

Before the National Green Tribunal, New Dehli

O. A No 299 of 2023

Mrs Tamanna Maini w/o Sh Yogesh Maini      Petitioner  
 Versus  
 State of Punjab and others      Respondents

INDEX

Sr. No	Particulars	Date	Pages
1	Affidavit of reply of Respondent no 5	24.07.23	01-18
2	Plaint- Annexure R-5/1	06.01.20	19-37
3	Order- Annexure R-5/2	28.07.20	38-42
4	Judgment -Annexure R-5/3	21.09.20	43-49
5	Order- Annexure R-5/4	23.02.21	50-59
6	Order—Annexure R-5/5	09.12.21	60-71
7	Written statement- Annexure R-5/6	Year 2020	72-90



Place: Ludhiana

Dated :

*Sushil Thakur*

Respondent no 5

Before the National Green Tribunal, New Delhi

O. A No 299 of 2023

Mrs Tamanna Maini w/o Sh Yogesh Maini                      Petitioner

Versus

State of Punjab and others                                      Respondents

**Affidavit of reply of Respondent No. 5.**

I, Sushil Raju Thapar do hereby solemnly affirm and declare as under: -

1. That it is humbly submitted that the facts given below will clearly lead to unerring conclusion that the petitioner has deliberately concealed the correct facts with malafide intention to mislead this Hon'ble Tribunal with sole motive of harassing the answering respondent. It is further humbly submitted that the Hon'ble Supreme Court of India in its catena of judgments including in para no 15 of the judgment passed in Oswal Oil and Fats limited vs Administrator Bareilly Division , decided on 1<sup>st</sup> April 2010 has held that "



*Sushil Thapar*

*It is settled law that a person who approaches the Court for grant of relief, equitable or otherwise, is under a solemn obligation to candidly disclose all the material/important facts which have bearing on the adjudication of the issues raised in the case. In other words, he owes a duty to the court to bring out all the facts and refrain from concealing/suppressing any material fact within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence. If he is found guilty of concealment of material facts or making an attempt to pollute the pure stream of justice, the court not only has the right but a duty to deny relief to such person." Similarly, in the preface and para no 21 of the judgment ibid, His Lordships were pleased to observe that: -*

*"For many centuries, Indian society cherished two basic values of life i.e., 'Satya' (truth) and 'Ahimsa' (non-violence).*

*Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of justice delivery system which was in vogue in pre-independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences.*



*However, post-independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. "*

Therefore, the petition is liable to be dismissed with costs on this ground alone.

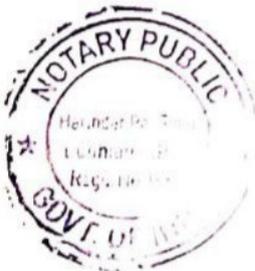
**The true facts are as follows: -**

- (1) It is humbly submitted that it is on record that since the date, the answering respondent has started a small hospitality business , to earn livelihood for him and his family, the family of petitioner and their friends are filing frivolous complaints interalia



complaining that the building has been unauthorizedly constructed and/ or that the answering respondent has violated the environmental norms. Since all these complaints were based on false and incorrect grounds and were filed only with motive to harass the answering respondents, these were invariably filed.

- (2) (a) When the petitioner family failed in its attempts to damage the property and reputation of the answering respondent, the husband of the petitioner, Sh Yogesh Maini along with his associates filed a *civil suit no 98 of 2020 titled as Jatinder Ahuja and 8 others against the Municipal Corporation, Ludhiana* and others in which interalia, the answering respondent along with partners in the business were arraigned as Defendant no 2 to 4. A copy of the plaint of Civil suit no 98 of 2020 is **Annexure R-5/1**, and in this civil suit prayer was made for grant of decree of declaration that the order of regularization of the building of the answering respondent is illegal and bad, for mandatory injunction for a direction to respondents to demolish the impugned building and construct only as per the law and for permanent injunction



restraining the respondents from parking vehicles outside the Hotel premises etc..

(b) The learned Court of Civil Judge, Ludhiana after considering the documents produced by the plaintiffs refused to grant any interim order as prayed for in the application filed under Order 39 Rule 1 & 2 of the CPC filed along with the plaint;

(c) The husband of the petitioner, Sh Yogesh Maini, who was plaintiff no 5 in the Civil suit no 98 of 2020. which was filed in the learned Civil Court at Ludhiana on 06.01.2020 having failed to get any favourable interim order from the learned Civil Court, sought for permission on 29.07.2020 of the learned court to withdraw from the array of the plaintiffs and the prayer of the Sh. Yogesh Maini was accepted and his name was removed from the array of the plaintiffs. A copy of the order passed by learned Civil Court, Ludhiana dated 29.07.20 is **Annexure R-5/2.**



3. That Sh Yogesh Maini, the husband of the petitioner then filed a Civil writ petition no 12476 of 2020 in the Hon'ble High Court in which the answering

(iv) Issue any other writ, order or direction which may be deemed fit and proper by the Hon'ble High Court in the facts and circumstances of the present case.

The writ petitions no 12476 of 2020 was listed for hearing before the Hon'ble High Court on 21.09.2020. The counsel for the respondents however objected to the maintainability of the writ petition because the petitioner has earlier filed a Civil suit on 06.01.2020 in learned Civil Court at Ludhiana seeking similar relief as was prayed for in this Civil suit but the said civil suit was withdrawn by the petitioner on 29.07.2020 without seeking any liberty to file similar suit or other proceedings on the same cause of action. The Hon'ble High Court appreciated the objection of the respondents and observed that:-

*" The petitioner while filing the writ petition was required to disclose that he has already filed a civil suit with regard to the same property, prayed for the injunction but was not granted. The petitioner also concealed that he has withdrawn the suit instituted on his behalf by moving an application before the court on 29.07.20. It is also not in dispute that the petitioner did not pray for permission to withdraw the suit with liberty to file a fresh suit or writ petition".*



Finally vide a detailed judgment dated 21.09.2020 the writ petition filed by Sh Yogesh Maini, the husband of the petitioner was dismissed with exemplary cost of Rs 1,00,000/- The copy of the Judgment dated 21.09.20 is **Annexure R-5/3.**

**4(a).** That the petitioner despite the Hon'ble High Court on 21.09.2020 has held that petitioner is estopped from filing the fresh suit on the ground on which he has earlier filed a civil suit on 06.01.2020 as that civil suit was dismissed as withdrawn on the prayer of the petitioner without seeking any liberty to file a fresh suit or the writ petition, the husband of the petitioner maliciously again filed a Civil suit bearing no 179 of 2020 on 25.11.2020 in the learned Civil Court at Ludhiana interalia arraying the Municipal Corporation, Ludhiana and the answering respondent as defendants no 1 and 2 respectively and the following prayer was made therein by the husband of the petitioner:-

“ (i) Suit for declaration to the effect that the illegal construction raised by the defendants no 2 to 4 in the front vacant portion, constructing/re-constructing the property by increasing the height and as well as in the portion left vacant/ open to the sky between the properties bearing no B-1-651/2/B measuring 403



square yards situated in the locality known as Mohalla Kundan puri, Civil lines, Ludhiana comprised in khasra no 4462/3729/3326/ 236/865 to 870, 5563/4476/3739/3326/ 2346/865 to 870 Khata no. 1471/2012, 1478/2020 as per Jamabandi for the year 2014-15 situated in Taraf Mahal Bagat, HB no 164, Tehsil Ludhiana (East), Ludhiana Abadi known as Mohalla Kundan Puri. Civil lines, Ludhiana is liable to be removed/demolished as the same is against the provisions of the Municipal byelaws' Punjab Municipal Corporation Building Byelaws, 2018", as the same is liable to be demolished/removed.

AND

Suit for permanent injunction restraining the defendants no 2 to 4 their official, servants, relatives, attorneys and assigns from unauthorized parking of cars on the road and further restraining the defendants from immediate avoid noise pollution by way of beating drums, playing DJ and fireworks in the late night and the early morning and further restraining the defendant no 2 and 3 from switching on the heavy flash lights and also restraining the defendants not to



spread litter, garbage and empty plastic bags in the residential locality

AND

For the grant of mandatory injunction directing the appropriate authority to remove the illegally raised reconstructed in the front side as well as above the height and seal the property in lieu of closing the open space lying in between two properties and raising the unexpected height to protect the rights of the plaintiff for light and air by way of prescription and easement necessary over the suit land, on the basis of the oral and documentary evidence".

