



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

112

CWP No.15837 of 2024
Date of decision: 16.07.2024

Mrs. Dhanwanti Ahuja

....Petitioner

V/s

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Ms. Tanika Goyal, Advocate, for the petitioner.

Mr. Ankur Mittal, Addl. Advocate General, Haryana

Mr. Karan Jindal, AAG, Haryana and

Ms. Kushaldeep Singla, Advocate, for the respondents.

VIKRAM AGGARWAL, J.

1. Challenge in the instant writ petition is to the order dated 16.05.2024 (Annexure P-1) passed by the Haryana Real Estate Regulatory Authority, Gurugram (respondent No.2), (for short the “RERA”), vide which the petitioner has been directed to produce a legal heirs certificate, failing which the ‘RERA’ would not proceed with the complaint bearing No.CR/7822/2022, titled as *Dhanwanti Ahuja vs. Vatika Limited*, filed by the petitioner.

2. The facts, as emanating from the record, are that the petitioner and her husband namely Tulsi Dass Ahuja had purchased a plot bearing No.7, measuring 240 sq. yds. in Signature 2 Villa, Vatika India Next, Sector 82, Gurugram (for short the “disputed plot”) promoted by respondent No.3. The entire consideration was paid on 01.07.2013 and construction was promised to be completed on 21.01.2013. As per the builder-buyer agreement dated 21.01.2010 (Annexure P-3), the possession of the disputed

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plot was to be handed over by 21.01.2013.

3. Unfortunately, the husband of the petitioner expired on 11.03.2016, leaving behind a CODICIL dated 16.12.2013, as per which he bequeathed his 50% share in the disputed plot upon his son and daughter-in-law (respondents No.4 and 5).

4. Since the possession of the disputed plot was not given, a complaint (Annexure P-12) was filed before 'RERA' on 14.12.2022, seeking possession of the disputed plot along with delayed penalty charges. Written statement (Annexure P-13) was filed. During the proceedings before 'RERA' on 15.02.2024, an objection was raised by respondent No.3 that legal heirs certificate of Sh. Tulsi Dass Ahuja should have been attached with the complaint, which was required for the matter to proceed further. The case was adjourned for 16.05.2024 and it was ordered that the complainant would file legal heirs certificate within a period of 15 days, leading to the filing of the present writ petition, stating that the said direction is illegal and arbitrary and that 'RERA' could not have ordered that the complaint would not proceed unless the legal heirs certificate was filed.

5. Learned counsel for the petitioner submits that the said direction issued by 'RERA' is illegal and arbitrary.

6. Per contra, learned counsel representing the respondents who has caused appearance on advance notice having been served, submits, on instructions, that the legal heirs certificate had been called for by 'RERA' since an application had been filed by the present petitioner for directing the builder i.e. respondent No.3 herein, to substitute the name of Sh. Tulsi Dass Ahuja with the name of his successors i.e. respondents No.4 and 5 and it was



Learned counsel, however, fairly submits that there would be no necessity of a legal heirs certificate for continuation of the proceedings before 'RERA'.

7. Having heard learned counsel for the parties, it emerges that complaint (Annexure P-12) was filed by the petitioner before 'RERA' seeking possession of the disputed plot and in case of failing to hand over the possession, for the refund of the amount paid along with interest, penalty etc. During the course of hearing, on 15.02.2024, the counsel representing respondent No.3 stated that the unit had been allotted in favour of Dhanwanti Ahuja and Tulsi Dass Ahuja. Sh. Tulsi Dass Ahuja had expired, but the legal heirs certificate of Sh. Tulsi Dass Ahuja was not attached with the complaint, which was required for the matter to proceed further. Accordingly, the case was adjourned for 16.05.2024 for further proceedings:-

"The present complaint has been received on 03.01.2023 and reply on the behalf of respondent was received on 18.01.2024.

That the counsel for respondent filed an application for condonation of delay in filing of reply.

The proxy counsel for the respondent states that the unit was allotted in favour of Dhanwanti Ahuja and Shri Tulshi Dass Ahuja who had expired and legal heirs certificate of the second allottee is not attached with the complaint which is required for further proceedings of the matter.

Matter to come up on 16.05.2024 for further proceedings."

8. The matter was, thereafter, taken up on 16.05.2024 and a direction was issued by respondent No.2 to file a legal heirs certificate



within a period of 15 days:-

“The present complaint has been received on 03.01.2023 and reply on the behalf of respondent was received on 18.01.2024.

That on 02.05.2024, the counsel for the complainant has filed the rejoinder along with application for seeking site inspection of the unit and application for directing the respondent to substitute the name of deceased allottee with the name of the successors of the deceased allottee.

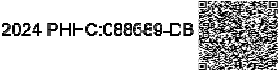
The counsel for the complainant shall file legal heir's certificate in the authority within a period of 15 days.

Matter to come up on 05.09.2024 for further proceedings.”

9. In the considered opinion of this Court, the legal heirs certificate would not be required for the continuation of the proceedings before 'RERA' and at best legal representatives of Sh. Tulsi Dass Ahuja could be brought on record as per law.

10. The application for the issuance of directions to the respondent-builder for substituting the name of Sh. Tulsi Dass Ahuja with the name of his successors would be essentially a matter between the petitioner and the builder and in any case, the said application would also be decided by 'RERA' in accordance with law. The fact remains that the grievance of the petitioner that the complaint would not proceed in the absence of a legal heirs certificate is, therefore, set at rest and 'RERA' is directed to proceed with the matter in accordance with law. The writ petition is accordingly

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disposed of.



	(ARUN PALLI) JUDGE	(VIKRAM AGGARWAL) JUDGE
July 16, 2024		
vcgarg		

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