

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

**CWP No. 25276 of 2016
Date of Decision: 23.09.2019**

Sanjeev Vohra

...Petitioner

Vs.

Director General Town and Country Planning and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kamal Mehta, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG Haryana.

Mr. Satish Singla, Advocate
for respondent Nos. 2 to 4.

RAJIV NARAIN RAINA, J. (Oral)

1. The Haryana Development and Regulation of Urban Areas Act, 1975 and the rules framed thereunder in 1976 prescribes that any builder proposing to develop a housing colony has to obtain a licence under the Act. The 4th respondent-M/s Piyush Buildwell India Limited proposes to develop a housing colony in Faridabad, Sector 79 spreading over land admeasuring approximately 17 acres to erect residential towers (Group Housing Colony). The builder would have to obtain a licence and enter into an agreement with the intending purchasers, one of whom is the petitioner. The agreement was drawn between the builder and the allottee. The towers were constructed and he has been delivered possession of the flat/property and the registered conveyance

deed has been executed between the parties. Occupancy certificates are attached as Annex. P-2. The petitioner has become an owner of the disputed property.

2. The grievance of the petitioner is that despite having been allotted the flat and the possession handed over to him, the builder has not obtained full electricity supply load from the respondent Haryana Vidyut Prasaran Nigam Limited (in short 'HVPNL'). The total sanctioned load for the group housing colony was sanctioned at 12831 KVA out of which the builder he has obtained only 1900 KVA which is only 15% of the sanctioned load because of which the group housing colony is suffering from under power. The builder has failed to carry out its duty to increase the load due to failure in depositing the requisite costs and bank guarantees which were required to be deposited and executed with the Nigam/respondent No.3.

3. The petitioner has approached this Court by way of the present petition with the prayer to direct the respondents to pass appropriate orders and for directions to respondent No.1/Director General, Town and Country Planning, Haryana to recover the amounts which have to be paid to the Nigam by the builder and to defray the cost to the Nigam for sanctioning of load to the maximum permissible limit.

4. Learned counsel for the petitioner relies on the provisions of LC-IV-being the Agreement by Promisee of Land intending to set up a Group Housing Colony which contains the terms and conditions in

paragraph (vii) to the following effect:

“vii) the owner will arrange the electric connection from outside sources for electrification of their colony from HVPN. If they fail to provide electric connection from HVPN, the director, Town and Country Planning will recover the cost from the Colonizer and deposit it with HVPN. However, the installation of internal electricity distribution infrastructure as per the peak load requirement of the colony shall remain the responsibility of the colonizer for which the colonizer will be required to get the “electrical (Distribution) services plan/estimates” approved from the agency responsible for installation of “external electricity services” i.e. HVPN/UHBVNL/DHBVNL Haryana and complete the same before obtaining completion certificate for the colony.”

5. On notice, in response to the writ petition, the Director General, Town and Country Planning has filed a reply stating that no letter has been received by the answering respondent from DHBVNL authorities to the effect that respondent No.4/Builder has failed to deposit due amounts or bank guarantee for the sanctioned load. The matter rests at this. If respondent Nos. 2 and 3 or either of them have not sent a letter of this nature to Director General, Town and Country Planning, Haryana for its decision then the Nigam is failing in its duty under the agreement to forward its report, for which shortcoming in carrying out its obligations, the contention of the petitioner is accepted inasmuch as that direction should go to DHBVNL to look at the papers

and consider the matter, take a final decision and remit its finding to the Director General, Town and Country Planning for its decision in the matter which would redress the grievance of the petitioner and persons similarly placed. With these directions issued, the petitioner says he will be satisfied, in case, final decisions are taken. Though the reply of DHBVNL or HVPN has not been filed and counsel sought time in this matter from time to time pending since the year 2016, I see no reason why further time be given even when the proposed order will not adversely affect their interests as they are under statutory and contractual duty to perform their part of the terms and conditions of the agreement. The case ultimately has to be decided by the Director General, Town and Country Planning in terms of Clause (vii) which is well in line with the statutory duties of HVPN/DHBVNL and Director Town & Country Planning to work in tandem to enable the Director to take a final call.

6. Learned counsel for the Nigam informs the Court that despite many communications sent by him to his client to send him the written statement for submission they have not responded and therefore, the delay in filing the written statement is not on his part but squarely on respondent Nos. 2 and 3.

7. For the above reasons, the petition is partially allowed and the direction is issued to respondent Nos. 2 and 3, whichever of them owes the responsibility to inform the Director General, Town and

Country Planning, Haryana in writing to recover the costs from the colonizer and to deposit it with the Nigam/s in terms of the agreement dated 29.03.2007. The Power Nigam/s will inform respondent No.1/Director General, Town & Country Planning, Haryana by letter in writing of its decision within 15 days and, thereafter, competent authority i.e. respondent No.1 will take a final decision as enjoined by law within the next one month sorting out the dispute and immediately thereafter convey the same to the colonizer and the petitioner.

(RAJIV NARAIN RAINA)
JUDGE

23.09.2019

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Whether speaking/reasoned : *Yes*
Whether reportable : *Yes/No*