(b) On receipt of notice of the Civil suit filed by the plaintiff, the husband of the petitioner herein, the Municipal Corporation Ludhiana as well as the answering respondent, who were defendants no 1 and 2 filed separate applications under Order 7 Rule 11 read with section 151 of the CPC for rejection of the plaint on the ground that the plaintiff has earlier filed the similar suit and the same was withdrawn on 29.07.20 without grant of any liberty by the learned Civil Court to file a civil suit or writ on the same cause of action and that even the Hon'ble High Court has



dismissed the Civil writ petition no 12476 of 2020 filed by the plaintiff wherein the prayer made was similar to that which was claimed in the civil suit no 98 of 2020 dated 06.01.2020, which is still pending final adjudication though the name of the plaintiff has already been removed from the array of plaintiffs on the request of the plaintiff;

( C ) That the plaintiff opposed the applications filed under Order 7 Rule 11 of the CPC by the defendants/Respondents/applicants no 1 and 2 for rejection of the plaint, however, the learned Civil Court of Sh Hasandeep Singh Bajwa, Civil Judge( Junior Division) Ludhiana vide his detailed order dated 23.03.2021, **Annexure R-5/4** was pleased to accept the applications and the plaint of the plaintiff was rejected;

(d) The plaintiff filed appeal against the order dated 23.02.2021 of rejection of his plaint filed in Civil suit no 179 of 2020 by the learned lower court. However, the learned Court of Additional District Judge, Ludhiana vide judgment/order dated 09.12.2021 was pleased to dismiss the appeal filed by the plaintiff against the order of rejection of his plaint in Civil suit no 6179 of



2020. A copy of the order dated 09.12.2021, passed by the learned Court of Sh Munish Arora, Additional District Judge, Ludhiana dated 09.12.2021, is **Annexure R-5/5.**

(e) That to the knowledge of the answering respondent the plaintiff- Sh Yoginder Maini has not further filed any Revision petition against the order dated 09.12.2021 of learned Additional District Judge, Ludhiana as no notice till date has been received by the answering respondent from any higher court.

5. That in the Civil suit no 6179 of 2020 filed by Jitender Ahuja and twelve others at the instance of the husband of the petitioner is pending final adjudication in the Hon'ble Civil Court. It is however relevant to submit here that except the plaintiff no 1, 3 and 12 all other plaintiffs have already been removed from the array of the plaintiffs in this civil suit. This development reflects that the Civil suit no 6179 of 2020 against the answering respondent was filed at the instance of husband of the petitioner just to harass the answering respondent and for no other purpose and that the nine plaintiffs in the Civil suit no 98 of 2020 have understood that



they had committed a grave error of joining the husband of the petitioner in the civil suit no 98 of 2020.

6. That in the Civil suit no 98 of 2020, the Municipal Corporation, Ludhiana has interalia apprised the Hon'ble Court by filing its written statement that all the allegations levelled in the plaint are false and incorrect as the building has been regularized in due course as per the Govt. instructions on 26.05.2019 after charging of composition fee at the rates prescribed by the Govt. and composition fee of Rs 18,53,458/- was assessed, which the answering respondent has deposited in due course. The Municipal Corporation has precisely stated in its reply that:-

*"The true facts are that property in dispute was earlier in the name of Sanjeev Kumar and others. As per the official record, Sanjeev Kumar and others purchased the aforesaid property in the year 1988 and in the year 1993 and made certain renovations. . In the year 1995-96, the Govt. has formulated the policy vide memo no 9/2/986/LG-1/2749-2752 dated 18<sup>th</sup> March 1998 and as per the policy, the property in question was compounded at that time. Later on vide order no 4290/ATP-D dated 15.07.2019, then M.C.Ludhiana has directed Davinder Kumar and Sanjeev Kumar to deposit the*



*compounding fee of Rs 18,53,458/- for the violations and the same was deposited vide G 8 receipt no 28/15116 for Rs 9,26,729/- and G8 no 29/15116 dated 04.06.2019 amounting to Rs 9,26,729/- No new construction is going on over the property in dispute. Even the structure of the building was in existence since the year 1994-95 and as per the Govt. scheme of 1998, the building was compoundable and composition fee were taken from the owner. More so the building is old and whatever the renovation inside the building and the same cannot be stopped. However, it is submitted that if there will be any violation of the Byelaws then the answering respondent will take the appropriate action as per the law against the violator.*

A copy of the written statement filed by the Municipal Corporation in the learned Civil Court is **Annexure R-5/6**.

7. That the property is situated in the core area of the city and number of commercial establishments are operative in the area. The answering respondent is a law-abiding citizen and cannot even dream of disobeying the environment related laws. The answering respondent has always strictly followed the orders of the District Administration as regards the timing of the Hotel, busting of crackers and playing of



the orchestra etc. and there has never been any complaint in this regard from any department.

8. That the impugned Hotel building is situated in the busy commercial area and large number of Commercial, institutional and all other types of building are situated in the area. It is submitted here that keeping in view the grounds realities and that it is not feasible to remove or demolish all the buildings which were constructed prior to the year 1997 when all building violations were compoundable, therefore, the Govt. notified the policy dated 18<sup>th</sup> March 1998 and in principle decided to regularize all existing buildings on charging of the composition fee. It is undisputed that the building in question existed at site much prior to the year 1997, therefore, the construction existing at site was rightly and legally regularized. It is clarified that not only the building of the answering respondent was regularized but hundreds of buildings being used as Hospital, Hotel, Colleges, Nursing Homes etc. were regularized as one-time measure. The answering respondent has not made any additions or alterations in the building and no fresh construction was



undertaken and this fact is apparent from the stand of the Municipal Corporation taken before the Hon'ble Court.

9. The petitioner has not disclosed that the Civil suit number 6179 of 2020 dated 25.11.2020 filed by the husband of the petitioner, in which the relief prayed for was the same as had been primarily prayed in this petition and that the Hon'ble Civil Courts at Ludhiana has rejected the plaint of C.S. No 6179 of 2020 on the ground that plaintiff cannot be permitted to time and again approach the court for the same cause of action. The petitioner has also not disclosed that her husband was imposed cost of Rs One Lac by the Hon'ble High Court for filing malicious writ petition no 12476 of 20. Hence, the petitioner has knowingly and intentionally violated the spirit of the judgment dated 21.09.20 passed by the Hon'ble High Court in CWP no 12476 of 2020.

10. That the present petition is not maintainable under the law. The present petition has been filed with sole motive of harassing the answering respondent and that too by ignoring the fact that the Hon'ble High Court in CWP no 12476 of 2020 filed by the husband of the petitioner has imposed exemplary cost on the petitioner for suppressing the true information from the Hon'ble High Court.



11. The petitioner is guilty of "Contempt of Court" and is liable to be punished under the Contempt of Court Act 1971. Despite the fact that the writ petition no 12476 of 2020 filed by the husband of the petitioner was dismissed by Hon'ble High Court on 21.09.20 and it was clearly indicated in the order that such proceedings are bad in law and hit by the provisions of resjudicata despite this, the petitioner without disclosing the pending Court proceedings and the proceedings which already stands decided, the petitioner has shown the audacity to file the petition by suppressing the facts and the law.

12. That the present petition has been filed for personal gains and no public interest is involved therein. It is reiterated that the answering respondent has neither violated any building Byelaws as no construction has been raised after the year 1993 nor any tree was cut or the environmental laws violated at any stage.

13. That the petitioner has not obtained the necessary permission as envisaged under the CPC before raising the alleged issue of "public nuisance", therefore, the petition is on the face of it not maintainable and barred by the law.



In view of the above, it is respectfully prayed that the present petition may kindly be dismissed being malafide

and non-maintainable especially as the allegations levelled by the petitioner in this petition are subject matter of the Civil suit no 179 of 2020, which is pending final adjudication in the learned civil Court at Ludhiana.

*Sushil Thakur*

Place: Ludhiana

**Respondent no 5**

Dated : 21.07.23.

Verification:

Verified that the contents of my affidavit are true and correct to my knowledge No part of it is false. Nothing material has been concealed therein.

