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Government of India
Ministry of Urban Development
Land & Development office
Nirman Bhawan, New Delhi

No.L/1/9/MSB Association/2016/356

Dated : 24 /11/2016

To,

The Resident Welfare Association /Lessee(ex-lessee)/
Promoter / Builder(as per list attached)

Subject : Execution of Deed of Apartment – finalization of guidelines thereof- as per Judgement/direction of Hon'ble Delhi High Court- regarding.

Sir,

The Hon'ble High Court of Delhi in the matter of WP (C) No.1959/2007 – O.S. Bajpai Vs The Administrator (Lt. Governor) and subsequent modified order dated 13/7/2012 has directed the L&DO/UOI to execute Deed of Apartment in favour of Flat/Apartment Owner of the Multistoried Buildings, which are situated on the land leased by Land and Development Office. The UOI/L&DO has also filed a Review Petition No. 394/2015 in Delhi High Court against the orders dated 28.05.2010 & 13.07.2012, however, the same was decided against the UOI and dismissed on 05.04.2016. In pursuance to the Delhi High Court Order dated 05.04.2016 in Review Petition, UOI/L&DO preferred to file a SLP before the Hon'ble Supreme Court of India, which was not accepted by the Apex Court and dismissed on 01.08.2016.

Since, the matter has been settled by the Apex Court, therefore, the Judgment of Hon'ble Delhi High Court got finality and needs to be implemented. Hence, with the approval of Ministry of Law and Competent Authority, it was decided to implement the Hon'ble Court's Judgment and execute Deed of Apartment in favour of Flat/Apartment Owners.

Accordingly, UOI/L&DO vide letter dated 16.09.2016 circulated the modalities/terms and conditions among the Resident Welfare Association/ Lessee- Ex lessee/ Promoter/ Builders etc. of all the multistoried building to execute Deed of Apartment in respect of flats / apartments situated on the land leased by Land and Development Office.

Further, the Hon'ble Delhi High Court on 30.09.2016 heard the following Contempt Petitions, which were filed by Apartment Owners/Associations for execution of above order of the Delhi High Court orders in respect of various buildings:-

- (1) Nirmal Tower Society Vs Sumit Gakhar (500/2013)
- (2) Harimohan Prabhaker Vs Dr. Sudhir Krishna (55/2013)
- (3) Rajesh Rajan Joshi & ors Vs Madhu Sudan Prasad and Anr(208/2015)

During the hearing, Ld. ASG appearing on behalf of UOI presented the said letter dated 16.09.2016 to the Hon'ble Court. In the course of the hearing the counsel for the Petitioners expressed certain reservations on the language of the letters and a consensus emerged to make the language of such letter more broad based so as to cover in its ambit different situations, which may arise on different contexts and which would need to be addressed across the board.

Accordingly, in consultation with the Ld. ASG and with the approval of the Competent Authority, the following changes to the contents of letter dated 16.09.2016 have been effected:-

- (i) The sub para (i) of the letter dated 16.09.2016 may be substituted as under:

"The Deed of Apartment will be executed only after realization of pro-rata charges in respect of each flat/apartment in the building".

- (ii) The sub-para (ii) of the letter dated 16.09.2016 may be substituted as under: -

"In case of re-entered properties, L&DO in the first instance, will notify the charges/penalties for withdrawal of re-entry to all the flat/apartment owners and based on the calculation of the outstanding charges/ penalties for the entire building, it will be open to individual flat/ apartment owner to pay the same towards their respective flat/apartment on pro-rata basis upon which the re-entry will be deemed to be withdrawn in respect of the flat/apartment and the Deed of Apartment will be executed, subject to the completion of other formalities as the case may be".

- (iii) The sub-para(iii) of the said letter may be substituted as under:-

"Where the multistoried building is constructed on a Plot, which was transferred on leasehold tenure, the flat/apartment owners will also be considered as "lessee" in respect of their individual unit and will be governed as per the original set of lease administration / office orders apart from such other terms and conditions, which may have been communicated to the original lessee till the completion of construction of multistoried buildings which has since been erected on such plot in question".

(iv) The sub-para(iv) of the said letter may be substituted as under:-

"In case the recorded lessee opts to approach L&DO for Conversion of entire building along-with land underneath from leasehold to freehold at any later point of time, the same will be allowed only after recovery of all government dues as applicable in such cases. The conversion of property into freehold will be carried out in the name of recorded lessee subject to the condition that he will transfer the freehold rights of the apartment to the individual apartment owners along with the pro-rata rights in land underneath of the building. For this purpose, the lessee will be required to furnish an undertaking to this effect with L&DO before issue of Conveyance Deed by this office".

