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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7643/2024**
SMT KAVITA GARG & ANR.

..... Petitioner
Through: Mr. Arun Kumar Shukla, Mr. Arya
Bhushan Shukla, Mr. Naman Shukla,
Mr. Yatharth and Mr. Rishabh Yadav,
Advs.

versus

GOVT OF NCT OF DELHI AND ORS.

..... Respondent
Through: Mr. Divyam Nandrajog, Panel
Counsel with Mr. Prakhyat Gargarya,
Advs.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
27.05.2024

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1. The Petitioners have approached this Court challenging the Order dated 28.06.2023 passed by the Appellate Authority in Case No.39/2023 disposing of the appeal filed by the Petitioners refusing to register the Sale Deed executed between the Petitioners and one Mr. Ajay Garg.
2. The registration of the Sale Deed has been refused on the ground that No-objection Certificate has not been received from the Competent Authority under Section 8 of the Delhi Land (Restrictions on Transfer) Act, 1972.
3. Learned Counsel appearing for the Petitioner places reliance upon the a Judgment passed by a Co-ordinate Bench of this Court in Vinod Kumar Rajoria vs. Government of NCT of Delhi and Others, **2023 SCC OnLine Del 5446**. Relevant portion of the said Judgment reads as under:



“10.5. However, this notation made by the Patwari in relation to whether the land is under acquisition becomes irrelevant, since in status report dated 17.01.2023 issued by the Land Acquisition Branch it is specifically recorded that Award No. 17/87-88, by which the land comprised in Khasra No. 242 (2-8-10) in Village : Khanpur was sought to be acquired, has been quashed vide order dated 25.09.1989 made by a Division Bench of this court in CWP No. 38/1988 titled Lt. Col. R.S. Kalra v. Administrator, Union Territory of Delhi Accordingly, the issue of the subject land being free of acquisition is also beyond any doubt.

10.6. A plain reading of sections 4 and 8 of the 1972 Act, as also interpreted in the afore-cited precedents, makes it abundantly clear that once a parcel of land is free of acquisition proceedings, there is no requirement of obtaining an NoC under section 8 read with section 4 before effecting any transfer;

10.7. Furthermore, though circular dated 04.02.2020 may have been issued by the Divisional Commissioner with the purported aim and intent of conducting additional due diligence in relation to transfer of agricultural lands, and requires the Registering Authority to insist on an NoC under section 8 of the 1972 Act to protect unsuspecting buyers from fraudulent sellers, but regardless of how well intentioned it may be, this circular cannot impose an additional statutory compulsion upon parties. Accordingly, in the opinion of this court, the Sub-Registrar of Assurances cannot insist on production of such certificate; or decline registration of a document unless such certificate is produced. This is especially so, in view of the legal position as enunciated in the verdicts of the Delhi High Court, as cited above, in which the court has rejected the imposition of any such requirement, holding that there is no justification for it. On this point, a brief reference may also be made to the verdict of a Constitution Bench of the Supreme



Court in *CCE v. Ratan Melting & Wire Industries*⁷, the relevant portion whereof reads as follows:

*“7. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it **would not be appropriate** for the court to direct that the circular should be given effect to **and not the view expressed in a decision of this Court or the High Court.** So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are **not binding upon the court.** It is for the court to declare what the particular provision of statute says and it is not for the executive. Looked at from another angle, **a circular which is contrary to the statutory provisions has really no existence in law.**”*

(emphasis supplied)

Though the validity of circular dated 04.02.2020 has not been challenged in the present proceedings, this court is of the view that there can be no cavil with the proposition that the circular cannot create a binding requirement for production of an NoC, when section 8 of the 1972 Act, as interpreted in the decisions of this court, does not mandate such requirement.

10.8. To reiterate, only two aspects were required to be considered:

- i. Whether the sellers viz., Mrs. Anjali Vohra and Dr. Ajay Bahl were the surviving members of the recorded owner of the subject land; and*



ii. *Whether the subject land was free from any acquisition proceedings.*

The first point was answered by Land Status Report dated 04.11.2022 issued by the Patwari and verified by the Kanungo, which recorded that the sellers were the legal heirs of the recorded owner in view of the Surviving Member Certificate dated 19.09.2018 issued to them. The second point was answered by Status Report dated 17.01.2023 issued by the Land Acquisition Branch, which confirmed that the subject land was free of acquisition since Award No. 17/87-88 for acquisition of that land was quashed vide order dated 25.09.1989 made in CWP No. 38/1988.

4. The aforesaid judgment applies to the facts and circumstances of the present case on all fours.
5. In view of the above, this Court is inclined to set aside the Impugned Order dated 28.06.2023. The Petitioner is directed to approach the Sub-Registrar once again with all the documents within one week from today.
6. The Sub-Registrar is directed to consider the documents without insisting on any NOC from the Competent Authority under Section 8 of the Delhi Land (Restrictions on Transfer) Act, 1972, as held in the aforesaid Judgment passed by a Coordinate Bench of this Court and also keeping in mind that other Sale Deeds pertaining to other floors of the same property has been registered.
7. With these observations, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MAY 27, 2024

S. Zakir