*Sushil Thakur*

Verified at Ludhiana

**Respondent no 5**

On 21<sup>st</sup> July 2023.

know the deponent/Executant/Declarant personally He/She has signed/Thuss  
ਮਾਨਵੇਂ ਤੋਂ ਪ੍ਰੇਸ਼

Certified that the affidavit /SPA/GPA has been readover & explained to the deponent/Executant who seemed directly to understand the same at the time making above there of



ATTESTED AS IDENTIFIED

*[Signature]*  
NOTARY PUBLIC  
LUDHIANA (PB)

27 JUL 2023

IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION JUDGE,  
LUDHIANA

- 1 Jatinder Ahuja aged about 34 Years S/o Sh. Munshi Ram Ahuja R/o B-I-676/1, Shiv Mandir Road, Prem Nagar, Ludhiana 12-5-1984
- 2 Gaurav Kalia aged about 35 years S/o Sh. Satish Kalia R/o B-I-683, Shiv Mandir Road, Prem Nagar, Ludhiana 20-9-1983
- 3 Sant Kumar aged about 72 years S/o Sh Ram Roop Chand R/o House No.651/1A, Kundan Puri, Civil Lines, Ludhiana, .1948
- 4 Pankaj Luthra aged about 53 Years W/o Late Sh. Balbir Singh Luthra R/o House No.676/A, Shiv Mandir Road, Prem Nagar, Ludhiana 1967
- 5 Yogesh Maini aged about 39 years S/o Sh. Kapil Bhushan Maini R/o 678/1, Shiv Mandir Road, Prem Nagar, Ludhiana Civil Lines, Ludhiana 21/5/1981
- 6 Sita Chopra aged about 69 years W/o Harbans Lal Chopra R/o House NO.677/1, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana 1951
- 7 Kiran aged about 73 years W/o Sh. Hari Mohan R/o House NO.677/A, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana 1947
- 8 Swaran Kanta aged 75 years W/o Sh. Sham Lal Sharma R/o House NO.B-I-678/3/1, Kundan Puri, Civil Lines, Ludhiana 1945
- 9 Rajinder Kaur Bawa aged about 74 years W/o Late S.Harwinder Singh R/o House NO.676, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana 4-6-1946

10 Dinesh Pahwa aged about 39 years S/o Sh. Sunder Lal Pahwa R/o House No.659/A, Kundan Puri, Civil Lines, Ludhiana. 25/4/1981

11 Harish Kumar Kapoor aged about 71 years S/o Sh. Rama Nand Kapoor R/o B-1-657, Mohalla Kundan Puri, Backside Jagdamba Market, Ludhiana 15-1-1949

12 Sunil Kwatra aged about 54 years S/o Sh. Krishan Lal R/o House No.B-I-679, Prem Nagar, Shiv Mandir Road, Ludhiana. 1-1-1966

... Plaintiffs

Versus

- 1 State of Punjab through Secretary Local Body (Punjab), Chandigarh
- 2 The Municipal Corporation, Ludhiana through its Commissioner.
- 3 Master Town Planner, Municipal Corporation, Zone D, Ludhiana
- 4 Assistant Town Planner, Municipal Corporation, Zone D, Ludhiana
- 5 District Town Planner, Mini Secretariat, Ludhiana
- 6 Sub Registrar (East), Ludhiana.
- 7 Punjab State Power Corporation Ltd., The Mall, Patiala through Chairman.
- 8 Sushil Raju Thapar S/o Balwan Thapar R/o B-I-704/8, Prem Nagar, Civil Lines, Ludhiana.
- 9 Sumit Mehra S/o Sh. Ashok Mehra
- 10 Amit Mehra S/o SH. Ashok Mehra

Both R/o House NO.651/4, Kundan Puri, Civil Lines, Ludhiana.

.... Defendants

Suit for decree of Permanent injunction restraining the defendants No.8 to 10 themselves or through their servants, agents, employees, attorney and associates from raising any commercial constructions i.e. Hotel, Marriage Palace, High Rise, Multi-storey building, Banquet Hall, Restaurant, Rooms etc. over the plot measuring 806 Sq. Yards having property No.B-I/651/2/B and B-I/651/4 locality known as Mohalla Kundanpuri, Civil Lines, Ludhiana as shown red in the plan attached and bounded as under:=-

East : Mr. Pahwa  
 West : Road  
 North : Neighbourer  
 South : Inderjit Sharma

Also bearing Khasra No.56, 4462/3729/3326/2346/865 to 870, 5563/4476/3729/3326/2346/865 to 870, Khatta No.170/172, 1471/1453, 1478/1460, Khatuni No.189, 2012, 2020 as shown in the jamabandi for the year 2014-15 situated within the revenue estate of Village Mahal Bagat, Hadbast No.164, Tehsil Ludhiana (East) & District Ludhiana and further restraining the defendants No.1 to 7 to issue any No Objection Certificate in any manner whatsoever in favour of the defendants No.8 to 10 against the provisions of law

AND

Suit for Declaration to the effect that No Objection Certificate, Change of Land of Use Certificate and Site Plan Sanctioned if any issued/approved by the defendants No.1 to 7 in favour defendants No.8 to 10 are totally illegal, null and void, issued against the provision of law and are liable to be cancelled/set aside.

AND

Suit for Mandatory Injunction directing and compelling the defendants No.1 to 7 to demolish/remove the illegal construction raised over the above referred property by defendants No.8 to 10 immediately as the same is against the provisions of law and is dangerous to the human habitation, locality, passer byes, including plaintiffs ON THE BASIS OF ORAL AND DOCUMENTARY EVIDENCE.

Sir,

The plaintiffs respectfully submit as under:-

- 1 That the plaintiffs are permanent resident of Prem Nagar, Civil Lines, Ludhiana and their respective houses are near the properties in dispute.
- 2 That the defendants No.8 to 10 alleged themselves to be owners of the property/plot measuring 806 Sq. Yards having property No.B-I/651/2/B and B-I/651/4 locality known as Mohalla Kundanpuri,

Civil Lines, Ludhiana and also comprised in Khasra No.56, 4462/3729/3326/2346/865 to 870, 5563/4476/3729/3326/2346/865 to 870, Khatta No.170/172, 1471/1453, 1478/1460, Khatuni No.189, 2012, 2020 as shown in the jamabandi for the year 2014-15 situated within the revenue estate of Village Mahal Bagat, Hadbast No.164, Tehsil Ludhiana (East) & District Ludhiana through registered document of Year 2019. The defendants No.8 to 10 have also not paid the proper stamp duty at the time of alleged registration of the sale deed.

That the above referred property was earlier owned by Davinder Kumar S/o Tilak Raj, Sanjeev Kumar S/o Sh. Tilak Raj etc and were residential properties. This fact is clear from the previous sale deeds. The above said properties were having two separate units which were duly recorded in the Municipal Corporation record.

- 3 That the defendants No.8 to 10 after allegedly purchasing the properties in dispute started raising the construction of Hotel, Marriage Palace, Banquet Hall, Rooms, Restaurant etc. without getting No Objection from the neighbourer. The entire locality of Prem Nagar is a residential locality.
- 4 That the defendants No.8 to 10 have put building material on road and blocked the passage/road and created problem. It is worth to mention here that there are lot of traffic problem in the area and the said property is not suitable for the said business as the properties in dispute is situated in heavy populated area and there remains heavy

traffic rush and there is no proper place of parking.

- 5 That defendants No.8 to 10 are political and influential person and having good relations with high-ups as the wife of the respondent No.8 is a sitting Councillor from the ruling party of the Ward under which the property in dispute is situated and illegal construction is going on. The defendants have cleverly got registered different sale deeds of total property measuring 806 Sq. Yards and without obtaining any permission clubbed the same in one unit for construction of illegal hotel/restaurant etc. The defendants by using their influence alleged themselves to get CLU for the same. The alleged CLU issued by any department in favour of the defendants No.8 to 10 is totally illegal and against the provisions of law. The defendants No.8 to 10 by concealing the true facts from the government in connivance with the officials of defendants No.1 to 7 got the same sanctioned. It is pertinent to mention here that the Master Plan for construction of commercial building over the property more than 500 Sq. Yards is to be sanctioned by the Local Body, Chandigarh, but in the present case the alleged CLU has got issued by defendants No.8 to 10 from the Local Authority i.e. M.C. Ludhiana, which is against the building bye laws framed by the government. It is further worth to mention here that the illegal construction is going on by defendants No.8 to 10 over the property in question is otherwise against the building bye laws as the same is falls under A-6 Category as per building bye laws

which is multi-storey category and is above 15 meter height.

It is worth to mention here that as per the building bye laws to construction of Hotel/High Rise building etc. must have land above 1000 Sq. Yards., and Master Plan for the said building is required to be sanctioned from the Local Body Government, Punjab, Chandigarh which requires so many safety measures as mentioned in the Building Bye Laws. The defendants No.8 to 10 are raising construction hotel/high rise building over the property in dispute which is consisting of 5 stories building excluding basement which is more than 15 meters in height over the properties in dispute which is only 806 Sq. Yards. The defendants No.8 to 10 in connivance with the office of PSPCL defendants No.6 got sanctioned the high voltage (MS) connection, which is totally against the law.

