



Government of Punjab
Department of Revenue Rehabilitation and Disaster Management
(Stamp and Registration Branch)

Order

This order is being passed in compliance with the directions given by the Hon'ble High Court of Punjab and Haryana in CWP-PIL 133 of 2021 on 03.08.2021. The Operative part of the order is as under:-

"Learned Assistant Advocate General appearing for the respondent-State of Punjab on instructions submits that the impugned instructions dated 12.12.2019 have been issued by the authorities concerned after obtaining an opinion from the law department. She, however, submits that in view of the issues raised by the petitioner, the matter would be re-examined by the authorities in the light of the statutory provisions as well as the decision rendered by this Court in Civil Writ Petition No. 14404 of 2006 and a fresh decision in the matter shall be taken at the earliest in accordance with law. On specific instructions, she further submits that till such decision is taken by the authorities, the impugned instructions dated 12.12.2019 shall be kept in abeyance and the authorities shall continue to adhere to the previous instructions dated 24.01.2018 and 22.03.2018.

In view of the aforesaid statement made by learned Assistant Advocate General, Punjab, the petition filed by the petitioner is disposed of with a direction to the concerned authorities to consider and decide the petitioner's representation dated 07.04.2021, as expeditiously as possible, after taking into consideration all the issues raised therein including the provisions of law and the decision rendered by this Court in Civil Writ Petition No. 14404 of 2006 by passing a reasoned order and communicate the same to the petitioner.

It is made clear that this Court has not expressed any opinion on the merits of the case and the matter has been disposed of in

terms of the issues raised by the petitioner and in terms of the statement made by learned Assistant Advocate General, Punjab."


2. In brief the facts of the matter in hand are that the petitioner in CWP-PIL No.133 of 2021 had filed a representation dated 7.4.2021 against letter No.24/41/14-ST1/19231-32, dated 12.12.2019 which he alleged was contrary to Punjab Apartment and Property Regulation Amendment Act, 2014 and subsequent notifications. Various contentions were raised by the petitioner regarding unauthorised colonies and their regularization but the issues relevant for this department are relating to registration of immoveable properties under Registration Act, 1908.

3. The department of Revenue and Rehabilitation, Punjab had issued letter No. 24/41/14-ST1/790-91, dated 24.1.2018 in which Sub Registrars/Joint Registrars were directed that they shall register sale/transfer deed of plots/sites only after satisfying themselves that the colonies have been issued the license on the basis of No-Objection Certificate issued by the competent authority in the Housing and Urban Development Department. They were further directed to comply with the statutory provision contained in Section 20(3) of the Punjab Apartment and Property Regulation Act, 1995 (PAPRA Act). In continuation of letter dated 24.01.2018 another Memorandum dated 22.03.2018 was issued by the department of Revenue in which it was stated that updated list of unauthorised colonies are to be provided by the department of Housing and Urban Development and department of Local Government. It was further stated that the Registration may not be refused but may be kept pending for the registration till the NOC is produced.

4. Subsequently a Memorandum No. 24/41/14-ST1/19231-32, dated 12.12.2019 was issued in which it was stated that the provisions of the Punjab Apartment and Property Regulation Act are not binding for any action under the Registration act, 1908. As a result amendment in Punjab Apartment and Property Regulation Act, 1995 is not applicable on registrations of documents done under Registration Act, 1908. Accordingly the directions issued vide letter dated 24.01.2018 and letter dated 22.3.2018 were withdrawn. It is this letter dated 12.12.2019 which was challenged in the CWP-PIL No.133 of 2021.

5. The Hon'ble Punjab and Haryana High Court in its order dated 3-08-2021 in CWP-PIL No. 133 of 2021 had also directed that the decision rendered by the Hon'ble High Court in CWP No. 14404 of 2006 also be taken into consideration while deciding the representation of the petitioner. The Hon'ble Punjab and Haryana High Court had held in CWP No. 14404 of 2006 that the amendment made by the Haryana Government in Haryana Development and Regulation of Urban Area Act, 1975 (HDRUA Act) by insertion of Section 7-A is intra-vires, constitutionally valid and the State Government was competent to make such amendment. This amendment provided that no registration shall be done without obtaining No Objection Certificate from Director. The purpose of this amendment was to prevent the proliferation of illegal colonies and to prevent haphazard and unplanned growth.