(v) The Sub-para (v) of the said letter may be substituted as under:-

"In the event where the lessee/builder/promoter/developer is not available or not coming forward to get the allotted land freehold or to execute Deed of Apartment in favour of individual flat/apartment owners, then individual flat/apartment owner may directly approach the L&DO for execution of the Deed of Apartment and also for conversion of his individual unit into freehold at a later stage".

(vi) The sub-para (vi) of the said letter remain same.

(vii) The sub-para (vii) of the said letter may be substituted as under:

"The applicant is also required to give undertaking to the effect that:-

(a) he/she will pay the updated dues in respect of their flat/apartment including pro-rata charges for the common area as and when demanded by L&DO.

(b) he/she is aware that the govt. dues being paid are on pre-revised land rates, which are under revision, hence, ~~he/she undertake that he/she will be pay the difference~~

of charges so arise after revision of land rates w.e.f. 01.04.2000.

(c) he/she will use the apartment as per the provision of the building bye laws/ T& C of perpetual Lease/ Title document (i.e. Builder Buyer Agreement/ Licence Deed/ Flat Buyer Agreement etc) and in accordance with the terms and conditions stipulated by the L&DO from time to time while granting permission of construction of multistoried buildings, failing which the Lessor has right to re-enter the individual flat/apartment of the building.

The proforma of undertaking is attached as **Annexure-I**."

(viii) The sub-para (viii) of the letter may be substituted as under: -

"The applicant i.e apartment/flat owner is required to furnish an affidavit sworn before the 1st Class Magistrate as per **Annexure-II**."

(ix) The sub-para (ix) may be treated as deleted.

(x) The para (x) & (xi) of the said letter remain same

(xii) The sub-para (xii) may be treated as Deleted.

2. The para 2 of the said letter dated 16.09.2016 may be substituted as under:

"The Apartment purchaser or owner is required to apply for execution of Deed of Apartment in the prescribed proforma giving detailed information as sought and also affix attested recent passport size photograph on application form. A attested copy of latest Identification proof and address may also be attached along-with the application form. A copy of the prescribed proforma is attached as **Annexure-III**. The Format for execution of Deed of Apartment has been uploaded in the L&DO Web-site".

Yours faithfully,

Abhishek Biswas

(Abhishek Biswas)

Deputy Land & Development Officer

Handwritten initials and date: 14/11/16

जारी किया
ISSUED

(Undertaking by the apartment owner on Rs. 10/- non-judicial stamp paper)

That I, Shri _____ S/o Shri _____, Resident of _____, New Delhi and is the owner of the Flat No. _____ Floor, _____ (name of Building known as), _____ (address of building), New Delhi. hereby undertake as under:-

(a) That the executant will pay the updated dues in respect of flat No. _____, _____ Floor in _____ (name of building), _____ (address of building), New Delhi including pro-rata charges for the common area as and when demanded by L&DO.

(b) That executant is aware that the govt. dues earlier paid are on pre-revised land rates, which are under revision, hence, the executant undertake that he/she will be pay the difference of charges so arise after revision of land rates w.e.f. 01.04.2000.

(c) The executant further undertake that he/she will use the apartment as per the provision of the building bye laws/ T& C of perpetual Lease/ Licence Deed and in accordance with the terms and conditions stipulated by the L&DO from time to time while granting permission of construction of multistoried buildings, failing which the Lessor has right to re-enter the individual flat/apartment of the building.

Place:-

Date:

Executant

Witnesses:-

1.

2.

Annexure-II

(Affidavit to be sworn on Rs. 10/- non-judicial stamp paper and duly attested by First Class Magistrate)

That I, Shri _____ S/o Shri _____, Resident of _____, New Delhi and is the owner of the Flat No. _____, Floor, _____ (name of building) _____ (address of building) hereby declare as under:-

(i) That the Deponent is in occupation of above said flat at _____ (name and address of building) lawfully and as on date no court case is pending with respect to the said apartment and the same is free from all encumbrances.

(ii) This is in respect of my application to the Land and Development Officer.

(iii) I hereby state on oath that the information given by me in application and this affidavit is true and correct to the best of my knowledge. I also understand the Deed of Apartment, I will obtain, is liable to be withdrawn and cancelled by L&DO at any time if it is found that the information furnished by me is false wholly or partly, the deed is liable to be cancelled or withdrawn by L&DO immediately.

(iv) I state on oath that the content of this affidavit are true and nothing has been concealed.

Deponent

Place:-

Date: