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

**CWP-10559-2022 (O/M)
Date of decision : 16.08.2022**

Tatvam Residents Welfare Association

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA**

**Present: Mr. Chetan Mittal, Senior Advocate with
Mr. Mayank Aggarwal, Advocate for the petitioner.**

Ms. Tanisha Peshawaria, DAG Haryana.

**Mr. Kabir Sarin, Mr. R.D. Gupta, Advocates
for respondent No.6.**

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HARINDER SINGH SIDHU, J.

Petitioner, which is a Registered Residents Welfare Association (in short 'the Association') of Tatvam Villas Complex, has filed this petition assailing the orders dated 20.4.2022 (Annexure P-9) and 22.4.2022 (Annexure P-10) whereby respondent No.4 - The Director, Town and Country Planning, Haryana has withdrawn the earlier order dated 11.2.2022 (Annexure P-7). Vide order dated 11.2.2022, respondent No.4 had revoked the order dated 7.12.2021 (Annexure P-4) of the District Town Planner, Gurugram (Respondent No.5) approving the revised building plan of respondent No.6.

Tatvam Villas Complex is a part of Vipul World which has been developed by M/s Vipul Limited ("the developer") vide Licence

No.554-608 of 2006 dated 12/24.3.2006 and Licence No.3 of 2013. The Complex/Villas have been sold by the developer under the builder- buyer Agreement entered into with the allottees. As per the agreement, the allottees have undertaken that they will not alter/amend/modify/change the external facade of the villa in any form. It was also undertaken that the vendee shall not change the colour scheme of the outer walls or painting of the exterior side of the doors and windows etc. or carry out any change in the exterior elevation or design.

Villa No.21 situated in the Complex was sold by the original allottee to respondent No.6 through registered sale deed dated 6.7.2021. As per Clause (F) of the sale deed, the vendee-respondent No.6 is required to abide by the terms laid by M/s Vipul Limited at the time of allotment or execution and registration of the Conveyance Deed and the Maintenance Agreement executed by the vendor with the Maintenance Agency in respect of said property.

Respondent No.6 submitted an application dated 3.12.2021 through his Architect under the self certification policy for approval of revised building plan of the said Villa. Respondent No.5 - District Town Planner, Gurugram vide E-mail dated 7.12.2021, accorded approval for the revised building plan. The petitioner-Association submitted a representation dated 23.12.2021 to respondents praying for withdrawal of the approval granted vide E-mail dated 7.12.2021.

Noting that the approval granted for the revised building plan of Plot No.21 (Z Block) was in contradiction with Clause 18(2) of the approved zoning plan of Blocks X, Y and Z (Tatvam Villas), respondent No.4 -

Director, Town and Country Planning, Haryana, vide communication dated 11.2.2022 (Annexure P-7) directed the District Town Planner, Gurugram to revoke the approval. Consequently, the District Town Planner, Gurugram (respondent No.5) addressed a communication dated 11.2.2022 (Annexure P-8) to the Architect of respondent No.6, conveying that the approval granted vide E-mail dated 7.12.2021 was withdrawn. It was directed that the building be brought back to its original shape as existing before the said approval.

Later, on a representation submitted by respondent No.6 requesting for review of orders dated 11.02.2022, the Director, Town and Country Planning, Haryana (respondent No.4) withdrew the said orders. In the order dated 20.04.2022 (Annexure P-9) it was mentioned that the permission had been granted only for unit of respondent No.6 and the changes were small in nature. Consequently, respondent No.5 vide order dated 22.4.2022 (Annexure P-10) revoked the earlier order dated 11.2.2022 and granted approval to respondent No.6 for the revised building plan. A copy of order passed by respondent No.5 was sent to petitioner-Association. Immediately thereafter, the petitioner-Association submitted a representation dated 23.4.2022 protesting against the said order of respondents. But no action thereon has been taken. Hence the present writ petition.

Apart from assailing the orders on merits and contending that the permission could not have been granted, Mr. Mittal, learned Senior Counsel for petitioner has argued that the impugned orders are also liable to be set aside on the ground that no hearing was afforded to petitioner-Association before the order dated 11.2.2022 was reviewed. He has referred

to Section 10-B of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (in short 'the Act'), as per which before reviewing any order, the concerned parties are required to be heard. He argued that as the order dated 11.2.2022 had been passed on the representation of petitioner-Association, before that order was reviewed, the petitioner-Association was required to be heard.

Section 10 B of the Act is reproduced as under :-

“10 B. Review.- The Director may, either of his own motion or on an application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office :

Provided that—

- (a) when the Director proposes to review any order passed by his predecessor in office, he shall first obtain the sanction of the Government ;*
- (b) no application for review of an order shall be entertained unless it is made within a period of sixty days from the date of passing of the order, or unless the applicant satisfies the Director that he had sufficient cause for not making the application within that period ;*
- (c) no order shall be modified or reversed unless the parties concerned have been afforded a reasonable opportunity of being heard ;*
- (d) no order against which an appeal has been preferred shall be reviewed.”*

The original order dated 7.12.2021 (Annexure P-4) whereby the revised building plan had been approved was withdrawn vide order dated 11.2.2022 (Annexure P- 7) on the representation of petitioner-Association. Mr. Mittal is right in his contention that before the order dated 11.2.2022

was reviewed, the petitioner Association was required to be heard. Proviso (c) to Section 10-B of the Act specifically provides that before an order is reviewed, the concerned parties are required to be heard. The petitioner which is registered Association of the Villa owners is certainly an interested party in the matter and was required to be heard before the order dated 11.2.2022 was reviewed.

In view thereof, petition is allowed. The impugned orders dated 20.4.2022 (Annexure P-9) and 22.4.2022 (Annexure P-10) are set aside. Respondent No.4 - the Director, Town and Country Planning, Haryana may examine the entire issue afresh and pass an order on the application of respondent No.6 regarding revision of his building plans after hearing the petitioner and respondent No.6.

(HARINDER SINGH SIDHU)
JUDGE

August 16, 2022
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(LALIT BATRA)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No