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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 18th March, 2025*

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W.P.(C) 3327/2025**KARISHMA RESIDENTS WELFARE ASSOCIATION AND
FORUM**Petitioner

Through: Mr. S. Ghosh, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.RespondentsThrough: Mr. Lalitaksh Joshi and Ms. Ananya Sanjiv
Saraogi, Advocates for R-2.

Mr. Rajesh Srivastava, Advocate for R-3.

Mr. Rajshekhar Rao, Senior Advocate with
Mr. Nakul Mohta, Mr. Arihant Singh and
Mr. Yashraj Samant, Advocates for R-5.
(M: 9821446537).Mr. Bharat Monga, Advocate for R-6 and R-
7. (M: 9354296293).Mr. Mukesh Gupta and Mr. Sachin Singh
Shahi, Advocates for MCD.**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE RAJNEESH KUMAR GUPTA****Pratibha M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

CM APPL. 15750/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 3327/20253. The present petition has been filed by the Petitioner Association-
Karishma Residents' Welfare Association and Forum AudyogicKaramchari
Cooperative Group Housing Society Ltd. under Article 226 of the



Constitution of India, *inter alia*, seeking removal of encroachments and unauthorized construction by certain members of the Audyogic Karamchari Cooperative Group Housing Society Ltd., Patparganj, which has about 260 flats.

4. The Petitioner Association claims to be an Association registered on 19th February, 2025 and having 20 members. Their list is set out below :-

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S.No	Name	Address	Occupation	Signature
1	Sanjay Nautiyal	Flat No. 74, Karishma Apartment, I P Extension Patparganj, Delhi - 110092	Professional	ATTESTE NOTARY PUBL OF INDIA REGD. No. 16531
2	Tarun Gupta	Flat No. 132, Karishma Apartment, I P Extension Patparganj, Delhi - 110092	Professional	NOTARY PUBL OF INDIA REGD. No. 16531
3	Arvind Kumar	Flat No. 235, Karishma Apartment, I P Extension Patparganj, Delhi - 110092	Professional	NOTARY PUBL OF INDIA REGD. No. 16531
4	Gagan Mittal	Flat No. 14, Karishma Apartment, I P Extension Patparganj, Delhi - 110092	Professional	NOTARY PUBL OF INDIA REGD. No. 16531
5	Sunil Kumar	Flat No. 173, Karishma Apartment, I P Extension Patparganj, Delhi - 110092	Professional	NOTARY PUBL OF INDIA REGD. No. 16531



6.	Manish Anand	Delhi -110092 Flat No. 68, Karishma Apartment , I P Extension Patparganj, Delhi -110092	Professional	NOTARY PUBLIC DELHI INDIA 50 ATTESTED
7	Vijay Singh	Flat No. 111, Karishma Apartment , I P Extension Patparganj, Delhi -110092	Government Employee Honorary Member	NOTARY PUBLIC DELHI INDIA
8	Prashant Kumar Maheshwari	Flat No. 95, Karishma Apartment , I P Extension Patparganj, Delhi -110092	Government Employee Honorary Member	NOTARY PUBLIC DELHI INDIA
9	Rajesh Singh Gusain	B-12/6, Gali No. 3 West Vinod Nagar Delhi -110092	Business	NOTARY PUBLIC DELHI INDIA
10	Vivek Anand	H.No. 348/2 Asha Rani Col. No. 4, Mandawala Pur Delhi -110092	Employed IT Professional	NOTARY PUBLIC DELHI INDIA
11	Rohit Garg	Flat No. 34, Karishma Apartment , I P Extension Patparganj, Delhi -110092	Business	NOTARY PUBLIC DELHI INDIA
12	Vijay Kumar.	H.No. 145 Chander Vihar Mandawala Delhi -110092	Self Employed	NOTARY PUBLIC DELHI INDIA
13	Ashok Kumar Bansal	Flat No. 25, Karishma Apartment , I P Extension Patparganj, Delhi -110092	Retired Government Employee	NOTARY PUBLIC DELHI INDIA
14	Sunil	Flat No. 189, Karishma	Professional	NOTARY PUBLIC DELHI INDIA

