

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8964 OF 2014
(Arising out of SLP(C) No.33377 of 2012)

NIVEDITA SHARMA

APPELLANT (S)

VERSUS

STATE OF HARYANA & ORS.

RESPONDENT (S)

O R D E R

Leave granted.

2. We have heard Ms. Nivedita Sharma, appellant-in-person and Mr. Narender Hooda, learned Advocate General for respondent Nos.1 to 4.

3. The High Court in the impugned order has relied upon Section 3C of the Haryana Development and Regulation of Urban Areas Act, 1975, which was inserted vide Haryana Act No.18 of 2009 dated 14.09.2009 and the circular issued by the Financial Commissioner on 27.03.2009.

4. The appellant, who was the petitioner before the High Court sought the direction to the respondent to register the sale-deed of property bearing No.F-5/5, basement, DLF Phase-I, Gurgaon in favour of the appellant on the basis of the agreement to sell

dated 10.01.2008 and also prayed that the circular dated 27.03.2009, which prevents the registration of the basement of the building separately, be quashed.

5. The present case, in fact, rests on its own facts. The agreement to sell dated 10.01.2008 entered between the appellant and his vendor, Rahul Bansal, records as under :

Whereas, the property bearing no.F-5/5 Basement of the above said property measuring approximately 525 (Approx) Sq.Ft. was purchased by Mr. Rahul Bansal from Mr. Vikram Vij, S/o Late Sh. Sushil Kumar Vij, on 12th day of March, 2001. A conveyance deed dated 12.03.2001 was executed between Mr. Vikram Vij and Mr. Rahul Bansal, which is duly registered with Sub-Registrar Gurgaon, vide Vasika No.15214 Addl Book No.1 Jild No.6463 on pages 55-56 Addl. Book no.1 Jild No.652, page 135 dated 12.03.2001.

6. From the above, it is clear that the basement was purchased by Rahul Bansal (appellant's vendor) from Vikram Vij way back on 12.03.2001 and as such Rahul Bansal was the independent owner of the basement. In our view, based on this fact, neither Section 3C nor the circular dated 27.03.2009 can be said to have any application insofar as transfer of the subject basement by Rahul Bansal to the appellant is concerned.

7. The impugned order, is accordingly, set aside and prayer (a) made by the appellant in the writ petition before the High Court is granted. Needless to say that the appellant shall have to abide by the user requirement prescribed by the respondents and in the event of any violation of such requirement, the respondents will be free to take action against the appellant.

8. Civil appeal is allowed as above with no order as to costs.

.....CJI.
(R.M. LODHA)

.....J.
(KURIAN JOSEPH)

NEW DELHI;
SEPTEMBER 17, 2014

.....J.
(ROHINTON FALI NARIMAN)

ITEM NO.1

COURT NO.1

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 33377 of 2012

(Arising out of impugned final judgment and order dated 19/03/2012 in CWP No.16387/2009 passed by the High Court of Punjab and Haryana at Chandigarh)

NIVEDITA SHARMA

Appellant(s)

VERSUS

STATE OF HARYANA AND ORS

Respondent(s)

(With prayer for interim relief and office report)
(For Final Disposal)

Date : 17/09/2014 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Ms. Nivedita Sharma
In-person

For Respondent(s) Mr. Narender Hooda, Sr.AAG
Ms. Bano Deswal, Adv.
For Dr. Monika Gusain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

Civil appeal is allowed in terms of the signed
order.

(Neetu Khajuria)
Sr.P.A.

(Renu Diwan)
Court Master

(Signed order is placed on the file.)