

प्रेषक,

आलोक कुमार
सचिव,
उत्तर प्रदेश शासन

सेवा में,

1. आयुक्त,
उ०प्र० आवास एवं विकास परिषद,
उत्तर प्रदेश।
2. उपाध्यक्ष,
समस्त विकास प्राधिकरण,
उत्तर प्रदेश।
3. जिलाधिकारी/अध्यक्ष,
समस्त विशेष क्षेत्र विकास प्राधिकरण,
उत्तर प्रदेश।

आवास एवं शहरी नियोजन अनुभाग-6

लखनऊ : दिनांक 14 - दिसम्बर, 2011

विषय:- विशेष अनुज्ञा याचिका संख्या-13917/2009, सूरज लैम्प एण्ड इन्डस्ट्रीज प्रा० लि० बनाम हरियाणा सरकार व अन्य में मा० उच्चतम न्यायालय द्वारा General Power of Attorney Sales or Sale Agreement/General Power of Attorney/Will transfers के सन्दर्भ में पारित आदेश दिनांक 11.10.2011 के अनुपालन के संबंध में।

सहोदय,

उपर्युक्त विषय की ओर ध्यान आकृष्ट करते हुए मुझे यह कहने का निर्देश हुआ है कि विशेष अनुज्ञा याचिका संख्या-13917/2009, सूरज लैम्प एण्ड इन्डस्ट्रीज प्रा० लि० बनाम हरियाणा सरकार व अन्य में General Power of Attorney Sales or Sale Agreement/General Power of Attorney/Will transfers के सन्दर्भ में मा० उच्चतम न्यायालय द्वारा आदेश दिनांक 11.10.2011 (छायाप्रति संलग्न) पारित किये गये हैं जिसका मुख्य अंश निम्नवत् है :-

"..... We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of 'GPA' sales or SA/GPA/Will Transfers' do not convey title and do not amount to transfer, nor can they be recognized as a valid mode of transfer of immovable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They can not be recognized as deeds of title, except to the limited extent of section 53A of the TP Act. Such transactions can not be relied upon or made the basis for mutations in Municipal or Revenue records. What is stated above will apply not only to deeds of conveyance in regard to free hold property but also to transfer of lease hold property. A lease can be validly transferred only under a registered Assignment of lease. It is time that an end is put to the pernicious practice of SA/GPA/Will transactions known as GPA sales.

It has been submitted that making declaration that GPA sales and SA/GPA/WILL Transfers are not legally valid modes of transfer is likely to create hardship to a large number of persons who have entered into such transactions and they should be given sufficient time to regularize the transactions by obtaining deeds of conveyance. It is also submitted that this decision should be made applicable prospectively to avoid hardship.

We have merely drawn attention to and reiterated the well settled legal position that SA/GPA/WILL transactions are not transfers or sales and such transactions can not be treated as completed transfers or conveyances. They can continue to be treated as existing agreement of sale. Nothing prevents affected parties from getting registered deeds of conveyances to complete their title. The said SA/GPA/WILL transactions may also be used to obtain specific performance or to defend possession under section 53A of TPAct. If they are entered before this day, they may be relied upon to apply for regularization of allotments/leases by Development Authorities. We make it clear that if the documents relating to SA/GPA/WILL transactions has been accepted acted upon by DDA or other developmental authorities or by the municipal or revenue authorities to effect mutation, they need not be disturbed, merely on account of this decision.

We make it clear that over observations are not intended to in any way affect the validity of sale agreements and power of attorney executed in genuine transactions, for example, a person may give a power of attorney to his spouse, son, daughter, brother, sister or a relative to manage his affairs or to execute a deed of conveyance. A person may enter into a development agreement with a land developer or builder for developing the land either by forming plots or by constructing apartment buildings and in that behalf execute an agreements of sale and grant a Power of Attorney empowering the developer to execute agreement of sale or conveyances in regard to individual plots of land or undivided shares in the land relating to apartments in favour of prospective purchasers. In several states the execution of such development agreements and power of attorney are already regulated by law and subjected to specific stamps duty. Our observations regarding SA/GPA/WILL transactions are not intended to apply to such bonafide/genuine transactions."

2. कृपया माओ उच्चतम न्यायालय के आदेशों का अनुपालन सुनिश्चित कराले हुए कृत कार्यवाही से प्राथमिकता के आधार पर शासन को अवगत कराने का कष्ट करें ;

संलग्नक-यथोक्त :

भवदीय,
(Handwritten Signature)
(आलोक कुमार)
सचिव।
✓