6 That before sanctioning of NOC in favour of defendants No.8 to 10 no consent was obtained from immediate neighborers. The plaintiffs are immediate neighborer and suffering lot due to illegal act of the defendants. Since the day of starting of the construction they are suffering lot. The entire locality is a residential locality and no commercial activity can be allowed in the residential area.

7 That the defendants no.8 to 10 by raising illegal construction over the properties in dispute wants to start the business of Hotel, Marriage Palace, Restaurant and Liquor Bar etc. in the same and also put high voltage generator set for the same.

By doing so they will create great trouble for the residence of the locality, people because due to above said act there is lot of Traffic and parking Problem. Due to heavy DJ it will create noise Pollution. The defendants have not made proper arrangement of parking in the hotel. Even the girls and women are not safe. There is no proper parking place for the customers of the hotel/marriage place. Most of the plaintiffs and resident of the surrounding are old age and suffering from so many old age ailments. By running the said hotel/marriage palace they will also suffer other ailments due to traffic and noise pollution etc caused by the defendants No.8 to 10. It is worth to mention here that high rise building is also dangerous to the residents of the locality including the plaintiffs.

- 8 That the plaintiffs many times requested the defendants to stop illegal construction over the properties in dispute but the defendants have not paid any heed to the genuine request of the plaintiffs, rather the defendants No.8 to 10 threatened the plaintiffs to involve them in false litigation as they are influential persons and having links with high-ups including Municipal Corporation. The illegal constructions of the defendants is still going on.
- 9 That on 02.01.2020 the plaintiffs along with respectable approached the defendants and requested them to stop the illegal construction, but they paid no heed to the request of the plaintiff and threatened the plaintiff, so the plaintiffs have a cause of action to file the present suit.

10 That the act of the defendant is full of force and is illegal, unwarranted and created a terror in the mind of the plaintiffs. The defendants have no authority to raise illegal construction against the bye laws. If the defendants will succeed in their evil design then the plaintiffs shall suffer an irreparable loss and injury which cannot be compensated in terms of money lateron. The plaintiffs have strong prima facie case in their favour and balance of convenience also lies in favour of the plaintiffs and against the defendants. The plaintiffs have no other efficacious remedy except to file the present suit.

11 That the matter involved in the suit is of most urgent nature and in case the plaintiffs have to wait for the expiry of requisite period of notice Under Section 80 CPC then the purpose of filing the suit shall become in fructuous and the plaintiffs shall suffer irreparable loss and injury. So, the plaintiffs have also filed the application under Section 80(2) C.P.C. along with the suit.

12 That cause of action accrued to the plaintiff against the defendants when the defendants started raising illegal construction over the property in dispute against the bye-laws, on the days when the plaintiffs requested the defendants to stop the illegal construction and finally on 02.01.2020 when the plaintiffs again requested the defendants to stop the illegal construction in the residential locality, but the defendants have not paid any heed to the genuine request of

the plaintiffs and threatened the plaintiffs and threats of the defendants are still continue, so the plaintiffs have a continue cause of action to file the present suit.

- 13 That there is no suit pending between the same parties or between the parties under whom they or any of them claim litigating on the same ground nor any suit has been previously instituted or finally decided by the court of competent jurisdiction or limited jurisdiction.
- 14 That the value of the suit for the purposes of court fees and jurisdiction for the relief of Permanent Injunction, Declaration and Mandatory Injunction is assessed at Rs.500/- each upon which court fee of Rs.150/- is payable and the same is paid on the plaint.
- 15 That plaintiff and defendants are resident at Ludhiana, cause of action arose to the plaintiff at Ludhiana, the property in dispute is situated within the original territorial jurisdiction of this Hon'ble Court, so this Hon'ble Court has the jurisdiction to entertain and try the present complaint.

It is, therefore, prayed that decree Permanent injunction restraining the defendants No.8 to 10 themselves or through their servants, agents, employees, attorney and associates from raising any commercial constructions i.e. Hotel, Marriage Palace, High Rise, Multi-storey building, Banquet Hall, Restaurant, Rooms etc. over the plot measuring 806 Sq. Yards having property No.B-I/651/2/B and B-I/651/4 locality known as Mohalla Kundanpuri, Civil Lines, Ludhiana as shown red in the plan attached and bounded as under:-

East : Mr. Pahwa  
West : Road  
North : Neighbourer  
South : Inderjit Sharma

Also bearing Khasra No.56, 4462/3729/3326/2346/865 to 870, 5563/4476/3729/3326/2346/865 to 870, Khatta No.170/172, 1471/1453, 1478/1460, Khatuni No.189, 2012, 2020 as shown in the jamabandi for the year 2014-15 situated within the revenue estate of Village Mahal Bagat, Hadbast No.164, Tehsil Ludhiana (East) & District Ludhiana and further restraining the defendants No.1 to 7 to issue any No Objection Certificate in any manner whatsoever in favour of the defendants No.8 to 10 against the provisions of law, and decree for Declaration to the effect that No Objection Certificate, Change of Land of Use Certificate and Site Plan Sanctioned if any issued/approved by the defendants No.1 to 7 in favour defendants No.8 to 10 are totally illegal, null and void, issued against the provision of law and are liable to be cancelled/set aside, and decree for Mandatory Injunction directing and compelling the defendants No.1 to 7 to demolish/remove the illegal construction raised over the above referred property by defendants No.8 to 10 immediately as the same is against the provisions of law and is dangerous to the human habitation, locality, passer byes, including plaintiffs may kindly be passed in favour of the plaintiff and against the defendants.

Any additional or alternative relief of this Hon'ble Court deems fit may also be awarded in favour of the plaintiffs against the defendants.

PLAINTIFFS

THROUGH COUNSEL

DATED: KULVINDER SINGH, ADVOCATE

**VERIFICATION**

Verified that the contents of the plaint as mentioned stated above from Para No.1 to 12 are true and correct to the best of my knowledge, belief and Para No.13 to 15 are correct to information received. Verified at Ludhiana on

PLAINTIFFS

IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION JUDGE,  
LUDHIANA

- 1 Jatinder Ahuja aged about 34 Years S/o Sh. Munshi Ram Ahuja R/o B-I-676/1, Shiv Mandir Road, Prem Nagar, Ludhiana
- 2 Gaurav Kalia aged about 35 years S/o Sh. Satish Kalia R/o B-I-683, Shiv Mandir Road, Prem Nagar, Ludhiana
- 3 Sant Kumar S/o Sh Ram Roop Chand R/o House No.651/1A, Kundan Puri, Civil Lines, Ludhiana, .
- 4 Pankaj Luthra W/o Late Sh. Balbir Singh Luthra R/o House No.676/A, Shiv Mandir Road, Prem Nagar, Ludhiana
- 5 Yogesh Maini S/o Sh. Kapil Bhushan Maini R/o 678/1, Shiv Mandir Road, Prem Nagar, Ludhiana Civil Lines, Ludhiana
- 6 Sita Chopra W/o Harbans Lal Chopra R/o House NO.677/1, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana
- 7 Kiran W/o Sh. Hari Mohan R/o House NO.677/A, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana
- 8 Swaran Kanta W/o Sh. Sham Lal Sharma R/o House NO.B-I-678/3/1, Kundan Puri, Civil Lines, Ludhiana

9 Rajinder Kaur Bawa W/o Late S. Harwinder Singh R/o House NO.676, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana.

10 Dinesh Pahwa aged about 39 years S/o Sh. Sunder Lal Pahwa R/o House No.659/A, Kundan Puri, Civil Lines, Ludhiana.

11 Harish Kumar Kapoor aged about 71 years S/o Sh. Rama Nand Kapoor R/o B-1-657, Mohalla Kundan Puri, Backside Jagdamba Market, Ludhiana

12 Sunil Kwatra aged about 54 years S/o Sh. Krishan Lal R/o House No. B-I-679, Prem Nagar, Shiv Mandir Road, Ludhiana.

... Plaintiffs

Versus

- 1 State of Punjab through Secretary Local Body (Punjab), Chandigarh
- 2 The Municipal Corporation, Ludhiana through its Commissioner.
- 3 Master Town Planner, Municipal Corporation, Zone D, Ludhiana
- 4 Assistant Town Planner, Municipal Corporation, Zone D, Ludhiana
- 5 District Town Planner, Mini Secretariat, Ludhiana
- 6 Sub Registrar (East), Ludhiana.
- 7 Punjab State Power Corporation Ltd., The Mall, Patiala through Chairman.

Sushil Raju Thapar S/o Balwan Thapar R/o B-I-704/8,  
Prem Nagar, Civil Lines, Ludhiana.  
9 Sumit Mehra S/o Sh. Ashok Mehra  
10 Amit Mehra S/o SH. Ashok Mehra  
Both R/o House NO.651/4, Kundan Puri, Civil Lines,  
Ludhiana.

... Defendants

Application Under Order 39 Rule 1 & 2  
CPC read with Section 151 CPC for  
grant of ad-interim injunction  
restraining the defendants No.8 to 10  
themselves or through their servants,  
agents, attorney and associates from  
raising commercial constructions i.e.  
Hotel, Banquet Hall, Restaurant, Rooms  
etc. over the plot measuring 806 Sq.  
Yards having property No.B-I/651/2/B  
and B-I/651/4 locality known as  
Mohalla Kundanpuri, Civil Lines,  
Ludhiana as shown red in the plan  
attached and bounded as under:-

East : Mr. Pahwa  
West : Road  
North : Neighbourer  
South : Inderjit Sharma

Also comprised in Khasra No.56,  
4462/3729/3326/2346/865 to 870,  
5563/4476/3729/3326/2346/865 to 870,  
Knatta No.170/172, 1471/1453,  
1478/1460, Khatuni No.189, 2012, 2020  
as shown in the jamabandi for the year  
2014-15 situated within the revenue  
estate of Village Mahal Bagat, Hadbast

No.164, Tehsil Ludhiana (East) & District Ludhiana and further restraining the defendants No.1 to 7 to issue, any No Objection Certificate in any manner whatsoever in favour of the defendants No.8 to 10 against the provisions of law, till the decision of the suit.

Sir,

The plaintiffs submit as under:-

1. That the plaintiffs are going to file the suit for Permanent Injunction, Declaration and Permanent Injunction against the defendants. The contents of the plaint may kindly be read as part of this application.
- 2 That the plaintiffs many times requested the defendants to stop illegal construction over the properties in dispute but the defendants have not paid any heed to the genuine request of the plaintiffs, rather the defendants No.8 to 10 threatened the plaintiffs to involve them in false litigation as they are influential persons and having links with high-ups including Municipal Corporation. The illegal constructions of the defendants is still going on.
- 3 That on 02.01.2020 the plaintiffs along with respectable approached the defendants and requested them to stop the illegal construction, but they

paid no heed to the request of the plaintiff and threatened the plaintiff.

- 4 That the act of the defendant is full of force and is illegal, unwarranted and created a terror in the mind of the plaintiffs. The defendants have no authority to raise illegal construction against the bye laws. If the defendants will succeed in their evil design then the plaintiffs shall suffer an irreparable loss and injury which cannot be compensated in terms of money lateron.
- 5 That the plaintiffs have a very strong prima facie case in their favor.
- 6 That the balance of convenience also lies in favor of the plaintiffs.
- 7 That the plaintiffs shall suffer highly irreparable loss and injury in case the injunction is not granted in favour of the plaintiffs.
- 8 That the plaintiffs have no other efficacious remedy except to file the present suit and knock the door of the court for the grant of ad-interim injunction.

An affidavit duly attested is enclosed.

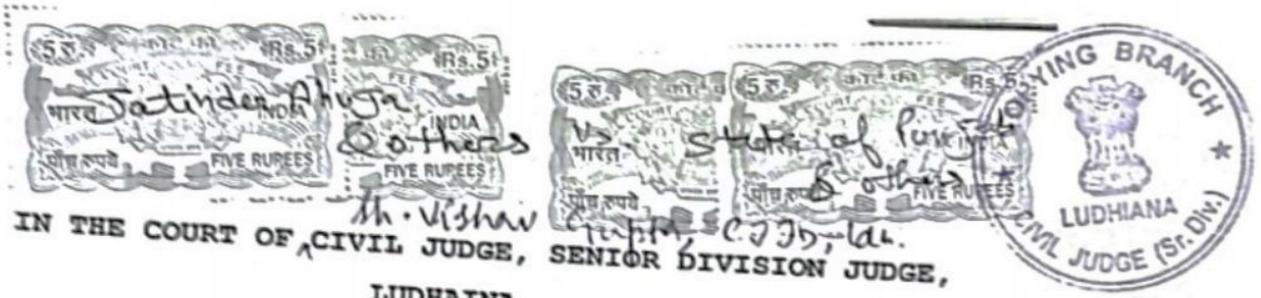
It is therefore prayed that ad-interim injunction may kindly be granted in favour of the applicants/plaintiffs till the decision of the suit.

APPLICANTS/PLAINTIFFS

DATED :

THROUGH COUNSEL

KULVINDER SINGH, ADVOCATE



IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION JUDGE,  
LUDHIANA

- 1 Jatinder Ahuja aged about 34 Years S/o Sh. Munshi Ram Ahuja R/o B-I-676/1, Shiv Mandir Road, Prem Nagar, Ludhiana
- 2 Gaurav Kalia aged about 35 years S/o Sh. Satish Kalia R/o B-I-683, Shiv Mandir Road, Prem Nagar, Ludhiana
- 3 Sant Kumar aged about 72 years S/o Sh Ram Roop Chand R/o House No.651/1A, Kundan Puri, Civil Lines, Ludhiana, .
- 4 Pankaj Luthra aged about 53 Years W/o Late Sh. Balbir Singh Luthra R/o House No.676/A, Shiv Mandir Road, Prem Nagar, Ludhiana
- 5 Yogesh Maini aged about 39 years S/o Sh. Kapil Bhushan Maini R/o 678/1, Shiv Mandir Road, Prem Nagar, Ludhiana Civil Lines, Ludhiana
- 6 Sita Chopra aged about 69 years W/o Harbans Lal Chopra R/o House NO.677/1, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana
- 7 Kiran aged about 73 years W/o Sh. Hari Mohan R/o House NO.677/A, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana
- 8 Swaran Kanta aged 75 years W/o Sh. Sham Lal Sharma R/o House NO.B-I-678/3/1, Kundan Puri, Civil Lines, Ludhiana
- 9 Rajinder Kaur Bawa aged about 74 years W/o Late S.Harwinder Singh R/o House NO.676, Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana

CS/98/2020  
pending for  
07/10/2020

leader to repa

CSJ, 10/5  
7/11/20

Sir,  
Gurbinder Singh

21  
Ramu  
7-1-20

EXAMINER  
LUDHIANA

14 SEP 2020

KULVINDER SINGH



- 10 Dinesh Pahwa aged about 39 years S/o Sh. Sunder Lal Pahwa R/o House No.659/A, Kundan Puri, Civil Lines, Ludhiana.
- 11 Harish Kumar Kapoor aged about 71 years S/o Sh. Rama Nand Kapoor R/o B-1-657, Mohalla Kundan Puri, Backside Jagdamba Market, Ludhiana
- 12 Sunil Kwatra aged about 54 years S/o Sh. Krishan Lal R/o House No.B-I-679, Prem Nagar, Shiv Mandir Road, Ludhiana.

... Plaintiffs

Versus

- 1 State of Punjab through Secretary Local Body (Punjab), Chandigarh
  - 2 The Municipal Corporation, Ludhiana through its Commissioner.
  - 3 Master Town Planner, Municipal Corporation, Zone D, Ludhiana.
  - 4 Assistant Town Planner, Municipal Corporation, Zone D, Ludhiana
  - 5 District Town Planner, Mini Secretariat, Ludhiana
  - 6 Sub Registrar (East), Ludhiana.
  - 7 Punjab State Power Corporation Ltd., The Mall, Patiala through Chairman.
  - 8 Sushil Raju Thapar S/o Balwan Thapar R/o B-I-704/8, Prem Nagar, Civil Lines, Ludhiana.
  - 9 Sumit Mehra S/o Sh. Ashok Mehra
  - 10 Amit Mehra S/o SH. Ashok Mehra
- Both R/o House NO.651/4, Kundan Puri, Civil Lines, Ludhiana.

