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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 14884/2024 & CM APPL. 62445/2024**

ARPAN VERMA AND ANR

.....Petitioners

Through: Mr. Rajesh Yadav, Senior Advocate
with Mr. Sushil Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Anupam Srivastava, ASC with
Ms. Anushka Bhatnagar, Advocate
for R-1 to 3.

+ **W.P.(C) 14887/2024 & CM APPL. 62450/2024**

SH TEJ SINGH

.....Petitioner

Through: Mr. Rajesh Yadav, Senior Advocate
with Mr. Sushil Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Shashi Pratap Singh, Ms. Urvashi
and Ms. Muskaan Garg, Advocates.

+ **W.P.(C) 14920/2024 & CM APPL. 62602/2024**

JAI PRAKASH

.....Petitioner

Through: Mr. Rajesh Yadav, Senior Advocate
with Mr. Sushil Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Shashi Pratap Singh, Ms. Urvashi



and Ms. Muskaan Garg, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA
ORDER
% 07.11.2024

1. Mr. Anupam Srivastava, ASC for Respondents in W.P.(C) 14884/2024, and other counsel representing the Respondents in W.P.(C) 14887/2024 and W.P.(C) 14920/2024, object to the maintainability of the petitions on the ground that the Petitioners have an efficacious remedy of filing an appeal against the respective impugned orders. Mr. Srivastava submits that the Petitioners ought to produce fresh No Objection Certificates [“NoCs”], as the NoCs relied upon by them, are of the year 2021, and have a validity of merely 30 days. Further, Mr. Srivastava states that the Petitioners’ sale deeds can only be proceeded towards registration, upon furnishing of additional stamp duty, if so required, in accordance with law.
2. On the issue of NoC, this Court in **Vinod Kumar Rajoria v. Government of NCT of Delhi & Ors.**¹ has observed as under:

“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

¹ NCN: 2023:DHC:6362, decision dated 04th September, 2023



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 vs. 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.”

⁷ (2008) 13 SCC 1

3. In light of the foregoing, the Court is of the opinion that the objections raised by the Respondents regarding furnishing of NoC under Section 8 r/w Section 4 of the Delhi Lands (Restriction on transfer) Act, 1947, before effecting any transfer, is not sustainable. As regards the Respondents’ contention pertaining to the availability of alternate remedy, the Court finds that in the peculiar facts and circumstances of the instant cases, since the



Petitioners' transactions have been pending for a substantial period of time, directing the Petitioners to avail the remedy of filing appeal would delay the proceedings further. Accordingly, the said objection is also overruled.

4. In light of the above, the present petitions are disposed of with the following directions:

(i) Respondent No. 2 shall proceed for registration of sale deeds dated 12th September, 2016 [in W.P.(C) 14884/2024], 08th April, 2016 [in W.P.(C) 14887/2024] and 11th April, 2016 in [W.P.(C) 14920/2024], without insisting for NoCs.

(ii) In case there is an increase in stamp duty as per the circle rates, the Petitioners shall comply with the same.

(iii) The Sub-Registrar shall not insist for appearance of the vendors as all such formalities have already been completed.

5. With the above directions, the petitions are disposed of, along with pending applications

SANJEEV NARULA, J

NOVEMBER 7, 2024/d.negi