunjan Suyal, Adv.
Mr. Arun Birbal and Mr. Sanjay
Singh, Advs. for DDA.
Mr. Vivek Sharma and Ms. Meenal
Kapoor, Advs. for R-12.
Mr. Pardeep Kumar and Ms. Sanskriti,
Advs. for R-25 to 60.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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09.09.2024

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

*“1. Issue a writ / order / direction in the nature of mandamus there by
direct to the Commissioner MCD to remove all encroachment on land
meant for parks, roads etc and demolish all unauthorized construction
including any boundary wall made in the colony without permission and
sanction of MCD.*

*2. Issue a writ/order/direction in the nature of mandamus thereby
directing the respondent MCD and Police not to permit to raise any
unauthorized construction neither on pints of the petitioner company
nor on public utility lands such as park, road etc.*

3. Issue a writ / order / direction in the nature of mandamus by



directing the Commissioner MCD not to entertain any building plans for approval except from plot holders whose sale deeds were executed by the legal persons/ present petitioner as per the order of Hon'ble High court / Supreme Court.

4. Issue a writ / order / direction in the nature of mandamus by directing the Respondent no.3 (Police Commissioner) to make an inquiry into the conduct of Respondent no.8 and other Police authorities and specially to see if police officer/ officers are directly or indirectly involved in occupation of land, purchase of plots from fraudsters etc.

5. Issue a writ / order / direction in the nature of mandamus by directing the Delhi Government through Respondent no.2 (Divisional Commissioner) to make enquiries into the conduct of sub registrar who inspite of the High Court/ Supreme Court decision, acted in Connivance with land mafia and allowed registration of so called "Sale Deed".

6. Issue a writ / order / direction in the nature of mandamus by directing the Delhi Government to nullify all the documents executed by outsider and registered by such officer's respondents, without authority."

2. Learned counsel appearing for the petitioner points out that on 03.12.2014, the Court directed the parties to complete the pleadings and in the meantime, respondent no.6 was directed not to register any sale deed executed by respondent nos.9 and 10 and/or their representatives or Directors or any person claiming on their behalf with regard to Kailash Nagar Colony. He further submits that even the respondent-Corporation was also directed to ensure that no unauthorised and illegal construction is carried out in Kailash Nagar Colony.

3. Learned counsel, therefore, submits that the said order remained in operation during the pendency of the instant writ petition and even it is reiterated *vide* order dated 12.11.2018. He, therefore, submits that his grievance would be redressed if the directions issued in the aforesaid orders are made absolute.

4. The submissions made by learned counsel appearing for the petitioner, on the other hand, are strongly opposed by learned counsel appearing for the official respondents and private respondents. They jointly submit that there



have been various litigations between the petitioner and private individuals. Learned counsel appearing for the respondents submit that the Court, on 06.11.2023 and 15.01.2024, directed the petitioners to place on record the details of all pending civil proceedings pertaining to the subject property. According to them, the petitioner has not complied with the directions passed by this Court.

5. Learned counsel further points out that the controversy raised in the instant writ petition stands covered by the decision passed by this Court in W.P.(C)10646/2021 titled as ***RWA v. Kishan Devnani and Ors.***

6. I have perused the record and also gone through the respective orders referred by learned counsel appearing for the parties.

7. The Court has also perused the status reports filed by the respondent-Corporation from time to time.

8. Looking at the nature of the grievance raised in the instant writ petition, which relates to alleged encroachment on lands meant for park, road etc. and for demolition of unauthorised construction including boundary wall etc., the Court is of the considered opinion that said grievances can be raised before the Special Task Force [“STF”] which has been constituted pursuant to the directions passed by the Supreme Court *vide* order dated 24.04.2018 in W.P. (C) 4677/1985 titled as ***M.C. Mehta v. Union of India.***

9. The Division Bench of this Court in W.P.(C) 1807/2018 titled as ***Devender v. Govt. of NCT of Delhi and Ors.,*** while considering an almost similar controversy, has passed the following directions:-

“7. That apart, by another Office Memorandum No. O-33011/1/2006-DDI issued by the DDA on May 23, 2018, an action plan for monitoring all ongoing construction activities in Delhi, fixing of responsibilities in case of violation of Master Plan, unified Building Byelaws and issues with regard to illegal constructions have been dealt with and even a plan for receipt of complaint with regard to illegal and unauthorized



*constructions already made and steps to be taken for their removal have been indicated. **Once under the orders passed by the Hon'ble Supreme Court, a Special Task Force has been created and an action plan has also been drawn for the purpose of preventing any further illegal construction and also for removal of constructions unauthorizedly and illegally undertaken, now the purpose of all these writ petitions filed before us in public interest or otherwise stands fulfilled to a certain extent and further action are to be taken in the matter based on the duties entrusted to the Special Task Force and the action plan drawn under the supervision of the Hon'ble Supreme Court, that being so, it is not appropriate now for us to exercise our jurisdiction in all these matters.** Suffice it would be to say that all these petitioners are granted liberty to raise appropriate pleas before the authorities as are notified in the Office Memoranda dated April 25, 2018 and May 23, 2018 and the authorities are directed to proceed in the matter as directed by the Hon'ble Supreme Court and indicated in the above-mentioned Office Memoranda with regard to grievance of each of the petitioners."*

10. In case the petitioner is of the opinion that any part of the grievance may not be agitated before the STF, it may avail the remedy available under civil law.
11. In no case, the grievance of the nature raised in the instant writ petition can be allowed to be raised and entertained under the writ jurisdiction. The same requires minute scrutiny of facts. Unless the parties are afforded proper opportunity of hearing, it would not be possible to deal with the issue. In light of the Supreme Court's order in the case of ***M.C. Mehta*** (*supra*), such grievance must be first looked into by the specialised forum, which in the instant case is the STF.
12. Accordingly, the instant writ petition stands disposed of alongwith the pending applications.
13. All rights and contentions are left open.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 9, 2024/p