

I/c Joint Registrar (Judicial) (Budget)

May kindly see the online application received from Sri Harish Kumar-II, the then Secretary, District Legal Services Authority, now posted as Chief Judicial Magistrate, Lalitpur regarding grant of permission to sell house no. B-80, measuring 250.77 sq. meters, Kaushambi, Ghaziabad.

In his application, Sri Harish Kumar has stated that he has a house no. B-80, measuring 250.77 sq. meters in Kaushambi, Ghaziabad. The said house was purchased by his father in the name of himself and his mother Smt. Vimla Bhaskar in the year 1995 from Ghaziabad Development Authority (Copy of 'Possession/Transfer' Letter can be seen as attachment). He has mentioned this property in all of his previous property statements. This property was purchased before joining of service. His father has expired on 20.11.2014. The property was taken care of by his mother. His mother is residing in Lucknow and he himself is posted at Lalitpur, thus it is becoming difficult to look after the property now. So, he and his mother have decided to sell off the said property. The circle rate of Kaushambi, Ghaziabad is 72500 per sq. meter and as per the circle rate, the plot value of the plot is around 1 crore 82 lakhs and the construction cost of the house erected is Rs. 23 lakhs. Hence, the total value of the property is 2 crore 5 lakhs. Buyers namely Sri Vipin Chauhan S/o R.K. Chauhan R/o H. No. 341, Chauhan mohalla, Madanpur Khadar, Sarita Vihar, South Delhi and, Sri Dilshad Khan S/o Islamuddin R/o H. No. 113, Gyan Khand-1, Indirapuram, Ghaziabad have approached through a property dealer & are ready to purchase the said property for Rs. 2 crore 5 lakhs. Thus, he has decided to sell it off to the proposed buyers. The proposed buyers/ purchasers are not related to him in any way & no case of them have ever been pending in his Court or decided by him. He has, therefore, requested to place his application for grant of requisite permission to sell the said property.

In this connection, it is submitted that the relevant Rule 24(1) of U.P. Government servants' conduct Rule, 1956, applicable in this case, speaks as under-

"No Government servant shall, except with the previous knowledge of the appropriate authority acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family;

Provided that any such transaction conducted otherwise than through a regular & reputed dealer shall require the previous sanction of the appropriate authority."

The matter was earlier submitted to Hon'ble Mr. Justice Syed Aftab Husain Rizvi, Administrative Judge, Lalitpur/ Nominated Judge, for His Lordship's kind perusal and orders through office note dated 11.04.2022, upon which His Lordship has been pleased to pass order dated 11.05.2022, which is as follows:-

"The date of purchase, acquisition a property does not match with the property statement submitted by Officer. Copy of the sale deed be also attached.

The order of His Lordship has been communicated to the officer and he has been asked to comply with the order.

In compliance of Hon'ble Court's order dated 11.05.2022, the officer had submitted that :-

1. His father applied to Ghaziabad Development Authority for purchase of a plot in the year 1994.
- 2 A plot bearing no. C-202, Surya Nagar, Ghaziabad was allotted in 1994 on installments by GDA.
3. After payment of all the installments possession of plot C-202, Surya Nagar, Ghaziabad was handed over to them by GDA in 1995.
4. On construction of boundary wall, neighbours objected to the construction and said that the property is disputed. So, his father moved an application to GDA regarding change of plot no. C-202, Surya Nagar, Ghaziabad.
5. GDA by its order dated 31.07.1995 allotted another plot bearing no. B-80, Kaushambi, Ghaziabad and its possession was handed over to them on 16.10.95.
6. After completing all the formalities registry was done on 10.12.1996 between GDA, himself and his mother.
7. Thereafter construction work started, which took some time.

8. Therefore at the time of submission of the first property statement (at the time of joining service) acquisition year of property was stated to be 1998.

9. At the time of joining service, all the property documents of House no.B-80 Kaushambi, Ghaziabad was with his father. Year of acquisition was stated by him as 1998 which was told to him by his father at that time.

10. Above said property documents came to his possession only after his father's death in 2014.

11. Nothing material has been concealed. All the contents stated in property statement are true to the best of his knowledge.

He has also submitted that all other required documents are being submitted for perusal and necessary action (Attachments dated 13.05.2022). Accordingly, the details so submitted by the officer and again detailed office note dated 17.05.2022 was again submitted before His Lordship, which appeared not satisfactory to His Lordship and His Lordship has been pleased to pass order dated 18.05.2022 in the matter, which is as follows:-

"The explanation submitted by the officer regarding the difference of the date of acquisition, the property statement is not satisfactory. Officer to make suitable amendments, in the property paper submitted by him earlier.

The amount of consideration is not disclosed. Willingness of proposed all purchasers is also lacking.

Whether any agreement has been executed for the sale of property with the purchaser:

Whether the applicant has any other brother or sister who has interested in the property in question:

Consent letter of mother is required. It is not clear whether applicant is wanted to sell the plot along with his mother or only his share in the property."

The order of His Lordship has been communicated to the officer and he has been asked to comply with the order.

In compliance of Hon'ble Court's order dated 18.05.2022, the officer has now submitted that:-

1- Amended property statement of immovable property is being filed in compliance to Hon'ble Court's direction which can be seen under the heading 'Property Statement' in the attachments.

2- Sale consideration amount is 2.05 crore (two crores five lakhs).

3- Agreement to Sell has been executed between the parties on 06.03.2022.

