



**, GREATER MOHALI AREA DEVELOPMENT AUTHORITY,
PUDA BHAWAN, SECTOR - 62, S.A.S. NAGAR**

SPEAKING ORDER

1. While disposing of Civil Writ Petition No. 2343 of 2019 titled as Sukhbir Singh Gill & ors. Verses State of Punjab and others, Hon'ble Punjab & Haryana High Court vide order dated 29.01.2019 had passed the following directions:-

"Contends that license of the developer was cancelled on 02.05.2018 and in terms of Section 5(15) of Punjab Apartment and Property Regulation Act, 1995 the development works were to be carried out by the local authorities and in this regard the petitioners made representation which has gone unanswered.

Having regard to the aforesaid, we deem it appropriate to dispose of the present petition at this stage with a direction to respondent No.4 to consider the grievance of the petitioners as contained in the representation (Annexure P-13) and take a decision thereon by passing a speaking order. Ordered accordingly.

Disposed of."

2. In this writ petition, the petitioner along with 211 petitioners had made a prayer for issuance of a writ in the nature of mandamus directing the Respondents no. 1 to 4 for invoking the provisions of section 5(15) of the Punjab Apartment and Property Regulation Act, 1995 for carrying out the development works and to manage the whole affairs/project of Sky Rock City Welfare Society, Sector 111-112 (Regd. No. 2831/2010), Mohali OR in the alternate to appoint any competent person/official/authority for carrying out the development works and to manage the whole affairs/project of Respondent no. 5- Sky Rock City Welfare Society.
3. In the representation (Annexure P-13) also the petitioners had requested the Competent Authority-cum-Chief Administrator, GMADA to invoke the provisions of Section 5(15) of the Punjab Apartment and Property Regulation Act, 1995 for carrying out the development works and to manage the whole affairs/project of Sky Rock City Welfare Society, Sector 111-112 (Regd. No. 2831/2010), Mohali OR in the alternate to appoint any competent person/official/authority for carrying out the development works and to manage the whole affairs/project of Sky Rock City Welfare Society, Sector 111-112 (Regd. No. 2831/2010), Mohali.

4. As per facts brought on record by Licensing Branch, License no. 18/2014 was issued to M/s. Sky Rock City Welfare Society on 06.05.2014 for setting up a residential colony on an area measuring 25 acres at Village Behrampur forming part of Sector 111-112, S.A.S. Nagar, which was valid for a period of three years i.e. up to 05.05.2017. As per provisions of sub section (4) of Section 5 of the Punjab Apartment & Property Regulation Act, 1995 read with Rule 14 of Punjab Apartment and Property Regulations Rules, 1995 the Promoter Society was required to submit application for renewal of license at least 30 days before the expiry of the license but the Promoter Society did not apply for renewal of license within the prescribed period. Consequently the License granted to the Promoter Society expired on 05.05.2017. Even the Sites/plots kept reserved for EWS as per approved Layout Plan were not transferred by the Promoter Society to GMADA. The Promoter Society failed to deposit EDC charges amounting to Rs. 572.66 lacs and also violated the terms and conditions of the license by undertaking development works at the site in violation of approved Layout Plan as also without getting service plan approved from the Competent Authority. Also number of complaints had been received against the promoter society in the GMADA office with the allegation that the Promoter Society failed to hand over the possession of plots to the applicants irrespective of the fact that they have paid full or ninety percent payment against the price of the plots to the Promoter Society. After considering all these facts, the license issued to the Promoter Society was cancelled by the then Competent Authority-cum-Chief Administrator, GMADA vide order dated 07.05.2018 and FIR No.0051 dated 17.03.2017 was also got registered at Police Station Sohana, S.A.S. Nagar against Sh. Navjit Singh, President of M/s. Skyrock City Welfare Society.

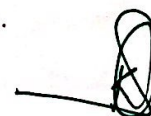
5. After having gone through the representation of the petitioners and relevant record placed before me, I find that the Promoter Society failed to complete the development works of this colony. The license was issued to the Promoter Society by the Competent Authority for development of a colony over an area measuring 25 acres, but the Promoter Society did not acquire the title of 25 acres of land, which is mandatory for the development of a colony in the jurisdiction of GMADA rather it was found that the Promoter Society is owner to the extent of 7.475 acres of land only. As per provisions of Zoning Development Plan of S.A.S. Nagar notified by the Department of

Town and Country Planning, Punjab vide Notification No. 6456 CTP(Pb)/SC-76 dated 13-08-2019, minimum 25 acres area is required for development of a colony. Therefore, it is not possible to invoke provision of sub section 15 of Section 5 of the Punjab Apartment and Property Regulation (amendment) Act, 2014 to carry out development of a colony over 7.475 acres of land as the same does not meet minimum requirement of 25 Acres. In this situation, when the Promoter Society has failed to develop colony over 25 acres of land and deliver possession of plots to the buyers within time stipulated in the agreements executed between the Promoter and buyers, the Promoter Society is bound to refund the amount collected from the buyers alongwith interest @ 12% P.A. to the buyers of plots/petitioners, whosoever had paid any amount to this Promoter Society towards price of plots, from the date of deposit till the date of realization as per provisions of sub section (2) of Section 6 of the Punjab Apartment & Property Regulation Act, 1995 read with Rule 17 of Punjab Apartment and Property Regulations Rules, 1995, which is reproduced here under:-

“17. Rate of interest on refund of advance money upon cancellation of agreement: - The promoter shall refund full amount collected from the prospective buyers under sub-section (1) of section 6 together with interest thereon at the rate of twelve per cent per annum payable from the date of receipt of amount so collected till the date of re-payment.”

6. After considering representation (Annexure P-13), in the light of above said facts and circumstances, it is hereby directed that Promoter Society i.e. M/s. Sky Rock City Welfare Society shall refund full amount collected from the petitioners together with interest @ 12% P.A. from the date of receipt of amount so collected till the date of re-payment.

Orders be communicated to the Petitioner Society as well as 1st Petitioner Sh. Sukhbir Singh Gill, advising him to bring these orders in the notice of all the petitioners.



(KAVITA SINGH, I.A.S.)

CHIEF ADMINISTRATOR

Dated: 07.10.2019
Place: S.A.S Nagar