6. The provisions contained in the PAPRA Act and HDRUA Act are not the same. Section 7A of the Haryana Act has a provision making it mandatory to obtain No Objection Certificate before Registration of sale deeds. In contrast the corresponding section 20(3) of the Punjab Act only says that the sale deed shall not be registered in case the plot is situated in an unlicensed colony. Hence the obtaining of NOC has not been made mandatory in case of Punjab unlike Haryana where document can not be registered without NOC. Thus it is respectfully submitted that the decision in CWP No.14404 of 2006 is not applicable in case of Punjab as the Punjab statute does not call for obtaining of NOC before registration.

 7. The decision in CWP No.14404 of 2006 was rendered in the year 2010 by the Hon'ble Punjab and Haryana High Court in the case of State of Haryana. With due respect it is submitted that the State of Punjab has been vigorously amending its statutory laws, Rules, Regulations and bye-laws to improve the Ease of Doing Business in Punjab. Many labour laws have been relaxed to provide a conducive environment for the industry. The State has enacted the Punjab Anti Red Tape Act, 1921 to reduce the burden of compliances on citizens and to provide efficient governance. Several measures are also being taken to make the life easy for common man. The provisions of affidavits have been done away with and the citizens can file just self declarations in its place. Hundreds of services are being provided through Suvidha Kendras to the citizens. Registration process has been computerized

and streamlined by the Government. In such a scenario if the provision of NOC is added it will dent the conducive atmosphere for Ease of Doing Business in Punjab. It will cause unnecessary harassment to the general public and engender corruption also. The same purpose can be achieved by having the list of illegal and legal colonies alongwith Khasra Numbers published on the website of the department so that persons who want to purchase the plot in these colonies are made aware of the legal status of the plot which they want to purchase. The purpose of prior NOC is to prevent haphazard growth of colonies, this objective can be achieved by publishing of list of illegal and legal regularised colonies alongwith the Survey Numbers on the Website of the department.

8. It has been contended by the petitioner that the Memorandum dated 12.12.2019 would encourage unauthorised colonies and it would cause economic loss on account of non regularisation of colonies. The Punjab Apartment and Property Regulation Act, 1995 (PAPRA Act) was enacted in the year 1995 for regulating colonies and property transactions. The PAPRA Act was amended in the year 2014 and sub section 3 of section 20 was introduced which has been reproduced below:-

Section 20(3) of the The Punjab Apartment and Property Regulation (Amendment) Act, 2014:-

20(3) No registrar or Sub-Registrar appointed under the provisions of the Registration Act, 1908, shall register sale deed or any other document regarding sale of land or plot or building situated in a colony, in respect of which license has not been obtained from the competent authority.

9. An embargo was placed on the Registrars/Sub Registrars appointed under the Registration Act, 1908 that they shall not register sale deeds regarding sale of land/plots situated in a colony in respect of which license has not been obtained from the competent authority. It was in view of Section 20(3) of the PAPRA that letter dated 24.1.2018 was issued to Registrars/Sub Registrars that they should register the sale/transfer deeds after obtaining No Objection Certificate from the competent authority in the Housing and Urban Development Department. Further letter dated 22.3.2018 provided that the registration of documents may not be refused but kept

pending till the NOC is produced. The letters dated 24.1.2018 and 22.3.2018 were later on withdrawn through letter dated 12.12.2019.

10. The Ld. Assistant Advocate General had submitted in the Hon'ble High Court that the impugned instructions contained in letter dated 12.12.2019 shall be kept in abeyance and the authorities shall continue to follow previous instructions. The Ld. Assistant Advocate General, Punjab had given this statement before the Hon'ble Punjab and Haryana High Court without any instructions from the Revenue and Rehabilitation Department. A D.O. letter No. 24/21/2021/stamp/ST1/11076, dated 25.08.2021 was written to the Advocate General, Punjab for appropriate action against Assistant Advocate General as she had given this statement before the Hon'ble High Court without any approval from the Revenue and Rehabilitation Department. Copy of D.O. letter No. 24/21/2021/stamp/ST1/11077, dated 25.08.2021 was endorsed to the Additional Chief Secretary, Home also for action against her. Although the Ld. Assistant Advocate General, Punjab had given the statement before the Hon'ble High Court in an unauthorised manner but the Government is bound to honour the commitment made by her before the Hon'ble High Court. Accordingly the State Government had written letter No. 24/21/2021/ST1/11083-105 dated 25.08.2021 to all the Sub Registrars regarding the orders of the Hon'ble High Court dated 03.08.2021 in CWP-PIL No. 133 of 2021.

11. The intention behind the letters dated 24.01.2018 and 22.03.2018 was to prevent the haphazard and unplanned growth of colonies, therefore, the provision of prior NOC before registration of sale deed was introduced. This caused a lot of harassment to the general public. Therefore, these were withdrawn after obtaining legal advice from the Ld. L.R. Punjab who opined that Section 20(3) PAPRA, 1995 can not over ride the Registration Act, 1908 on the ground that while PAPRA is a state Act, the Registration Act is a Central Act.

12. The purpose of PAPRA is to prevent haphazard growth of unplanned colonies. The objective of prohibition of transfer and sale of plots in unauthorised colonies can be achieved by means other than obtaining of NOC. Condition of putting NOC before registration of a sale deed would put

the general public to great inconvenience. Same objective can be achieved in a much better manner if the list of unauthorised colonies and legal colonies is published on the internet by the Government for the information of the general public. It will be easy for Registering Officers to identify the prohibited sale deeds in unauthorised colonies if Survey Number (Khasra Number) of land comprised in the authorised/unauthorised colonies is also published on portal of the Department of Revenue and Rehabilitation. The Departments of Housing and Urban Development and Local Government can also publish list of such legal and illegal colonies along with survey numbers and other details on their websites for the information of the general public so that people are not duped by unscrupulous persons.

13. An amendment was made in the Registration Act in the year 2020 and a new section 19-A (1) (C) was introduced under which the Registering Officer can refuse to register any sale deed relating to immovable property specified by the State Government by notification through which transfer of such property has been prohibited. The relevant section has been extracted below:-

19 (A) (1) The Registering Officer shall refuse to register-

(c) any instrument relating to immovable property, specified by the State Government, by notification, the alienation or transfer of which has been prohibited under any Central or State Act ; and

14. With the amendment in the Registration Act in 2020 provision has been introduced enabling the registering officer to refuse the registration of documents if the concerned property has been notified by the State Government through a notification. This provision can be utilised for prohibiting the sale purchase of properties in unauthorised colonies. As a result, a special meeting was held with the departments of the Housing and Urban Development and Local Government. The Department of Local Government has categorised all the colonies in 7 different categories and category-wise information is provided in the link (<https://docs.google.com/spreadsheets/d/1bwHgznD1jNVs0FnQbpny9tthSdt1JktwaxvJZ6r7yLI/edit#gid=1199070778>) of Google Sheet and the Department of Local Government is updating this information regularly. The Revenue Department will issue a notification under Section 19-A (1) (C) on its website

for information of the general public and also issue a notification regarding these unauthorised colonies. A fresh letter will be issued to all the Registrars and Sub Registrars under the Registration Act, 1908 that no sale deed/conveyance deed relating to the khasra numbers given in the unauthorised colonies should be registered by them. A letter to the following effect shall be written to all the Registering Officers:-

