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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9288/2023 & CM APPL. 35371/2023**

MUKESH BHARDWAJ

.....Petitioner

Through: Dr. Ashwani Bhardwaj, Advocate
(through VC).

versus

LT GOVERNOR GNCT OF DELHI AND ORS.Respondents

Through: Mr. Prashant Manchanda, ASG,
GNCTD alongwith Ms. Nancy Shah
and Ms. Isha Baloni, Advocates for
GNCTD/R-1, 2 & 3.

Ms. Neeru Vaid, Ms. Pooja Dua and
Mr. Dalbir Singh, Advocates for
MCD/ R-4(through VC).

Ms. Manika Tripathy, Standing
Counsel for DDA alongwith Mr.
Ashutosh Kaushik, Advocate for
DDA/R-5.

Mr. Alok Gupta and Mr. Ranjeet
Singh, Advocates for DJB/R-7.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **07.01.2025**

1. The petitioner has filed the present petition, *inter alia*, praying as
under:

“A. ISSUE THE WRIT OF MANDAMUS or any other appropriate writ and/or order or direction, thereby directing the Respondents, especially Res. No.1,4 to 6 to stop and demolish the illegal constructions on the subject lands [**KHASRA NO.-98//8/1-2 (04-16) REVENUE ESTATE- VILL- BANKNER, TEHSIL-NARELA, DISTRICT NORTH**), **KHASRA NO. 100/2 (4-18), 9(0-17) OF VILLAGE SANOTH, DELHI**], and vacate the same with immediate effect by the Special Task Force.”



2. The petitioner also prays that directions be issued for conducting an inquiry as to how a water pipe line has been installed by the Delhi Jal Board in Khasra No.98/8/1-2(4-16) of Village Bankner, Delhi.
3. Respondent no.5/Delhi Development Authority (hereafter *DDA*) has filed an affidavit, *inter alia*, stating that the lands comprising Khasra Nos.98//8/1 (3-18), 98//8/2 (0-18) of Village Bankner has neither been acquired by DDA nor is in possession of DDA. It is further stated that part of village Bankner has been declared as 'Development Area' *vide* notification no.F.12(157)/2018/L&B/PLG./2473 dated 10.09.2021 and the Khasra numbers mentioned do not fall under the Development Area. It is also stated that the land records as available do not reflect that Khasra Nos.100/2(4-18), 9(0-17) of Village Sannoth is entered into the land records acquired by DDA.
4. The aforesaid was noted by this Court in the order dated 24.10.2024. This court had also noted that the stand of the learned counsel of the Municipal Corporation of Delhi (hereafter *MCD*) that Villages Sannoth and Bankner had been placed at the disposal of the DDA. MCD relied upon the notification [S.O. 3302(E)] dated 25.09.2020 issued by the Ministry of Housing & Urban Affairs in support of the said stand.
5. In view of the above, this court had directed the DDA to take action in accordance with law and file a fresh status report.
6. DDA has since filed a fresh status report dated 28.11.2024. It is submitted that the lands comprising in the villages in question are now urbanised and the responsibility for taking any action regarding unauthorised construction or encroachment rests with the MCD. It is also stated that the area in question in village Banker is a green belt. The learned counsel



appearing for the DDA has drawn the attention of this court to an Office Order dated 15.05.2024 which sets out the Standard Operating procedure for complaint redressal mechanism by the Special Task Force (STF). Paragraph 9 of the said Office Order which addresses the issues of overlapping jurisdiction, is set out below:

“9. However, for resolving the issue of overlapping of jurisdiction, action on unauthorized construction/encroachment would be taken by agencies as per jurisdiction listed below:-

S.No.	Area	Activity	Jurisdiction/ Responsibility
1.	Urbanised and Low Density Residential Area (LDRA)	Unauthorised Construction	MCD
		Encroachment	Land Owning Agency
2.	Notified Development/ Planning Area	Unauthorised Construction	DDA
		Encroachment	Land Owning Agency
3.	Green Belt (As stipulated in clause 3.2.1 of MPD-2021, Annexure-VI)	Unauthorised Construction	Revenue Department/ MCD
4.	Lal Dora and notified extended Lal Dora of all villages and all colonies listed in National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Regulations, 2019.	Unauthorised Construction	MCD
		Encroachment	Land Owning Agency
5.	Roads having ROW of 60 feet or above and which are being maintained by PWD, GNCTD.	Encroachment	PWD with assistance of MCD

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7. It is apparent from the above that the action regarding unauthorised construction in urban and low density residential area is required to be taken



by the MCD. Further, the Revenue Department and the MCD is also required to take action in respect of unauthorised construction carried out in a green belt. Insofar as encroachment in urbanized and low density residential area is concerned, the same is required to be dealt with by the land owning agency. In the present case, *prima facie*, the DDA is required to be considered as land owning agency in view of the notification dated 25.09.2020 placing the area of two villages at the disposal of the DDA.

8. Insofar as raising of unauthorized construction is concerned, MCD is required to take the necessary steps.

9. In view of the above, we dispose of the petition by directing the MCD to take necessary steps in respect of any unauthorized construction on the land in question, in accordance with law.

10. The STF is also directed to examine the petitioner's complaint in this regard and if necessary, take such action as may be warranted.

11. The petition is disposed of in the aforesaid terms. Pending application also stands disposed of.

12. If there is any difficulty in identifying the lands in question, we direct the concerned SDM and revenue authorities to make sure that copies of the land records are made available to the concerned authorities and all possible assistance is rendered in this regard.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 07, 2025

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