

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-PIL No. 133 of 2021 (O&M)
Date of decision:- 03.08.2021

Prem Parkash

.....Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.**

Present:- Mr. Aayush Gupta, Advocate, for the petitioner.

Ms. Lavanya Paul, Assistant Advocate General, Punjab,
for the respondents.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court).

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RAVI SHANKER JHA, CHIEF JUSTICE (oral)

This petition has been filed by the petitioner by way of Public Interest Litigation alleging that the respondent-authorities are permitting registration of sale-deeds/transfer deeds of plots/sites in unauthorized colonies by doing away with the requirement of obtaining 'No Objection Certificate' from the department of Housing and Urban Development, which was mandatory as per the letters/instructions dated 24.01.2018 and 22.03.2018 issued by respondent No.2-Department of Revenue, Rehabilitation and Disaster Management, Government of Punjab.

Learned counsel for the petitioner submits that by issuing the impugned instructions dated 12.12.2019 (Annexure P-7), the authorities have withdrawn the requirements prescribed by the letters/instructions dated

24.01.2018 and 22.03.2018. He further submits that by doing away with the aforesaid requirement of obtaining 'No Objection Certificate', the authorities are permitting transfer of plots/sites in unauthorized colonies, that have been raised by persons, who are neither the colonizers nor the colonies have been established in accordance with the prescribed law. Resultantly making the entire process of taking action against the unauthorized colonizers redundant.

It is submitted that setting up and establishing unauthorized colonies is prohibited by the provisions of the Punjab Apartment and Property Regulation Act, 1995. And although the government had framed a scheme for regularizing the unauthorized colonies, yet without taking any action under the said scheme to regularize the unauthorized colonies, the authorities are now permitting sale and transfer of plots and sites of unauthorized colonies. Thus, doing away with the requirement of obtaining 'No Objection Certificate' from the Department of Housing and Urban Development, which was prescribed by letters/instructions 24.01.2018 and 22.03.2018, issued precisely to prevent such unauthorized registration of plots.

Learned counsel for the petitioner has also taken this Court through a decision of a Division Bench of this Court dated 14.12.2010 passed in a Civil Writ Petition No. 14404 of 2006 wherein this Court had upheld the mandatory condition of obtaining 'No Objection Certificate' before registration of documents as required by the provisions of Haryana Development and Regulation of Urban Areas Act, 1975. The contention raised before this Court in that case was that 'No Objection Certificate' could not be demanded by the authorities prior to registration as that would

violate the provisions of the Registration Act, 1908. This Court after discussing the law had upheld the prescription of mandatory requirement of obtaining 'No Objection Certificate' from the concerned Director, Town and Country Planning, Haryana.

Learned counsel for the petitioner submits that in such circumstances, the act of the authorities in permitting registration of sale-deeds/transfer deeds of the plots in authorized colonies/sites without obtaining 'No Objection Certificate' is absolutely illegal and amounts to perpetuating an illegality. Learned counsel for the petitioner has also taken this Court through a representation dated 07.04.2021 (Annexure P-8) filed by the petitioner alongwith a list of 59 unapproved/unauthorized colonies wherein such sale of plots and sites is being permitted.

Learned Assistant Advocate General appearing for the respondent-State of Punjab on instructions submits that the impugned instructions dated 12.12.2019 have been issued by the authorities concerned after obtaining an opinion from the law department. She, however, submits that in view of the issues raised by the petitioner, the matter would be re-examined by the authorities in the light of the statutory provisions as well as the decision rendered by this Court in Civil Writ Petition No. 14404 of 2006 and a fresh decision in the matter shall be taken at the earliest in accordance with law. On specific instructions, she further submits that till such decision is taken by the authorities, the impugned instructions dated 12.12.2019 (Annexure P-7) shall be kept in abeyance and the authorities shall continue to adhere to the previous instructions dated 24.01.2018 and 22.03.2018.

In view of the aforesaid statement made by learned Assistant Advocate General, Punjab, the petition filed by the petitioner is disposed of with a direction to the concerned authorities to consider and decide the petitioner’s representation dated 07.04.2021 (Annexure P-8), as expeditiously as possible, after taking into consideration all the issues raised therein including the provisions of law and the decision rendered by this Court in Civil Writ Petition No. 14404 of 2006 by passing a reasoned order and communicate the same to the petitioner.

It is made clear that this Court has not expressed any opinion on the merits of the case and the matter has been disposed of in terms of the issues raised by the petitioner and in terms of the statement made by learned Assistant Advocate General, Punjab.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

03.08.2021
ravinder

Whetherspeaking/reasoned	Yes/No
Whetherreportable	Yes/No