ATTESTED



	Simil	Apartment, I P Extension Patparganj, Delhi -110092	
15	Jitendra Kr Gupta	Flat No. 186, Karishma Apartment, I P Extension Patparganj, Delhi -110092	Business
16	Varun Thukral	Flat No. 254, Karishma Apartment, I P Extension Patparganj, Delhi -110092	Professional
17	Ajay Kumar Sherma	Flat No. 48, Karishma Apartment, I P Extension Patparganj, Delhi -110092	Business
18	Sabyasachi Banerjee	Flat No. 252, Karishma Apartment, I P Extension Patparganj, Delhi -110092	Business
19	Sudhir Chandra Toshi	H.No. B-229 old No. 7811 Badrinath Mandir Marg, West Vihar Nagar Delhi -110092	Employed Professional
20.	Vivek Satyavali	A-74 old No. 16 Nand, Gali No. 6, West Vihar Nagar Delhi -110092	Business

5. The flat numbers of the members at Sl. No. 9, 10 and 12 above are:

- i) Mr. Rajesh Singh Gusain- Flat No. 83
- ii) Mr. Vivek Anand- Flat No. 185
- iii) Mr. Vijay Kumar- Flat No. 47

6. The allegation in the present petition is that despite the various complaints being made against Respondent Nos. 3 to 7 the unauthorized encroachments and illegal construction are not being removed.

7. The submission on behalf of the Respondents is that the present



petition is completely *mala fide* inasmuch as, the Petitioner Association has been formed by persons, who contested the elections for the Managing Committee of the Audyogic Karamchari Cooperative Group Housing Society and lost. The Respondents seek to place on record photographs to show that the Petitioners themselves have encroachments and have done unauthorised construction.

8. Mr. Rajshekhar Rao, Id. Senior Counsel appearing for Respondent No.5 has brought to the notice of this Court, the order passed in ***Himanshu vs. East Delhi Municipal Corporation and Anr. W.P.(C) 8140/2022*** on 31st July 2023, where, in such matters, the Special Task Force (hereinafter 'STF') has been constituted pursuant to the orders of the Supreme Court in ***W.P.(C) 4677/1885*** titled as '***M. C. Mehta vs. Union of India***' passed on 24th April 2018 and 18th July 2018. According to him, the STF would be the appropriate body to look into this matter.

9. In the opinion of this Court, when petitions for removal of unauthorized construction and encroachments are filed by third parties, the members of the Petitioner Association themselves ought to come with clean hands. In order to verify the allegations made against the Petitioners, there ought to be a report to check if the members of the Petitioner Association themselves have not indulged in any encroachments and unauthorized construction.

10. Let the Municipal Corporation of Delhi (hereinafter '*MCD*') inspect the flats of all the 20 members of the Petitioner Association, whose names are set out above with the flat numbers and file a report if there is any unauthorized constructions and encroachment in their flats first.

11. The MCD shall also do a survey and see if there is any unauthorized



construction in the Society, in the other flats as well.

12. The observations of the coordinate Bench in *Himanshu(supra)* vide order dated 31st July 2023, are set out below: -

“3. Mr. Manu Chaturvedi, learned counsel for MCD, at the outset, states that a Special Task Force [hereinafter ‘STF’] has been constituted by the DDA, pursuant to orders of the Supreme Court in W.P.(C) 4677/1985. The STF, comprising of a 15 member-body under the Chairmanship of Vice Chairman of DDA, entertains complaints relating to unauthorised construction and encroachments. Mr. Chaturvedi’s contention is that the Petitioner be directed to approach the STF to seek redressal of his grievances qua the encroachments which form the subject matter of the petition. He has also highlighted that this Court is being flooded with similar PILs in respect of a large number of encroachments and illegal construction despite the fact that the said STF is in existence and is already looking into such instances of unauthorised and illegal construction/ construction over public land.

4. It has also been brought to the notice of this Court that a Coordinate Bench of this Court on 20th September, 2018, in W.P.(C) 1807/2018, passed the following order:

“1. All these petitions have been filed either in public interest or otherwise pointing out various illegalities in constructions made not only contrary to the sanctioned plan but also in contravention to the various laws including Municipal Corporation Act 1957, DDA Act 1957, NDMC Act, 1994, Archaeological Sites and Remains Act, 1958 and the Ancient Monument Preservation Act, 1904, so also encroachment on public land / street etc.

2. It is the case of each of the petitioners before us that the authorities have permitted constructions to be carried out in an illegal manner in various areas throughout the NCT of Delhi in violation of statutory provisions. Even footpaths have been encroached upon and constructions are being



made. The matters were seized of, various orders were passed and we are informed that in one proceeding, due to violation of certain orders passed in W.P.(C) No. 6818/2014, Contempt Case (C) No. 90/2015 is pending before us and as directed by this Court in certain cases, a CBI enquiry is also conducted and a report of the CBI has been produced before us in a sealed cover.

3. This Court while hearing the matters at various stages, had taken the assistance of Sh. Sanjay Jain, Sr. Adv./ ld. Amicus Curiae, who has also given certain suggestions in W.P.(C) No. 5882/2017, which are available on record and reports with regard to the suggestions made in the matter of coordination between various authorities for removal of encroachments, assistance of police to be taken in the matter and various issues connected with the difficulties faced while removing the encroachments by the authorities, so also suggestions with regard to development of a software for implementing the provisions of the DMC Act have been brought on record.

*4. We have taken note of all these contentions, but today it has been brought to our notice that the Hon'ble Supreme Court is seized of the issue pertaining to illegal constructions both ongoing and constructions already concluded and in **Writ Petition(s) (Civil) No(s). 4677/1985 M.C. Mehta v. Union of India & Ors.** various orders have been passed by the Hon'ble Supreme Court. Two such orders passed on April 24, 2018 and July 18, 2018 have been brought to our notice.*

5. In the order passed on April 24, 2018, the issue of unauthorized construction in various colonies has been dealt with by the Hon'ble Supreme Court and with regard to both ongoing and constructions already completed and encroachments in various areas, the following directions have been issued by the Hon'ble Supreme Court:-



“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.”



6. Similarly, in the order passed on July 18, 2018 in the same case certain submissions made by the learned Attorney General have been taken note of and steps for receiving complaints, development of mobile application and registration of complaints pertaining to unauthorized constructions and encroachments have been indicated in the order. We are informed that based on various directions issued by the Hon'ble Supreme Court as indicated in the aforesaid petition, the Delhi Development Authority vide Office Memorandum No. O-33011/1/2006-DDI dated April 25, 2018 has constituted a Special Task Force consisting of about 15 Members, the objective of the Task Force and the Rules and procedure for functioning of the Task Force has been brought to our notice.

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 abovementioned Office Memoranda with regard to grievance of each of the petitioners.

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10. With the aforesaid, we dispose of all the aforesaid matters granting liberty to the petitioners to proceed for making their complaints before the Special Task Force in accordance with the Scheme formulated and the procedure contemplated in the Office Memoranda, as are indicated hereinabove and the Special Task Force to deal with the complaints in accordance with law. All pending applications thereto, are also disposed of, as such."

[Emphasis supplied.]

5. Mr. Chaturvedi has further drawn the attention of this Court towards order dated 28th February, 2019 in W.P.(C) 1773/2019, 4 and the same reads as under:

*"6. Vide order dated 20.09.2018 made in Writ Petition (Civil) No. 1807/2018 titled of **Devender vs. Government 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.*

7. 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.*

8. 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.

9. 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.



10. *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.*
11. *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.*
12. *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."*
[Emphasis supplied.]
6. *In light of the above, the Petitioner shall be at a liberty to approach the STF in respect to his existing grievance. The status report filed by MCD in the present matter can also be brought to the notice of STF for taking appropriate action in accordance with law.*
7. *It is needless to mention that in case the Petitioner approaches the STF, the STF shall make all possible endeavours to dispose of the matter as expeditiously as possible."*
13. It is clear from the above, that the issue of unauthorised construction and encroachments is the mandate of the Special Task Force. Accordingly, the MCD shall submit a report to the STF which shall proceed in accordance with law.



2025:DHC:1784-DB



14. The Petitioner Association shall approach the STF for any action after the MCD's report is submitted.
15. The present order to be communicated to the STF at stf.dda18@dda.org.in
16. Insofar as the second prayer of dissolution of the Managing Committee is concerned, the same is bereft of any merit and it is clear that the Petitioner Association's members also wish to pursue their political agenda in the Society before this Court, which cannot be permitted.
17. The Petitioners are also free to approach the Registrar Co-operative Societies (hereinafter 'RCS') for any reliefs. If any complaint is submitted, the RCS shall take up the matter expeditiously.
18. The petition is disposed of in the above terms. Pending application(s), if any, shall also stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 18, 2025/nd/ck