

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

C.W.P No. 6205 of 2019 (O&M)

Date of decision: 09.05.2019

Frontier Home Developers Pvt. Ltd. & Anr.

.....Petitioners

Vs.

State of Haryana & Ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE LALIT BATRA**

Present:- Mr. R.S. Rai, Sr. Advocate, with
Mr. Kunal Dawar, Advocate, for the petitioners.

Ms. Kirti Singh, DAG, Haryana.

....

MAHESH GROVER, J. (Oral)

In this writ petition, the petitioners seek issuance of a writ in the nature of mandamus directing respondent No.2 to grant final approval in respect of change of nomenclature of the residential towers that he has developed in the Village Naurangpur, Sector-80, Gurugram. The petitioners assert that approval in principle has already been granted to him but for some reasons unknown to him, the respondents are not taking any final decision.

A reply has been filed by the State and it reveals an utter confusion in the minds of respondents as they seek to interpret the decision of Hon'ble Supreme Court of India as possibly being attracted to the facts of the case of the petitioner that would prevent them to take a decision on petitioner's claim.

We for the purposes of reference extract paragraphs of the judgment of Hon'ble Supreme Court, which has been extensively referred to by the respondents in their reply, particularly in paragraph 8 of the preliminary objections. Interestingly, learned Advocate General has given opinion in favour of the petitioners.

“8.

That as already submitted, land for which Licence

No.88 of 2008 has been granted to the petitioners was a part of the notifications dated 27.08.2004 and 25.08.2005 issued under Section 4 & 6 respectively, though land was purchased before issue of notification under Section 4 from the original land owners. The same was ordered to be released by the State Govt. on the request of the petitioners. No award was announced by the State Govt. in respect of the above said land. However, as per observations made by the Hon'ble Supreme Court in its order dated 12.03.2018, award is deemed to have been passed on 26.08.2007 in respect of lands (i) which were covered by declaration under Section 6 in the present case and (ii) which were transferred by the landholders during the period 27.08.2004 till 29.01.2010. The lands which were not transferred by the landholders during the period from 27.08.2004 till 29.01.2010 are not governed by these directions. In view of the above said situation, no further action on the request of the petitioners for grant of final permission for change in the nomenclature of the towers or regularization of colony are of Tower B can be taken by the office of the answering respondent till a clarification is received from the HSIIDC who has been directed by the Hon'ble Supreme Court to take over the colonies for which licences were granted to the private developers. The opinion given by Ld. AG Haryana regarding the cases where collaboration agreement are involved is yet to be approved by the Govt.”

Having heard learned counsel for the parties and looking at the limited issues before us, we are of the opinion that indecisiveness at the hands of the respondents is writ large on the face of it.

The observations of the Hon'ble Supreme Court explaining the contingencies that may govern the directions contained in the judgment do not even remotely affect the case of the petitioner, who concededly had purchased the land alongwith other certain landowners and are licensees in the project, prior to the issuance of notification of under Section 4 of the Land Acquisition Act.

This fact is not denied by the respondents and if that is so we do not understand how the observations of the Hon'ble Supreme Court would be attracted to the case of the petitioner and neither do we understand the confusion in the minds of the respondents which has prevented them from taking a decision particularly when the learned Advocate General seems to have opined in favour of the decision.

Learned State counsel, on instructions from Mr. Sanjay Kumar, DTP (Haryana), contends that they will take a decision in this regard positively within a period of one week from today.

We, therefore, bind them to this mandate of taking decision within a period of one week from the date of receipt of certified copy of this order. Since the order has been passed in the presence of the parties including the learned counsel representing the State, instructed by Sh. Sanjay Kumar, DTP (Haryana), we expect that the decision would be taken in terms of our mandate.

Present writ petition is disposed of accordingly.

(MAHESH GROVER)
JUDGE

May 09, 2019
tripti

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No