FILE

CJ/JMIC

... Defendants

ATTESTED

EXAMINER  
LUDHIANA

14 SEP 2020

KULVINDER SINGH

7 JAN 2020



Suit for decree of Permanent injunction restraining the defendants No.8 to 10 themselves or through their servants, agents, employees, attorney and associates from raising any commercial constructions i.e. Hotel, Marriage Palace, High Rise, Multi-storey building, Banquet Hall, Restaurant, Rooms etc. over the plot measuring 806 Sq. Yards having property No.B-I/651/2/B and B-I/651/4 locality known as Mohalla Kundanpuri, Civil Lines, Ludhiana as shown red in the plan attached and bounded as under:--

East : Mr. Pahwa  
 West : Road  
 North : Neighbourer  
 South : Inderjit Sharma

Also bearing Khasra No.56, 4462/3729/3326/2346/865 to 870, 5563/4476/3729/3326/2346/865 to 870, Khatta No.170/172, 1471/1453, 1478/1460, Khatuni No.189, 2012, 2020 as shown in the jamabandi for the year 2014-15 situated within the revenue estate of Village Mahal Bagat, Hadbast No.164, Tehsil Ludhiana (East) & District Ludhiana and further restraining the defendants No.1 to 7 to issue any No Objection Certificate in any manner whatsoever in favour of the defendants No.8 to 10 against the provisions of law

FILE

CJ/JMIC

7 JAN 2020

ATTESTED

EXAMINER  
LUDHIANA

14 SEP 2020



AND

Suit for Declaration to the effect that No Objection Certificate, Change of Land of Use Certificate and Site Plan Sanctioned if any issued/approved by the defendants No.1 to 7 in favour defendants No.8 to 10 are totally illegal, null and void, issued against the provision of law and are liable to be cancelled/set aside.

AND

Suit for Mandatory Injunction directing and compelling the defendants No.1 to 7 to demolish/remove the illegal construction raised over the above referred property by defendants No.8 to 10 immediately as the same is against the provisions of law and is dangerous to the human habitation, locality, passer byes, including plaintiffs ON THE BASIS OF ORAL AND DOCUMENTARY EVIDENCE.

Sir,

The plaintiffs respectfully submit as under:-

- 1 That the plaintiffs are permanent resident of Prem Nagar, Civil Lines, Ludhiana and their respective houses are near the properties in dispute.

CJ.M.M.C

-27 JAN 2020

That the defendants No.8 to 10 alleged themselves to be owners of the property/plot measuring 806 Sq. Yards having property No.B-I/651/2/B and B-1/651/2/B locality known as Mohalla Kundanpuri,

ATTESTED

EXAMINER  
LUDHIANA

14 SEP 2020

KULVINDER SINGH



98 Jatinder Ahuja & others v. State of Punjab

Present:- Sh. Kulvinder Singh, counsel for plaintiffs.

Plaintiff No. 5 Yogesh Maini has got his statement recorded to the effect that he does not wish to pursue the present suit and the same may be dismissed as withdrawn. Plaintiffs No. 1 to 3 have got their joint statement recorded to the effect that they have no objection if plaintiff No. 5 withdraws the present suit on his behalf. Similarly, counsel for plaintiffs No. 4, 6 to 12 has got the same statement to the effect that plaintiffs No. 4, 6 to 12 have no objection if plaintiff No. 5 Yogesh Maini withdraws the present suit. Also, separate affidavit of plaintiffs No. 4, 6 to 12 has been placed on record with regard to no objection. The case stands adjourned to 29.07.2020 for consideration.

Date:- 28.07.2020

Vishav Gupta  
Civil Judge (Jr. Division),  
Ludhiana  
UID No. PB-0527

Certified to be true copy  
*[Signature]* 14 SEP 2020  
Examiner,  
Copying Branch, C.J.S.D.  
LUDHIANA  
Authorised Section 76 of  
The Evidence Act 1872

Number of copies ordered..... 7866  
C.D. No.....  
Date of..... 14/09/2020  
Total..... 5  
Cost..... 10  
Urgent..... 5  
Search.....  
Name of Cop.....  
Date on which copy prepared..... 14 SEP 2020  
Examiner.....  
*Chandpreet*

COMPARED AND FOUND  
CORRECT  
*Meevabir*  
COPY IST

Date of Delivery..... 14.09.2020  
*[Signature]*  
Examiner,  
Copying Branch,  
Civil Judge (Sr. Division),  
LUDHIANA

CWP\_12476\_2020\_MEMO\_OF\_PARTIES 25-Feb-2021 at 16:24

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No. 12476 of 2020

MEMO OF PARTIES ✓

Yogesh Maini s/o Late Sh. Kapil Bhushan Maini, aged about 39 years, r/o  
House no. 678/1, Prem Nagar, Shiv Mandir Road, Civil Lines, Ludhiana.

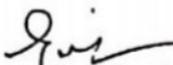
.....Petitioner

Versus

1. State of Punjab through Principal Secretary, Department of Urban Local Bodies, Punjab Civil Secretariat at Chandigarh.
2. Director, Urban Local Bodies, Punjab, Plot No 3, Sector 35A, Dakshin Marg, Chandigarh.
3. Municipal Corporation, Ludhiana through its Commissioner.
4. Sushil Raju Thapar s/o Sh. Balwan Thakur r/o B-1-704/8, Prem Nagar, Civil Lines, Ludhiana.
5. Sumit Mehra son of Sh. Ashok Mehra s/o Sh. Amar Chand r/o 1241/2 Kichlu Nagar extension, Block F, Ludhiana.
6. Amit Mehra, son of Sh. Ashok Mehra s/o Sh. Amar Chand r/o 1241/2 Kichlu Nagar extension, Block F, Ludhiana.
7. Sanjeev Kumar s/o Sh. Tilak Raj r/o B-XX-3084, Gurdev Nagar, Ludhiana.
8. Davinder Kumar s/o Tilak Raj r/o B-XX-3084, Gurdev Nagar, Ludhiana.

....Respondents

Chandigarh

  
(Gagandeep Rana)

P/1659/2014

Dated: 17.08.2020

Advocate

Counsel for the Petitioner

Civil Writ Petition under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of Certiorari for quashing the memo dated 15.07.2019 (Ann. P- 7) passed by Assistant Town Planner, Zone D, Municipal Corporation Ludhiana vide which the illegal construction raised by the Respondents no. 4 to 8 has been compounded and further for issuance of a writ in the nature of mandamus directing the Respondents no. 1 to 3 for taking action against Respondents no. 4 to 8 for raising illegal six storied construction of a hotel and marriage palace on plot no. B-1-651/2B and B1-651/4 measuring 806 sq. yards situated in Taraf Mahal Bagat, Hadbast 164, Tehsil East, District Ludhiana and further for the issuance of a writ in the nature of mandamus directing the Respondents to demolish the illegal construction raised by Respondents no. 4 to 8 without obtaining any CLU or getting sanctioned the building plan of the construction raised by them as per provisions in the Punjab Municipal Building By Laws 2018 and further for issuance of any other appropriate writ, order or direction which may be deemed fit and proper by this Hon'ble Court in the facts and circumstances of the present case.

Respectfully Showeth,

1. That the Petitioner is a permanent resident of House no. 678/1, Prem Nagar, Shiv Mandir Road, Civil Lines, Ludhiana and is a citizen of India by birth, thus being the domicile of State of Punjab and citizen of India, the

CWP-12476-2020 (O&amp;M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
 CHANDIGARH

CWP-12476-2020 (O&M)  
 Date of decision : 21.09.2020

Yogesh Maini

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.S. Rana, Sr. Advocate with  
 Mr. Gagandeep Rana, Advocate for the petitioner.

Mr. Suveer Sheokhand, Addl. A.G. Punjab.

Mr. Ashok Kumar Bazaz, Advocate for respondent No.3.

Mr. Namit Kumar, Advocate and  
 Mr. Alankrit Bhardwaj, Advocate for respondent Nos.4 to 6.

Mr. Rahul Rampal, Advocate for respondent Nos.7 and 8.

\*\*\*\*

ANIL KSHETARPAL, J. (ORAL)

The petitioner has filed the present writ petition under Article 226/227 of the Constitution of India, with the following substantive prayers:-

*“(i) Issue a writ in the nature of certiorari for quashing the memo dated 15.07.2019 (Annexure P-7) passed by Assistant Town Planner, Zone D, Municipal Corporation Ludhiana vide which the illegal construction raised by the respondent Nos.4 to 8 has been compounded.*

*“(ii) Issue a writ in the nature of mandamus directing the respondents No.1 to 3 for taking action against respondent Nos.4 to 8 for raising illegal six storied construction of a hotel and marriage palace on plot No.B-1-651/2B and B1-651/4 measuring 806 square yards situated in Taraf Mahal Bagat, Hadbast 164, Tehsil East, District Ludhiana.*

CWP-12476-2020 (O&amp;M)

-2-

*(iii) Issue a writ in the nature of mandamus directing the respondents to demolish the illegal construction raised by respondent Nos.4 to 8 without obtaining any CLU or getting sanctioned the building plan of the construction raised by them as per provisions in the Punjab Municipal Building By Laws, 2018,*

*(iv) Issue any appropriate writ, order or direction which may be deemed fit and proper by this Hon'ble Court in the facts and circumstances of the present case."*

After hearing the learned Senior Counsel appearing for the petitioner, notice of motion was issued on 21.08.2020.

