

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

CR No.3393 of 2021 (O&M)
Date of decision: 9th May, 2022

Haryana Shehri Vikas Pradhikaran

... Petitioner

Versus

M/s Bazel International Limited & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Arvind Seth, Advocate for the petitioner.

None for respondents No.1 and 2.

Ms. Drishtana Singh and Mr. Viraj Gandhi,
Advocates for respondent No.3.

FATEH DEEP SINGH, J.

The brief background of the present lis needs to be gone into before passing the order on the instant revision petition.

Haryana Shehri Vikas Pradhikaran (in short, 'HSVP') also known as Haryana Urban Development Authority (HUDA) formed under the Haryana Urban Development Authority Act, 1977, in the year 1990 issued an advertisement and brochure for allotment of freehold institutional plots in Sector 32, Gurugram.

M/s Trident Projects Limited, a company incorporated under the Companies Act, 1956 was allotted a freehold plot No.43 in Achlon, Sector 32, Gurugram (Haryana) measuring 2035 square meters. It is during the course of time, unable to bear the entire cost of development of the plot as per requirements of HUDA, the allottee secured

permission and collected funds from third party by way of contribution and allocated various units to them through conveyance deeds and which allottees formed a Society under the name and style of Trident Jade Housing Services Society. It is during the course of events, a dispute arose leading to filing of a civil suit bearing No.1219 of 2002 by one M/s Bazel International Limited (in short, 'the decree-holder') against M/s Trident Projects Limited and as is not displaced that the judgment and decree dated 28.08.2006 was passed by the Delhi High Court against M/s Trident Projects Limited. Numerous litigations have ensued against this property and which have since been laid to rest. The Delhi High Court vide order dated 03.02.2017 transferred the execution petition so filed by M/s Bazel International Limited to a Court under the jurisdiction of this Court at Gurugram. Unable to pay the decree-holders the property of the JDs, the Executing Court of Additional District Judge-cum-Special Commercial Court, Gurugram had ordered sale of the property and in which M/s Adiraj Garments LLP (New Delhi) was declared as the auction purchaser vide orders dated 18.03.2019 of the Executing Court.

The present petitioners, who were never a party to these proceedings throughout have come up in this civil revision by invoking Article 227 of the Constitution of India praying for setting aside of an order dated 15.11.2021 (Annexure P1) by virtue of which the Executing Court had directed HUDA to transfer the property in question in the

name of auction purchaser, and to set aside the sale certificate (Annexure P10) so issued by the Executing Court and which precisely is the subject matter of the present dispute before this Court.

Upon hearing Mr. Arvind Seth, Advocate for the petitioner; Ms. Drishtana Singh and Mr. Viraj Gandhi, Advocates for respondent No.3 and perusal of the records.

The only plank of learned counsel for the petitioner Mr. Arvind Seth, Advocate is that under the policy of HUDA dated 26.11.2020 it is the prerogative of HUDA to transfer such allotted plots in which if conditions so laid down in its policy are fulfilled and terming that the Court auction cannot materialize in view of the policy of HUDA and therefore, the auction purchaser cannot seek transfer of the plot. It needs to be kept in mind that the judgment and decree was passed way back on 02.12.2016 and the policy on the basis of which learned counsel for the petitioner has sought to argue, was brought about on 26.11.2020. How such a policy would be applicable retrospectively, learned counsel for the petitioner was at loss of words and unable to satisfy the Court on that. It needs to be reiterated here that this Court in CR No.822/2020 titled 'Haryana Shehri Vikas Pradhikaran, Gurugram vs. Bazel International Limited and others' in its order dated 07.09.2021 had observed as follows:-

“In view of the above, the present petition is disposed of by upholding the order dated 21.11.2019, passed by the executing Court and with a further

direction to the petitioner to transfer the property in question in the name of respondent No.3/auction purchaser, as per its rules and regulations and policy, as mentioned hereinabove.”

From the same, it is evident that though it was in respect of an order dated 21.11.2019 of the Executing Court whereby this Court had issued directions to HUDA to transfer the property in question in the name of auction purchaser as per rules and regulations and policy as if it was not sufficient the present petitioners have again devised a way and by some amount of machination and twisting of facts have again invoked jurisdiction of this Court under Article 227 of the Constitution of India by laying challenge to an order dated 15.11.2020 (Annexure P1) where too the Executing Court had directed HUDA to do the needful with regard to the transfer of the property in question in the name of auction purchaser as per HUDA policy prevalent at the time of conformation of the sale, which learned counsel for the petitioner could not convince, could prevent such a transfer from taking place and primarily being on the strength of legitimate judgment and decree having been passed and which attained finality, can by no means be put to hold to defeat the rights and interest of the decree-holder that has come about through legitimate legal recourse to law. Even otherwise, policy dated 26.11.2020 of HUDA does not bar such a transfer and which stipulates that it would be effective prospectively and not retrospectively.

Apparently, the present petition is hopelessly meritless and deserves to be dismissed. However, this Court refrains from imposing costs upon the petitioners for this total insolence towards the various orders passed by the Courts including this Court.

Ordered accordingly.

(FATEH DEEP SINGH)
JUDGE

May 9, 2022
rps

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