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**M/s Landmark Apartments Pvt. Ltd. Vs. State of Haryana & Ors.**

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Present:- Mr. Sajjan Singh, Advocate, for the petitioner.

Mr. Ankur Mittal, Addl. A.G. Haryana.

Mr. Shobit Phutela, Advocate, for respondent No.4

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Heard.

Admitted.

Interim order dated 29.10.2018 shall continue to enure to the petitioner.

The petitioner is also directed to deposit sum proportionate to the area for which licence is sought and not the entire 10% as a measure of satisfaction of requirement of proviso to Rule 17, considering that prayer is for bifurcation of licence against some area which is now to be developed by the petitioner.

We are acutely conscious of the fact that this project since its inception was lawful and the only dispute that has emerged is from the concern of the State regarding impermissibility of bifurcation of the licence which would mean that the petitioner would develop some additional area out of the composite area, already a part of the project when conceptualized.

We have noticed that proviso to Rule 17 does permit transfer in part and, therefore, it is not a case where licence necessarily has to be transferred as a whole only as is argued by the State. Evidently, there are certain conditions prescribed to such a transfer. Assuming for the sake of argument that such a transfer is totally impermissible as the State contends, then the question that needs attention is whether the residents of the area who have invested in the project considering it to be lawful as it was indeed, can be made to suffer on account of technical objection of the respondents in not permitting such a transfer of licence

the developer in agreement for development with the petitioner. Needless to say, the State is very well within its right to see that the project as conceptualised and executed is not flouted for which what has to be ensured is the execution. Bifurcation of a licence is a procedure between the developer and the State. Law permits it either in complete or in parts with a stipulation of payment, an accompanying amount, provided under Rule 17 which the petitioner indeed would be bound to satisfy through payment but is proportionately as per the area mentioned. We permit the petitioner to seek occupancy certificate which the respondents shall not deny after the payment as above so as to ensure that the interest of flat owners does not suffer particularly when no objection has been raised by the State regarding the lawful character of the project and its execution.

**(MAHESH GROVER)**  
**JUDGE**

**May 10, 2019**  
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**(LALIT BATRA)**  
**JUDGE**