

Smt. Uma Devi Lakhota vs Sdmc And Ors on 20 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) 3729/2018 & CM Nos.14743/2018 & 8208/2019
SMT. UMA DEVI LAKHOTIA Petitioner
Through : Ms. Anusuya Salwan and Ms. Nikita
Salwan, Advs.

versus

SDMC AND ORS. Respondent
Through : Mr. Sunil Malhotra, Adv. with Mr. N.
K. Aggarwal, Adv. for R-2 & 3.
Mr. Rajeshwar Dagar and
Mr. Himanshu Dagar, Advs. for
SDMC.

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

% 20.02.2019 The petitioner is aggrieved by alleged unauthorized construction in property bearing No. B-37 Soami Nagar, New Delhi.

2. All respondents in the matter are represented.

3. Learned counsel for respondent No.1/SDMC states that they have filed status report on 19.12.2018 in the matter, which however is not on record. Counsel states that as per the record of respondent No.1/SDMC construction on the terrace of the third floor was carried-out in the subject property without sanctioned building plans ; it was booked for unauthorized construction ; demolition action has been taken on 04.05.2018 and the structure has been rendered un-inhabitable. He further states that as per their procedure, police authorities have been informed to keep watch and vigil on the subject property to avoid further unauthorized construction.

4. Ms. Anusuya Salwan, learned counsel appearing for the petitioner disputes that any meaningful action has been taken. She states that in view of only cosmetic demolition action having been taken, the errant parties, namely respondents Nos. 2 and 3, have re-constructed their unauthorized portion, which is in breach even of order dated 17.04.2018 made in the matter.

5. It is evident that the petitioner is not satisfied with the action taken by respondent No.1/SDMC.

6. 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.

7. 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.

8. 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.

9. 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.

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.

13. The petition is disposed of in the above terms.

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

15. Needless to add that the disposal of this writ petition is without prejudice to the rights and contentions of the parties ; and no view has been expressed in relation to any dispute in relation to the subject property by this court.

ANUP JAIRAM BHAMBHANI, J FEBRUARY 20, 2019 sr