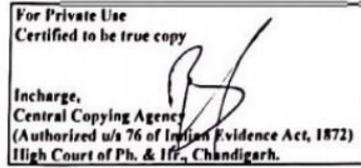
Mr. Ashok Kumar Bazaz, Mr. Namit Kumar and Mr. Rahul Rampal, Advocates, have put in appearance on behalf of respondents

Mr. Rahul Rampal, Advocate, for respondent No.7 and 8 has submitted that the petitioner had also filed a civil suit for seeking relief of permanent injunction as well as mandatory injunction. It has been pointed out that in the plaint, the petitioner, who was plaintiff No.5 alongwith 12 other plaintiffs in the civil suit, had claimed that the respondents be restrained from completing the building. It was further prayed that a decree for mandatory injunction be passed against the respondents, to demolish the building constructed. It has further been pointed out that the petitioner withdrew the suit on his behalf from the Civil Court on 29.07.2020. The Civil Court on 29.07.2020 passed the following order:-

*"Present: Sh. Kulvinder Singh, counsel for plaintiffs.*

*Suit qua plaintiff No. 5 dismissed as withdrawn.*

*Plaintiff No. 5 Yogesh Maini had got his statement recorded to the effect that he did not wish to pursue the present suit and that the same might be dismissed as*



CWP-12476-2020 (O&M)

-3-

*withdrawn. The remaining plaintiffs, some of them appeared in person and the remaining through their counsel, had given their consent with regard to withdrawal of the suit by plaintiff No.5. Accordingly, the application stands disposed of and the case stands dismissed as withdrawn qua plaintiff No. 5. The case stands adjourned to 04.09.2020 for the purpose already fixed.*

*Date:- 29.07.2020*

*Vishav Gupta  
Civil Judge (Jr. Division),  
Ludhiana  
UID No. PB-0527"*

On being confronted, learned Senior Counsel, appearing for the petitioner has fairly admitted that the petitioner did file a civil suit as noticed above, however, he points out that the petitioner had filed a representation (Annexure P-9), to the Commissioner, Municipal Corporation, Ludhiana, for restraining the private respondents from continuing the construction on plot No.B-1-651/2B and B-1-651/4 measuring 806 square yards, situated in Kundan Puri, Civil Lines, Ludhiana, and for demolition of the construction already raised on the said plot. He submits that since the Commissioner is under a statutory duty to decide the said representation, therefore, the petitioner filed the present writ petition.

It is not disputed by the learned Senior Counsel appearing for the petitioner that the petitioner did not disclose the factum of having filed the suit and withdrawal thereof. He has also not sought permission from the Civil Court to file a writ petition. Still further, prayer in Annexure P-9, is the same as is in the Civil Suit, which is stated to be pending. It is also not in dispute that the plaintiff and others failed to get injunction from the Civil Court.

CWP-12476-2020 (O&M)

-4-

Keeping in view the aforesaid facts, this Court is of the considered opinion that the present writ petition is liable to be dismissed on the ground of concealment of material facts from the Court. The writ petition has not been filed with clean hands.

The petitioner while filing the writ petition was required to disclose that he had already filed a civil suit with regard to the same property, prayed for the injunction but was not granted. The petitioner has also concealed that he has withdrawn the suit instituted on his behalf by moving an application before the Court on 29.07.2020. It is also not in dispute that the petitioner did not pray for permission to withdraw the suit with liberty to file a fresh suit or a writ petition.

Keeping in view the aforesaid facts, this Court declines to go into the merits of the case. The respondents have put in appearance pursuant to notice of motion having been issued, hence, the writ petition is dismissed with a cost of Rs.1,00,000/-. The cost imposed shall be liable to be deposited by the petitioner with the 'Poor Patients Welfare Fund' of the Post-graduate Institute of Medical Education and Research (PGIMER), Chandigarh, personally or through its website "www.pgimer.edu.in".

All the pending miscellaneous applications, if any, are disposed of, in view of the above-said judgment.

21.09.2020

Pawan

(ANIL KSHETARPAL)  
 JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No

Express/Urgent/Ordinary Petition No. 1340004  
 Date of presentation of Application 25/02/21  
 No. of Pages of Documents 06  
 Total No. of pages issued against Petition 06  
 Per page charges:  
 (1) Express Petition (Rs. 100 upto 10 pages and Rs. 1000 above that)  
 (2) Urgent Petition (Rs. 50 upto 20 pages and Rs. 500 above that)  
 (3) Ordinary Petition (Rs. 20 upto 10 pages and Rs. 200 above that)  
 Total Court Fee 50 *pl*  
 Advance Deposited 50  
 Recovery \_\_\_\_\_  
 Registration & Postage Charges \_\_\_\_\_  
 Date of notification of order \_\_\_\_\_  
 Date of rectification of order \_\_\_\_\_  
 Date of preparation of copy 26-02-21  
 Date of Delivery of Copy 01/03/2021

*[Signature]*  
26-02-2021



*[Signature]*  
01/03/2021

5

*Dr. N. S. Bajwa, C.J.S.D.*

IN THE COURT OF CIVIL JUDGE (SENIOR DIVISION)



LUDHIANA

Yogesh Maini aged 39 years son of Sh. Kapil Bhushan Maini, resident of 678/1 Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana.

CS 6179/20  
D.O 23/2/21

...Plaintiff

Versus

- 1 Municipal Corporation, Ludhiana through its Commissioner.
  - 2 Sushil Raju Thapar son of late Balwan Thapar, resident of B-I-704/8, Prem Nagar, Civil Lines, Ludhiana.
  - 3 Sumit Mehra son of Ashok Mehra;
  - 4 Amit Mehra son of Ashok Mehra S/o Amar Chand Both residents of House No. 1241/2 Kitchlu Nagar Extension Block-F, Ludhiana.
  - 5 Sanjeev Kumar Malhotra
  - 6 Davinder Malhotra
- Both sons of Sh. Tilak Raj residents of B-XX-3084 Gurdev Nagar, Ludhiana. (defendants no. 5 and 6 perform-defendants)

Varinder Singh  
PUNJAB & HARYANA  
Ch. No. 39  
Enrollment No.

ATTESTED  
EXAMINER  
LUDHIANA  
...Defendants

26 FEB 2021



Suit for Declaration to the effect that the illegal construction raised by the defendants no. 2 to 4 in the front vacant portion, constructing/re-constructing the property by increasing the height and as well as in the portion left vacant/ open to the sky between two properties bearing No. B-I-651/2/B measuring 403 Sq. Yards and property bearing No B-I/651/4 measuring 403 Sq. Yards, situated in the locality known as Mohalla Kundanpuri, Civil Lines, Ludhiana comprised in Khasra No. 4462/3729/3326 /2346/865 to 870, 5563/4476/3729/3326/ 2346/865 to 870 khata No. 1471/2012, 1478/2020 as per jamabandi for the year 2014-15 situated at Taraf Mall Bagat, HB NO. 164 Tehsil Ludhiana (East), Ludhiana abadi known as Mohalla Kundanpuri, Civil Lines, Ludhiana is liable to be removed/demolished as the same is against the provisions of Municipal bye-laws "Punjab Municipal Building

ATTESTED  
 EXAMINER  
 LUDHIANA  
 26 FEB 2021

  
 Varinder Singh Mand  
 ADVOCATE  
 PUNJAB & HARYANA  
 Ch. No. 325, D. J. S.  
 (M) 99  
 Enrolment No.



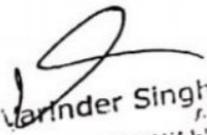
⑦

bye-laws 2018" as the same is liable to be demolished/removed;

AND

Suit for permanent injunction restraining the defendant NO 2 to 4, their officials, servants, relatives, attorneys and assignees from unauthorized parking of Cars on the road and further restraining the defendants to immediate avoid noise pollution by way of beating drums, playing DJ and Fire-works in the late-night and early morning and further restraining the defendants No. 2 and 3 from switching on the heavy flesh lights and also restraining the defendants not to spread liter, garbage and empty plastic bags in the residential locality.

AND

  
 Varinder Singh Mand  
 ADVOCATE  
 PUNJAB & HARYANA HIGH COURT  
 Cn. No. 363, Dist. Court, Ludhiana  
 (M): 9914030824  
 Enrollment No. P25512509

For grant of Mandatory Injunction directing the appropriate authority to remove the illegal raised re-construction in the front side as well as above the height and seal the

ATTESTED  
  
 EXAMINER  
 LUDHIANA

26 FEB 2021



③

property in lieu of closing the open space lying between two properties and raising the unexpected height to protect the rights of the plaintiff for light and air by way of prescription and easement of necessary over the suit land, on the basis of oral and documentary evidence.