(Copy of the Agreement to sell is enclosed)

4- Willingness of both the purchasers are enclosed (copy of consent letter, willingness, NOC, Agreement to sell can be seen as attachment)

5- Consent Letter/ affidavit of mother is enclosed.

6- No objection certificate of sister and brother is enclosed.

(He has one elder sister Indu Pushkar and one younger brother Himanshu Kumar).

As the officer had complied with the order of this Hon'ble Court by submitting information as well as other required papers vide attaching the same in attachments dated 21.05.2022 & 23.05.2022 and has also made a due correction about the date of acquisition of the said property in his property statement by submitting Property statement in amended form in attachment namely "Amended Property statement" which may be taken on record for correction of date purposes. The same statement is separately submitted also on E-service Id no. P00061872022, which will also be processed accordingly. Accordingly, the details so submitted by the officer, detailed office note dated 26.05.2022 was again submitted before His Lordship, upon which His Lordship has been pleased to pass order dated 31.05.2022 in the matter, which is as follows:-

"The property is in the joint name of applicant and his mother, why the agreement to sale is executed by the applicant."

The order of His Lordship has been communicated to the officer and he has been asked to comply with the order.

In compliance of Hon'ble Court's order dated 31.05.2022, the officer has now submitted that:-

The said property is in the joint name of the applicant and his mother. Agreement to Sell is executed on 06.03.2022 between the parties by the applicant and his mother jointly. In the agreement to sell which has already been submitted as attachment, applicants name alongwith his mothers name Smt. Vimla Bhaskar is specifically mentioned as Vendor of the said property and her signature is also present on each page of the agreement, which can be verified by the document itself.

This may kindly be placed before Hon'ble Court for kind perusal and necessary action.

It is further submitted in the matter in question that during pendency of this application, the officer, through his another Case Id : S00021912022, has submitted intimation about sale of the said property to the proposed purchaser by submitting following facts:-

1. That he had applied before the Hon'ble Court for Grant of permission to Judicial Officer for sale of immovable property in terms of Rule 24 of U.P. Government Servants Conduct Rules, 1956 on 08.03.2022 (Case id : S00019232022).
2. That he and his mother entered into an agreement to sell the said property with the purchasers on 06.03.2022 at Ghaziabad.
3. That the statutory period mentioned in the agreement for execution of sale is 90 days, which was due on 04.06.2022.
4. That the application for permission is still pending before the Hon'ble Court.
5. That his mother is of age 67 years and not in a state of sound physical health. His mother and he himself have equal share in the said property. His mother have proposed to sell the said house B-80, Kaushambi, Ghaziabad. She wants to purchase a flat in Ghaziabad nearby his brothers house, so that she can be taken care by his brother and sister who are residing at Ghaziabad, as her age and health is not allowing her to live alone. To purchase a new house she needs money for which this sale is being done and as he himself being a joint owner of the house have to do it with her.
6. As the period mentioned in the agreement has passed there is also pressure on them from side of the purchares. If they don't execute the sale deed now they may be liable for civil suit.
7. In this particular situation and circumstance it has become necessary to execute the sale deed due to pressure on him from his mother and also the buyers.
8. Now, abiding by the rules as mentioned in section 24 (1) of the U.P. Government Servants Conduct Rules, 1956, which states that "No Government servant shall, except with the previous knowledge of the appropriate authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family: Provided that any such transaction conducted otherwise than through a regular and reputed dealer shall require the previous sanction of the appropriate authority". According to the said rule, immovable property can be sold either by two ways i.e. either by way of prior permission or through a regular and reputed dealer. As the permission is still pending, sale of said property is being done through a regular and reputed dealer.

Details of Dealer- Name- Devesh Varyani, Proprietorship- Yug Reality, C-84, Sector-122, Gautam Buddha Nagar, U.P.

Lastly, he submitted that he will be highly obliged if it could kindly be placed before the Hon'ble Court for information and necessary action.

It is further submitted that as the officer has sold the property to the same purchaser stated to be through a reputed & regular dealer by way of Sale Deed dated 17.06.2022 and submitted its sale information on a separate Case Id : S00021912022, upon which an office note has also been submitted on that case ID, this Case ID/application may be taken for consideration now as per current situation of

the case.

Under the facts and additional details submitted by the officer, as mentioned above, if approved, the matter may be laid before Hon'ble Mr. Justice Mayank Kumar Jain, Administrative Judge, Lalitpur, also "Nominated Judge for disposal of the matters of Judicial Officers, of information/ permission of sale/ purchase of movable/ immovable property or gift etc.", for the District Lalitpur, for His Lordship's kind perusal and if His Lordship approves in order to regularise the matter, Sri Harish Kumar-II, Chief Judicial Magistrate, Lalitpur be granted ex-post facto permission to sell house no. B-80, measuring 250.77 sq. meters, Kaushambi, Ghaziabad along with his mother, to Sri Vipin Chauhan S/o R.K. Chauhan R/o H. No. 341, Chauhan mohalla, Madanpur Khadar, Sarita Vihar, South Delhi and, Sri Dilshad Khan S/o Islamuddin R/o H. No. 113, Gyan Khand-1, Indirapuram, Ghaziabad, for Rs. 2,05,00,000/- (2 crores 5 lakhs rupees) as requested earlier?

Or

To pass any other order which His Lordship like to pass.

Munmun Narang S.O.

Meetu Verma, A.R.

10.05.2023

Hon'ble Mr. Justice Mayank Kumar Jain,
Administrative Judge, Lalitpur

Submitted for kind perusal & orders?

I/C Joint Registrar(Judicial)(Budget)

