

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.10764 of 2014 (O&M)

DATE OF DECISION: 23.02.2016

Harish Chander

....Petitioner

versus

Haryana Urban Development Authority and another

.....Respondents

**CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Vikas Mohan Gupta, Advocate for the petitioner

Mr. Rishab Gupta, Advocate for the respondents

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

The petitioner has challenged the validity of Regulation No.15 of The HUDA (Disposal of Land and Building) Regulations, 1978. This challenge is, however, given up before us. The petitioner restricts the petition to its claim for a No-Objection Certificate (NOC) from the respondents. The petitioner seeks the NOC to create a mortgage/further mortgage in respect of financial assistance from a bank.

2. The respondents sold the industrial plot in question to the petitioner's predecessor on the terms and conditions of allotment letter dated 06.02.1998 (Annexure P/1). On 31.12.1999, the plot was transferred to the petitioner's name. A conveyance deed was executed by the respondents on 14.03.2003 conveying the plot to the petitioner. On 02.04.2013, the respondents granted an NOC to the petitioner authorising him to create a mortgage subject to the terms and conditions mentioned therein.

3. On 02.05.2014, the petitioner made an application for an NOC in respect of the further financial assistance that he intends

availing of. The petitioner's grievance is that the respondents have not responded to the same.

4. As we mentioned earlier, the petitioner has given up challenge to Regulation 15. Regulation 15 reads as under:-

"15. Transfer of rights in the land/building by the transferee or lessee. - The transferee or lessee shall not transfer his right in the land/building except with the previous permission of the Estate Officer. The Estate Officer while granting such permission may impose such conditions, as may be decided by the Chief Administrator, from time to time."

5. The respondents are entitled to a first and paramount charge over the property for the unpaid portion of the price of the plot including any enhancement. This is in view, *inter alia*, of Clause-13 of the letter of allotment and Clause-2 of the Conveyance Deed. However, as the respondents have a statutory right under Regulation-15, they also have a corresponding duty to exercise that right reasonably and by informing the petitioner their decision in regard to any application seeking permission to transfer the right. The respondents may refuse the permission or they may grant the permission unconditionally or subject to certain terms and conditions. They must, however, take a decision on the application one way or the other. The respondents shall take a decision on the petitioner's application and communicate the same to the petitioner by 31.03.2016.

6. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

23.02.2016
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(ARUN PALLI)
JUDGE