

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No. 87 of 2015 (O&M)

DATE OF DECISION : 14.09.2015

The Sub Registrar, Mini Secretariat, Gurgaon, Haryana

.... APPELLANT

Versus

Ganga Jeewan

.... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Lokesh Sinhal, Addl. A.G., Haryana,
for the appellant.

Mr. Shailendra Jain, Senior Advocate, with
Mr. Bhagender, Advocate,
for the respondent.

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SATISH KUMAR MITTAL, J. (Oral)

Sub Registrar, Gurgaon, has filed this intra-court appeal under Clause X of the Letters Patent against the order dated 02.12.2014 passed by the learned Single Judge, allowing the writ petition (CWP No. 19487 of 2014) filed by Ganga Jeewan (respondent herein) challenging the action of the appellant not to register a sale deed on the ground that NOC for the same is required, as the land sought to be sold falls within 900 meters of the location of ammunition depot.

The learned Single Judge, while allowing the writ petition, has observed as under :-

“The learned senior counsel appearing on behalf of the petitioner points out that even if a NOC is required, it could be only for the purpose of ensuring that no construction made that could imperil the safety of its inhabitants in a situation where an ammunition depot is located in its vicinity. This again ought to be taken as merely a building regulation and cannot mean a restraint against alienation. The learned senior counsel also points out that the minutes of the meeting do not refer to any particular competent authority as having the power to issue a NOC.

The refusal of the respondent to register, is legally untenable. I mandate through this order to receive the document presented before the respondent and cause the registration thereof. I also direct that he will be at liberty at all times to discard the legally untenable instructions given by the Deputy Commissioner that there shall be no registration in respect of any property without NOC. The Deputy Commissioner is not a party in this case and this order may be directed to the Deputy Commissioner to mend his own order in future which is per se against law in causing a fetter against alienation which is impermissible.”

Learned counsel for the appellant argued that in view of the interim order dated 07.12.2011 (Annexure A-2), whereby the Hon'ble Apex Court has directed the parties in that case to maintain status quo in respect of nature, title and possession of the subject property, the Sub Registrar in this case declined to register the sale deed submitted by the respondent. Learned counsel further argued that there is prohibition of construction

within 900 meters of the location of ammunition depot and the land in question in the instant case is situated within the said prohibited area. However, it has not been disputed by learned counsel for the appellant that as far as alienation of the land in such prohibited area is concerned, there is no restriction imposed by the statute or by any court of law. In view of the fact that there is no restriction on the alienation of the land within the said prohibited area, in our opinion, the Sub Registrar cannot refuse to register a sale deed on the ground of alienation of the land in such area. No clog, except in the due course of law, can be imposed on the alienation of a property by a citizen. However, the right of transferee to raise construction on the land is always subject to restriction imposed in this regard and approval of the building plan by the competent authority. In this case, since there is no statute/order by a court of law which prohibits alienation of land falling within 900 meters of the location of ammunition depot, therefore, the learned Single Judge has rightly observed that the Sub Registrar has wrongly refused to register the sale deed. Thus, we do not find any illegality in the order passed by the learned Single Judge.

Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

September 14, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE