

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

SAILESH RANJAN
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Crl. Misc. No. 26306 of 2021 in/and
Crl. Misc. M-9499 of 2021
Date of decision: 23.09.2021

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Emaar India Ltd. and others

....Petitioner(s)

Versus

Central Bureau of Investigation

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

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

Mr. Sumeet Goel, Sr. Advocate,
with Mr. A.K. Ranolia, Advocate,
for the respondent.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)
Crl. Misc. No. 26306 of 2021

Notice in the application for pre-ponement from 23.11.2021
was issued to the respondents.

Keeping in view the averments made in the application and the
fact that reply has already been filed in the main case, the application is
allowed.

Main case is pre-poned to today and taken on Board.

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The petitioners challenge the order of the Special Judge,
Panchkula dated 10.07.2020 (Annexure P-13) wherein, the original of the
two sale deeds dated 17.01.2006 and 20.04.2006 (Annexures P-3 and P-4),
return of which had been sought by the petitioners, had been declined on the

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ground that the investigation was underway and the documents would become relied upon documents and would hamper the investigation. It was also noticed that the company has received the copies of the sale deeds in question.

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The application, as such, for release of the said documents was on account of the fact that the land covered under the two sale deeds was totaling 38.14 acres and due to the seizure of the two original sale deeds, the company was unable to offer inspection to the bank as a project had been launched by the name of 'Digi Homes' by virtue of license no. 265 of 2007. It is submitted that the prospective buyers of the said project, however, were not able to arrange finance from any of the bank and the sale of the units of the said project was gravely affected and request had also been made to the respondents to release the aforementioned title deeds but no response was coming and, therefore, the Court had been approached.

Reply at that stage by the respondent-Investigating Agency was that investigation was being carried out in the FIR which was registered in pursuance of the orders passed by the Apex Court against the then Chief Minister. The FIR is stated to be dated 23.01.2019. As per the reply, 1 acre out of 17.23 acres of land of sale deed dated 17.01.2006 and 4.95 acres out of 13.91 acres of land of sale deed dated 20.04.2006 are part of license no. 113 of 2011, which was under investigation and there was involvement of several accused public servants/colonizers and, thus, investigation had not been completed

The reply filed herein also is to the same extent that investigation of 25 licensed cases out of 27, as mentioned in the FIR, is in progress and investigation is taking considerable time. It is also admitted

that license no. 265 of 2007 granted to the petitioner has not been investigated by the CBI and only license no. 113 of 2011 is being investigated. It has been admitted that qua another co-accused, Trilok Chand Gupta, the release of sale deeds has been allowed, as averred in para no. 17, on the ground that the properties were acquired well before the acquisition proceedings. Accordingly, the application has been opposed in as much as retention of the sale deed is required for the purposes of investigation and till the conclusion of investigation.

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Keeping in view the above facts, this Court is of the opinion that the petitioners, as such, being developers, require the registered sale deeds for the purposes of expanding their business. Therefore, irreparable financial loss would be caused to them if the said documents are not released, which are in the form of original sale deeds. As noticed, the requirement is also for the purposes of mortgage and for loan, which is to be granted to prospective home owners also. In the opinion of this Court, if the certified copies are kept with the Court till the investigation is complete, no such loss or damage would be caused to the investigating agency since the certified copies can be obtained from the office of the Sub Registrar.

In such circumstances, this Court is of the opinion that the Special Judge, Panchkula was not justified in dismissing the application and necessary directions could have been issued to ensure that the certified copies were kept available in the record of the investigating agency pending the investigation for which it has already taken more than 2-1/2 years. The petitioners, as such, cannot be expected to continue waiting for the investigation to end for all times to come.

In such circumstances, the present petition is allowed. The impugned order dated 10.07.2020 (Annexure P-13) is set aside and directions are given to the Special Court, Panchkula on the petitioners supplying certified copies of the said sale deeds issued by the relevant Sub Registrar to release the said two sale deeds dated 17.01.2006 and 20.04.2006 to the petitioners. It is made clear that the petitioners will be under a legal obligation, as such, to produce the said sale deeds as and when the Court requires them at a subsequent point of time in case the charge sheet is filed against the accused. The necessary undertaking also be furnished before the Special Court.

With the above said observations, the petition stands allowed.

23.09.2021
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No