

Shri. Pradeep Gupta vs South Delhi Municipal Corp. And Ors on 19 February, 2019

Author: Anup Jairam Bhambhani

Bench: Anup Jairam Bhambhani

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) No. 10775/2017 & CM Nos. 16910/2018, 28474/2018
SHRI. PRADEEP GUPTA Petitioner
Through: Mr. Anil Agarwal, Adv.

versus

SOUTH DELHI MUNICIPAL CORP. AND ORS Respondent
Through: Mr. Ajjay Aroraa and Mr. Kapil
Dutta, Advs. for R-1.
Mr. Varun Kumar Tikmani, Adv. for
R-2 along with SI Brijesh Kumar,
P.S. Safdarjung Enclave
Mr. O. P. Verma, Adv. for R-3 & 4.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER

% 19.02.2019 The petitioner is aggrieved by alleged unauthorized construction in his neighbouring house bearing No. W-18 Green Park, New Delhi.

2. It is the petitioner's contention that the property has been built in violation of the sanctioned building plan. Learned counsel for the petitioner also states that in fact the building plan itself has been sanctioned in contravention of applicable Building Bye-Laws. Counsel further states that report dated 21.01.2019 submitted by the Local Commissioner appointed under the orders of this court is entirely in his favour and bears-out what the petitioner contends.

3. All respondents in the matter are represented by Mr. Ajjay Aroraa, learned Standing Counsel for respondent No.1/SDMC, who states that the subject property already stands booked for unauthorized construction by way of deviations and excess coverage against the sanctioned building plan ; that a demolition order has also been passed; and that partial demolition action has been taken against the subject property. He further states that as on date, no construction exists on the subject property that is not within the compoundable limits; and if the owner chooses not to have such deviations compounded, further action for removing such unauthorized construction would also be taken, which is scheduled for 26.02.2019,. Counsel says that until now no application for compounding the deviations has been received from the owner.

4. Be that as it may, in the context of the petitioner's grievance, it transpires that in compliance of orders of the Supreme Court in Writ Petition (Civil) No. 4677/1985 titled M.C. Mehta vs. Union of India & Ors, the Ministry of Housing & Urban Affairs ("MHUA") of the Government of India has vide Office Memorandum dated 25.04.2018 constituted a Special Task Force to comprehensively address violations of the provisions of the Unified Building Bye Laws and Master Plan for Delhi-2021 relating inter alia to construction activity and land-use in Delhi. Vide another Office Memorandum dated 23.05.2018 the MHUA has also formulated an action plan for monitoring construction activities in Delhi and for fixing responsibility in case of violations of the Unified Building Bye Laws and the Master Plan.

5. Vide order dated 20.09.2018 made in Writ Petition (Civil) No. 1807/2018 titled Devender vs. Government of NCT of Delhi & Ors. (and connected matters) by the Division Bench of this Court presided-over 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. This petition is disposed of in the above terms.

12. Pending applications, if any, also stand disposed of.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 19, 2019 sr