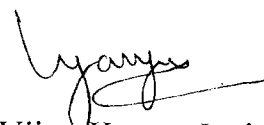
Your attention is invited to letter No.24/41/14-ST1/790-91, dated 24.01.2018 vide which instructions were issued that NOC (No Objection Certificate) be obtained from the competent authority in the Housing and Urban Development before registering sale deed of any plot/sites. It was further directed that the statutory provisions contained in Section 20(3) of Punjab Apartment and Property Regulation Act, 1995 also be complied with. In continuation of earlier letter another Memorandum No. 24/41/14-ST1/3780-81 dated 22.03.2018 was issued in which it was stated that the lists of unauthorised colonies are to be provided by the Housing and Urban Development Department and Department of Local Government. It was further stated that the registration may not be refused but may be kept pending for registration till the NOC is produced. Subsequently a letter No.24/41/14-ST1/19231-32, dated 12.12.2019 was issued through which the directions issued earlier through letters dated 24.01.2018 and 22.03.2018 were withdrawn.

This Memorandum dated 12.12.2019 was challenged through CWP-PIL No.133/2021 in Hon'ble Punjab and Haryana High Court. The Hon'ble High Court disposed of the CWP by passing directions on 03.08.2021 that the representation dated 07.04.2021 of the petitioner be decided expeditiously by passing reasonable orders.

The matter was examined at length and the representation of the petitioner has been decided through a speaking order. We should not insist on obtaining of NOC

before the registration of a sale deed as it will cause unnecessary harassment to the general public. However there is also a need to prevent the haphazard growth of unplanned and illegal colonies in Punjab. Therefore, you are hereby directed that before registering any conveyance deed the lists published on the portal of this department containing authorised and unauthorised colonies alongwith Khasra Numbers may be examined. This department will issue a notification u/s 19-A (1) (C) of the Registration Act by depicting the list of legal and illegal colonies alongwith Khasra Numbers. Only in case the property sought to be transferred falls in Khasra Numbers of unauthorised colonies the registration is to be refused as provided u/s 19-A (1) (C) of the Registration Act, The department of Housing and Urban Development and Local Government will also publish the list of legal and illegal colonies on their websites and also send a copy to this Department. This will be in consonance with section 20(3) of the Punjab Apartment and property Regulation (Amendment) Act, 2014. The list of legal & illegal colonies shall be notified u/s 19-A (1) (C) of the Registration Act and also published on the website.

This order is being passed in view of the directions given by the Hon'ble Punjab and Haryana High Court in CWP-PIL No.133 of 2021 and with the approval of Hon'ble Revenue Minister and Hon'ble Chief Minister of Punjab.



Vijay Kumar Janjua, IAS
Special Chief Secretary-cum-
Financial Commissioner, Punjab.


22 - 11 - 2021

No.24/33/2021-STAMP/ST-1 /14466 - 14475

Dated 22.11.2021

Copy is forwarded to the following for information / necessary action

1. Registrar (writs) Punjab and Haryana High Court Chandigarh with the reference to Hon'ble Punjab and Haryana High Court order dated 03-08-2021 passed in CWP PIL no. 133 of 2021 titled Prem Parkash V/s State of Punjab and Ors.
2. Principle Secretary to Hon'ble Chief Minister, Punjab.
3. Principle Secretary to Department of Housing and Urban Development, Punjab.
4. Principle Secretary to Department of local Government, Punjab.
5. Private Secretary to Hon'ble Revenue and Rehabilitation Minister Punjab.
6. Private Secretary to Chief Secretary Punjab.
7. Special Secretary to Financial Commissioner Revenue Punjab.
8. P.A. to Special Secretary Revenue (K.H.)
9. PM/PLRS.
10. Sh. Prem Parkash petitioner S/O Sh Angoo Ram R/O 1713/12 C Ajit Nagar, Haibowal Kalan, Ludhiana.


Under Secretary to Govt. of Punjab,
Department of Revenue, Rehabilitation
and Disaster Management

18-37
22-11-2021