

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

CWP-2424-2017 (O&M)

Date of decision:- 04.10.2017

Cosmo City Flat Buyers Welfare Society

...Petitioner(s)

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Rahul Rathore, Advocate,
for the petitioner(s).

Mr. Deepak Balyan, Additional Advocate General, Haryana,
for respondents No. 1 to 3.

Mr. Rajiv Sidhu, Advocate,
for respondents No. 4 to 6.

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S.J. VAZIFDAR, C.J. (ORAL)

The petitioners seek an order directing the official respondents to cancel License No. 79 dated 16.10.2010 granted in favour of respondent No. 5 - M/s Headway Buildcon Private Limited under Section 3 of the Haryana Development and Regulation of Urban Areas Act, 1975 and a consequential order to the official respondents to take over the project and complete the same in collaboration with the allottees some of whom are the members of the petitioner-association.

The petitioners have also sought an order directing the official respondents to sanction the prosecution and register FIRs against respondents No. 4 to 6, namely, M/s Adel Landmarks Limited (formerly known as M/s Era Landmarks Limited), M/s Headway Buildcon Private Limited and M/s Desert Moon Realtech Private Limited respectively who are all part of the same group.

2. The petitioners find themselves in an unfortunate predicament on account of the functioning of the developers. As far as the petitioners are concerned, the said License No. 79/2010 was issued in favour of respondent No. 5, though respondents No. 4 and 6 are the group companies. There appears to be several proceedings against the developers including in respect of the said License No. 79/2010. The license has not been renewed. As a result thereof, the project is at a standstill.

3. The official respondents must decide whether to renew the said license or to cancel the same and to exercise powers under Section 8 of the 1975 Act to take over the project.

4. A show cause notice dated 17.05.2016 was issued to respondent No. 4 in which several allegations have been made even in respect of its group companies including respondent No. 5. It is alleged that respondent No. 4 illegally acquired and marketed properties pertaining to License No. 79/2010 without the prior approval of the competent authority. This show cause notice is, however, only against respondent No. 4. The decision on the show cause notice may, however, also affect License No. 79/2010. The show cause notice, therefore, must proceed. It appears that the allottees have entered into agreements for the purchase of premises with respondent No. 4. That may well be pursuant to an understanding between the group companies concerned, namely, respondents No. 5 and 6. A grievance in that regard is in fact raised in the show cause notice. However, as respondent No. 4, who is the developer that the petitioners are concerned with, has been served with the show cause notice, it is imperative to pass orders and directions regarding the said License No. 79/2010 issued to respondent No. 5. We appreciate that it may be necessary to consider the application for renewal of License No. 79/2010 alongwith the show cause notice. It is of course for the authorities concerned to take a decision as regards the renewal even before the completion of

the proceedings relating to the show cause notice dated 17.05.2016. If, for instance it is found that the proceedings relating to the said show cause notice are likely to take very long, the authorities would be justified in considering the application for renewal of License No. 79/2010 even before that.

5. Mr. Balyan, the learned Additional Advocate General, Haryana, appearing on behalf of the official respondents, states that show cause notices dated 06.03.2017 and 15.06.2017 were also issued to respondent No. 5 under Rule 18(1) and 18(2) of the Haryana Development and Regulation of Urban Areas Rules, 1976. The decision whether or not to renew the said License No. 79/2010 would in all probability also depend upon the decision in respect of the said show cause notices. He further states that FIR No. 441 dated 26.09.2015, under Sections 406 and 420 of the Indian Penal Code has already been registered.

6. It is important, however, for the official respondents to bring these matters to a logical conclusion one way or the other as expeditiously as possible for the failure to do so affects the rights of all the allottees who are innocent victims of the situation.

7. In these circumstances, the writ petition is disposed of by the following order:-

(i) The respondent No. 2 - Director General, Town & Country Planning, Haryana shall take a decision on the said show cause notices dated 17.05.2016, 06.03.2017 and 15.06.2017 as expeditiously as possible. He shall afford the parties concerned including the petitioners an opportunity of being heard.

(ii) The respondent No. 2 shall be entitled to take a decision as to whether or not to renew the said License No. 79/2010 even before the completion of the proceedings relating to the show cause notices.

(iii) In the event of the official respondents deciding not to renew the said License No. 79/2010, they must take a consequential decision also such as whether or not to take over the project, as demanded by the petitioners.

(iv) At this stage, the prayer for initiating prosecution is not considered. That, however, does not prevent the official respondents from doing so on their own.

(v) The petitioners shall be entitled to file representations/objections to the responses of the developers to the show cause notices or even otherwise in relation to the project by 31.10.2017. The private respondents shall be entitled to reply to the same by 15.11.2017.

(vi) Mr. Balyan has agreed to furnish the copies of the replies to the show cause notices filed by the developers to the petitioners' advocate within a week from today. All the parties shall be entitled to copies of replies, representations, objections etc. filed by the other parties.

(vii) We would request respondent No. 2 to take a decision especially as to whether or not to renew the said License No. 79/2010 as expeditiously as possible.

(viii) No application for adjournment by the petitioners and the private respondents shall be entertained unless it is absolutely necessary.

(ix) The parties shall in the first instance appear before respondent No. 2 on 20.11.2017 and thereafter as directed by respondent No. 2 without further notice.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

04.10.2017

Amodh

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