

**(2009) 10 DEL CK 0146**

**In the Delhi High Court**

**Case No : Writ Petition (C) 12610 of 2009**

P.N. Chawla

APPELLANT

Vs

Commissioner of Industries and Others

RESPONDENT

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**Date of Decision : 23-10-2009**

**Acts Referred:**

**Citation : (2009) 10 DEL CK 0146**

**Hon'ble Judges : Sanjiv Khanna, J**

**Bench : Single Bench**

**Advocate : Harish Uppal, for the Appellant; Nemo, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Sanjiv Khanna, J.—The petitioner has applied for regularization and conversion of industrial plot bearing No. S-78, Functional Industrial Estate for Electronics, Okhla Industrial Area, Phase-II, New Delhi, which the petitioner claims was purchased from Mr. V.K. Luthra on execution of agreement to sell, general power of attorney, etc. As per the terms of the original perpetual lease deed dated 16th August, 1984, there is a bar/prohibition on transfer by Mr. V.K. Luthra and the transfer can be made subject to permission being granted by the lessor, Land and Development Office, on terms and conditions stipulated therein. The respondent-Land and Development Office has now taken out a circular/brochure for regularization of the said transfer on payment of conversion cost and additional amount in the form of surcharge in case of power of attorney sale.

2. By letter dated 9th July, 2009, the respondents-Commissioner of Industries, Government of NCT of Delhi informed the petitioner to comply with the three requirements. The second requirement mentioned in this letter dated 9th July, 2009 reads as under:

(ii) No objection certificate from, Canara Bank, Okhla, New Delhi for doing the needful (copy enclosed) be submitted in this office.

3. Learned Counsel for the petitioner submits that the aforesaid property was earlier mortgaged with Canara Bank, Okhla in connection with a loan transaction on account of M/s Anumito Electronics of which Mr. V.K. Luthra was a proprietor. He submits that Canara Bank has already released the original title deed and the property is no longer mortgaged with Canara Bank. It is submitted that the second condition mentioned above is satisfied.

4. It is correct that the property in question was earlier mortgaged with Canara Bank on account of M/s Anumito Electronics of which Mr. V.K. Luthra was a proprietor. However, Canara Bank has also filed recovery proceedings against the company M/s Magnum Electronics in which Mr. V.K. Luthra was a Managing Director and where Mr. V.K. Luthra has given his personal guarantee. In the said proceedings, recovery certificate has been issued in favour of Canara Bank against M/s Magnum Electronics and Mr. V.K. Luthra. Canara Bank in its reply has clarified that they have proceeded against Mr. V.K. Luthra as a guarantor and that he being the legal owner of the leasehold rights in respect of the plot, the said bank is entitled to recover the money by sale of the property. The petitioner herein has also filed an application claiming that Canara Bank cannot proceed against the said property as the petitioner is de facto owner of the property since 6th July, 1992. The petitioner relies upon agreement to sell and general power of attorney etc., which it is stated were executed for consideration.

5. Admitted position is that the application filed by the petitioner and the defence raised by Canara Bank are still to be adjudicated by the Debt Recovery Tribunal. Till adjudication of the said dispute by the Debt Recovery Tribunal, I do not think the application for conversion filed by the petitioner and regularization of transfer can be processed by the respondents-L&DO. The dispute between Canara Bank and the petitioner is required to be resolved and decided first, before the application for conversion can be considered and disposed of by the respondents.

6. In view of the aforesaid, I am not inclined to entertain the present writ petition at this stage. It will be open to the petitioner to ask the Debt Recovery Tribunal for early disposal of his application and the claim of the bank.

The writ petition is dismissed.