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

CR No. 2247 of 2016 (O&M)
Date of Decision: 28.11.2018

Haryana Urban Development Authority, Hisar through its Estate
Officer

-Petitioner

Vs

Ruldu Ram and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Aakash Singla, Advocate,
for the petitioner.
Mr. Sandeep Kumar Goyat, Advocate,
for respondent No.1.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has assailed the order dated 08.02.2016
passed by the Executing Court/Civil Judge (Junior Division),
Hisar giving certain directions.

Perusal of the record would show that suit for specific
performance filed by respondent No.1 against respondent No.2
was dismissed by the trial Court, however in appeal before the
Additional District Judge, Hisar, the same was allowed.

Following decree was passed:-

*"It is ordered that the appeal succeeds
and the same is hereby allowed with costs
throughout. The judgment and decree dated
21-2-2006 are hereby set aside. The suit of*

plaintiff for specific performance of agreement dated 19-6-1990, for sale of Kothi No.319 situated at Urban Estate-II Hissar is decreed with costs. The defendant is directed to get the conveyance deed executed from deft No.2 in favour of the plaintiff and then to execute the sale deed in respect of disputed Kothi, in favour of plaintiff and get the same registered in favour of plaintiff after getting conveyance deed.”

Perusal of the operative part of the judgment would show that the appeal was allowed with costs throughout. The judgment and decree dated 21.02.2006 passed by the trial Court was set aside. The suit of the plaintiff for specific performance of agreement to sell dated 19.06.1990 for sale of Kothi No.319, Urban Estate-II, Hisar was decreed with costs. Defendant- Sewa Singh was directed to get the conveyance deed executed from defendant No.2/petitioner in favour of plaintiff/respondent No.1 and then to execute the sale deed in respect of disputed Kothi in favour of plaintiff/respondent No.1 and get the same registered in favour of respondent No.1 after getting conveyance deed.

Evidently, a conveyance deed was to be executed by the petitioner in favour of respondent No.2 who will simultaneously assign the same in favour of respondent No.1.

Before execution of sale deed by Sewa Singh in favour of respondent No.1, execution of conveyance deed in the manner as aforesaid was *sine qua non*.

A conveyance deed could have been executed only after paying the dues of the petitioner. Since the dues were not paid of, conveyance deed could not be executed in favour of Sewa Singh or Ruldu Ram by way of assignment.

Against the impugned order dated 08.02.2016, petitioner filed the present revision petition in which at the time of issuance of notice of motion, following order was passed:-

“Counsel for the petitioner inter alia contends that as the allottee of the property in question is under an obligation to pay certain dues to the Haryana Urban Development Authority, Hisar (for short 'HUDA') in terms of the allotment letter for execution of a conveyance deed in his favour, the decree holder against the allottee cannot claim any better rights in regard to execution of a conveyance deed by HUDA in favour of Sewa Singh defendant/judgment debtor No.1.

Notice of motion for 01.09.2016.

In the meanwhile, operation of the impugned order shall remain stayed.”

The policy dated 11.08.2016 came into existence only after passing of order dated 30.03.2016 by the High Court. In pursuance of aforesaid policy, respondent No.1 filed an

application before the petitioner on 10.11.2016 in terms of waiving of extension fee beyond the actual date of completion.

As per stand taken by the petitioner, the said application was not counter signed by the original allottee i.e. Sewa Singh, therefore, no consideration was made on the said application.

Let the pending application filed by respondent No.1 be decided by the petitioner as per parameters laid down in the policy dated 11.08.2016. It has also come to fore that a new policy has also come in existence i.e. policy dated 04.05.2018.

If the case of respondent No.1 is covered under new policy, then needful be done under the new policy subject to filing appropriate application by the respondent No.1 duly completed in all requirements.

Petitioner is directed to decide the claim of respondent No.1 finally, in case appropriate application is received from respondent No.1 within three months from the date of receipt of application from respondent No.1.

Disposed of.

28.11.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |