

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

CWP No. 25343 of 2016
Date of decision: 01.08.2017

Santosh Devi and ors. .. Petitioners

vs.

Union of India and ors. .. Respondents

Coram: HON'BLE MR.JUSTICE S.J.VAZIFDAR,CHIEF JUSTICE
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present:- Mr. D.R. Bansal, Advocate
for the petitioners.

Mr. Namit Kumar, Advocate and
Mr. Alankrit Bhardwaj, Advocate
for UOI.

Mr. Deepak Balyan, Additional Advocate General, Haryana

S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioners have challenged the respondents refusal to register a sale deed under Section 17 of the Registration Act, 1908 and seek a writ of mandamus directing them to register the same without insisting on a No Objection Certificate (NOC) under section 7A of the Haryana Development and Regulation Urban Areas Act, 1975 (for short 'the 1975 Act'):-

2. Section 7A of the 1975 Act reads as under:-

Notwithstanding any thing contained in any other law for the time being in force, where any document is required to be registered under the provisions of section 17 of the Indian Registration Act, 1908, purporting to transfer by way of sale or lease any vacant land having an area of less than one hectare in an urban area as may be notified specifically by the Government from time to time for the purposes of this section, no Registration

Officer appointed under the above said Act shall register any such document unless the transferor produces before such Registration Officer a no objection certificate issued by the Director or an officer authorised by him in writing in this behalf, to the effect that the said transfer does not contravene any of the provisions of this Act and its rules and such no objection certificate shall be issued within ninety days of the date of receipt of the application for the same:

Provided that-

(a) if the area of vacant land, which is proposed to be transferred does not exceed one thousand square meters, the above said no objection certificate shall be issued within thirty days of the date of receipt of application by the Director, where-

(i) the land is situated in a colony for which a licence has been issued under section 3 of this Act, or

(ii) the transfer proposed is as a result of family partition, inheritance, succession or partition of joint holdings not with the motive of earning profit, or

(iii) the transfer is in furtherance of any scheme sanctioned under any law;

(b) if the above said application for grant of no objection certificate submitted to the Director or an officer authorised by him in writing in this behalf is not disposed off through an order in writing within the prescribed period of ninety days or thirty days as described in this section, the no objection certificate shall be deemed to have been granted;

(c) all applications for grant of no objection certificates shall be accompanied by the following documents:-

(i) title of land,

(ii) draft copy of registration deed;

(iii) an affidavit to the effect that the site is covered under this Section, if the area of the land does not exceed one thousand square meters.”

3. The petitioners contend that it is not necessary for them to obtain an 'NOC' from the Director as the property purchased by them comprises of built-up houses/shops. In other words, according to them, the properties do not constitute vacant land and, therefore, do not fall within the ambit of Section 7A of the 1975 Act. The respondents do not controvert this contention.

4. Respondent No. 8- Tehsildar -cum-Sub Registrar, Kurukshtra addressed the following communication vide letter dated 26.09.2016:-

“It is submitted that Didar Nagar situated in Muraba No.5/28 of village Mirzapur is authorized by Haryana Government and Senior Town Planner Haryana and Municipal Council Thanesar. The plans have been passed by Municipal Council Thanesar. Two sale deeds have come before me for registration but sale deed could not be register as there is no option in the software as told by the computer operator whereas this colony is authorized and for registering the sale deeds of this colony there is no need of NOC from District Town Planner.

Therefore, the option may be put in the software for registering such sale deeds in public interest so that public is not harassed.”

5. In other words, therefore, respondent No.8 does not say that the document cannot be registered without the 'NOC'. He merely states that the software does not have the necessary option in the absence of a 'NOC'. It

was clarified that what respondent No.8 means is that if the 'NOC' is not mentioned in the form to be uploaded online, the registration cannot be effected.

6. The District Informatics Officer, respondent No.7, Kurukshetra vide reply dated 27.09.2016 stated that his duty was limited to the software only and that if there was any difficulty in registering the documents due to the software, the District Revenue Officer, who is the Nodal Officer of e-registration work may be contacted.

7. If any document is liable to be registered and offered for registration, the respondents cannot refuse to register the same due to the software being inadequate. That is a difficulty that the respondents must address and resolved through their software engineer and consultants.

8. The petition is, therefore, disposed of by directing the respondents to register the document, if it otherwise meets all the requirement of law entitling it to be registered. In other words if the 'NOC' is required, the same must be produced. However, if it is not required, the respondents must register the document without the 'NOC'. It is for the respondents to overcome the technical difficulty because of their programme. The order shall be complied with latest by 30th September 2017.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

01.08.2017
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Whether speaking/reasoned
Whether Reportable:

Yes
Yes