

**Court No. - 39**

**Case :- WRIT - C No. - 60983 of 2015**

**Petitioner :- Sunrise Green Residents Welfare Association**

**Respondent :- Ghaziabad Development Authority & 2**

**Others**

**Counsel for Petitioner :- Prashant**

**Counsel for Respondent :- C.S.C., Ram Bilas Yadav**

**Hon'ble Dilip Gupta, J.**

**Hon'ble Mukhtar Ahmad, J.**

Sunrise Green Residents Welfare Association, Indirapuram in District Ghaziabad has filed this petition for a direction upon the Ghaziabad Development Authority<sup>1</sup> to ensure that a correct deed of declaration in the format prescribed under the provisions of the U.P. Apartment (Promotion of Constructions, Ownership and Maintenance) Act, 2010<sup>2</sup> and the U.P. Apartment (Promotion of Constructions, Ownership and Maintenance) Rules, 2011<sup>3</sup> is filed by M/s Jaipuria Infrastructure Developers, which has been impleaded as respondent no.3, in regard to Plot No.12 A, Ahinsa Khand, Indirapuram. The second relief that has been sought is that the Development Authority should disentitle respondent no.3 from the common independent areas pursuant to the public notice dated 29 March 2015.

A Division Bench of this Court by its common judgment dated 14 November 2013 disposed of Civil Misc. Writ Petition No.33826 of 20124; Civil Misc. Writ Petition No.46099 of 20125; Civil Misc. Writ Petition No.15782 of 20106; and Civil Misc. Writ Petition No.12110 of 20137 that had been filed in connection with the Act and the Rules framed thereunder with certain directions.

The Vice-Chairman of the Development Authority,

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1 the Development Authority

2 the Act

3 the Rules

therefore, directed respondent no.3 to file a deed of declaration. According to the petitioner-Association, incomplete and defective deed of declaration was filed on 22 December 2014 and as soon as the petitioner-Association came to know about the filing of the aforesaid deed, it filed written objections before the Vice-Chairman of the Development Authority in which it was also pointed out that the declaration was not in conformity with the judgment dated 14 November 2013 passed by the Division Bench in the writ petitions referred to above.

Learned counsel appearing for the petitioner-Association has submitted that the objections filed by the petitioner have not been considered till date by the Vice-Chairman of the Development Authority. It is his submission that the judgment dated 14 November 2013 had taken into consideration the relevant requirements of the Act and the Rules but respondent no.3 has filed a deed of declaration not only contrary to the provisions of the Act and the Rules but also contrary to the directions issued by the Division Bench of this Court.

Sri R.B.Yadav has appeared for respondent no.1-Development Authority . Learned Standing Counsel appears for respondent no.2. In view of the order that we propose to pass, it will not be necessary to issue notices to respondent nos.3 .

Learned counsel appearing for the Development Authority has stated that under Section 27 of the Act, the Competent Authority has to carry out such directions as have been issued for the efficient administration of the Act and under the notification issued by the State Government, it is the Vice-Chairman of the Development Authority who is the

Competent Authority. It is, therefore, his submission that in the first instance the Vice-Chairman of the Development Authority shall examine the grievances raised by the petitioner.

Learned counsel for the petitioner has stated that the petitioner may be given liberty to file fresh objections before the Vice-Chairman of the Development Authority for him to examine the same in accordance with the provisions of the Act and the Rules.

We, accordingly, dispose of the petition with a direction that in the event the petitioner files objections before the Vice-Chairman of the Development Authority regarding the declaration submitted by respondent no.3, the same shall be examined in accordance with the provisions of the Act and the Rules framed thereunder, after hearing the parties concerned, including respondent no.3 expeditiously and preferably within a period of six weeks from the date of filing of the objections with a certified copy of this order before the Vice-Chairman of the Development Authority.

It is made clear that the Court has not expressed any opinion on the merits of the objections filed by the petitioner and it will be for the Vice-Chairman of the Development Authority to examine the same and take a considered decision in accordance with law.

**Order Date :-** 2.11.2015  
Shahid

**(Dilip Gupta, J.)**

**(Mukhtar Ahmad,J.)**