Sir,

The plaintiff respectfully submits as

under:-

ATTESTED  
EXAMINER  
LUDHIANA

26 FEB 2021

Yogesh Maini Versus Municipal Corporation, Ludhiana.

In the court of Sh. Hasandeep Singh Bajwa, Civil Judge, Junior  
Division, Ludhiana, UID Code PB0387

Date of order:-23.02.2021

CS/6179/2020



Yogesh Maini Versus Municipal Corporation, Ludhiana.

Applications under order 7 rule 11 of CPC for rejection of the  
plaint

Present:- Sh. Amit Tandon Adv, counsel for applicant/defendant no. 1  
Sh. B.K.Rampal Adv, counsel for applicants/defendants no. 2  
to 4  
Sh. Varinder Singh Mand Adv, counsel for  
respondent/plaintiff.

**ORDER**

Vide this composite order, court will dispose of two  
applications filed by defendants under order 7 rule 11 of CPC.

2. Two applications have been filed under order 7 rule 11 of  
CPC. One application is filed by defendant no. 1 while another  
application has been filed by defendants no. 2 to 4. These applications  
have been filed for rejection of plaint on primarily three grounds:-

(i) *Earlier one suit titled as 'Jatinder Ahuja and others Versus  
State of Punjab and others' was filed in which present plaintiff was also  
one of the plaintiff. That previous suit was also filed against the same  
private defendants on similar allegations. That plaintiff had withdrawn his  
claim in that suit and no liberty was sought to file another suit. In this way  
this suit filed on same grounds is barred by order 23 rule 1 of CPC.*

(ii) *This suit is filed with the allegations that defendants no. 2 to  
4 are creating nuisance in the area by unauthorized parking of cars, by  
beating drums and by fire works in late night and early morning. That as  
per Section 91 of CPC any suit can be filed regarding public nuisance by*

Hasandeep Singh Bajwa, CJD, Ludhiana.

Page. no. 1

ATTESTED  
EXAMINER  
LUDHIANA

26 FEB 2021

was ev-

Yogesh Maini Versus Municipal Corporation, Ludhiana.

two or more persons only with the leave of court or by the Advocate General. That this suit has been filed by plaintiff alone, which is not maintainable in view of Section 91 of CPC.

(iii) A writ petition was also filed by present plaintiff before Hon'ble Punjab & Haryana High Court. In this writ petition fact of filing of earlier suit was concealed by the plaintiff. This writ petition was dismissed by Hon'ble High Court on the ground of concealment of material facts. Cost of Rs. 1,00,000/- was also imposed on the present plaintiff and writ petition was dismissed on 21.09.2020. Cost has not been paid by plaintiff till date, which again dis-entitles the plaintiff from raising same plea before this court.

3. In order to properly decide the matter in controversy, this court will decide points i and iii raised by defendants together as they are interlinked. It is an admitted fact that earlier one case titled as 'Jatinder Ahuja and others versus State of Punjab and others' was filed, which is still pending. In that suit, plaintiff Yogesh Maini was arrayed at serial no. 5 as plaintiff in the memo of parties. Copy of plaint of case titled as 'Jatinder Ahuja and others Versus State of Pb. And others' is on the record. Fact regarding filing of prior suit is also admitted by Id. Counsel for plaintiff. Thereafter, an application was filed by present plaintiff Yogesh Maini seeking permission to withdraw the civil suit but in this application no permission was sought to file fresh suit. Accordingly suit filed by present plaintiff was dismissed as withdrawn vide order dated 29.07.2020 passed by Id. CJJD, Ludhiana. Perusal of order dated 29.07.2020 shows that no liberty was ever granted to present plaintiff to file fresh suit on the same

ATTESTED

EXAMINER  
LUDHIANA

26 FEB 2021

Hasandeep Singh Bajwa, CJJD, Ludhiana.

was ever granted to present plaintiff to file fresh suit on the same cause of action.

4. Perusal of both the plaints show that in both the suits identical reliefs have been claimed. Both the suits are filed regarding the alleged illegal construction raised by defendants no. 2 to 4. Prior suit was filed for restraining the defendants from raising any construction over the plot in question and directions were also sought that State of Punjab and other parties be directed not to issue 'No Objection Certificate'. Declaration was also sought that NOC issued in favour of defendants no. 8 to 10 is null and void and further mandatory injunction was sought for compelling the defendants no. 1 to 7 to demolish the illegal construction raised by defendants no. 8 to 10. In this suit, declaration is sought that illegal construction raised by defendants no. 2 to 4 is liable to be removed/demolished, mandatory injunction has been sought for directing the appropriate authority to remove illegal construction and further permanent injunction has been sought for restraining the defendants no. 2 to 4, their officials, servants, attorneys etc. from unauthorized parking of cars on the road and also from beating drums, playing DJs, spreading garbage and empty plastic bags in the residential locality. Careful perusal of both the suits show that they have been filed claiming essentially same relief. The main grudge in both the suits is the alleged illegal construction raised over plot measuring 806 square yards and in both the cases relief of mandatory injunction has been sought for removing of this illegal construction. Further, as already discussed, plaintiff had withdrawn the previous suit without taking liberty to institute fresh suit on the same cause of action. In such a scenario,

Hassan Deep Singh Bajwa, CJD, Ludhiana.

Page. no. 3



ATTESTED

EXAMINER  
LUDHIANA

26 FEB 2021

Yogesh Maini Versus Municipal Corporation, Ludhiana.

argument of ld. Counsel for defendants is correct to the effect that this suit is clearly barred under order 23 rule 1 of CPC because as per order 23 rule 1 (4) of CPC, if a suit is withdrawn by plaintiff without permission to institute fresh suit on same cause of action then plaintiff is precluded from instituting fresh suit. In case titled as 'Dropti Devi versus Ram Piari and others 2015 (43) RCR (Civil) Page 726', Hon'ble Delhi High Court has held that if suit is withdrawn without liberty to file fresh suit, then subsequent suit filed is not maintainable and plaint is liable to be rejected under order 7 rule 11 of CPC. In this case, previous suit was withdrawn without liberty to file fresh suit but still this suit was filed. Thus, in this case plaint is clearly liable to be rejected under order 7 rule 11 of CPC.

5. Order dated 21.09.2020 passed by Hon'ble High Court is on the record. Perusal of this order shows that plaintiff after withdrawal of previous suit by him has not only filed this suit rather he has also filed a writ petition prior to filing of this suit before Hon'ble High Court. That writ petition was filed seeking similar reliefs that were sought in suit titled as 'Jatinder Ahuja and others Versus State of Punjab and others' but it was not brought to the notice of Hon'ble High Court that earlier suit was filed. Vide order dated 21.09.2020 writ petition filed by plaintiff was dismissed on the ground of concealment of material facts and cost of Rs. 1 lakh was also imposed on plaintiff. In this order, Hon'ble High Court has also observed that no permission was sought from the civil court to file a writ petition. Perusal of this suit shows that in para no. 14 of the plaint, plaintiff has mentioned regarding earlier litigation filed by the locality of Kundan Puri and Prem Nagar regarding

ATTESTED

EXAMINER  
LUDHIANA

26 FEB 2021

the same property and has also mentioned that earlier suit was withdrawn.

It is pertinent to mention that details of the earlier suit were not provided and it was also not mentioned that the prior civil suit was withdrawn without obtaining liberty to file the civil suit. Order 7 rule 1 (j) was added in CPC by Hon'ble Punjab & Haryana High Court. This rule provides that while filing the suit, parties are bound to disclose that whether any previous suit was filed between the parties on the same ground and if so, with what results. It means that all the prior litigations between the parties is clearly required to be stated with proper result. In this case, plaintiff has neither disclosed proper result of prior civil suit nor provided proper details of this suit, which is clear violation of this rule. Further it is also not even disclosed that a writ petition was filed before Hon'ble High Court on the similar allegations, which has also been dismissed vide order dated 21.09.2020. This is such a case where plaintiff was party to an earlier suit but he withdraws it without liberty to institute fresh suit. In spite of having no liberty to institute fresh suit, he files writ petition before Hon'ble High Court by concealing the fact of filing of previous suit. This writ petition is dismissed and then present suit is filed before this court in which neither proper details of previous suit are provided nor proper result is disclosed rather fact of filing of earlier writ petition is concealed. In such a scenario, this court is of the considered view that this plaint is liable to be rejected as it is barred by law i.e. order 23 rule 1 of CPC and order 7 rule 1 (j) of CPC.

hasandeep Singh Bajwa, CJD, Ludhiana.

Page. no. 5

ATTESTED

EXAMINER  
LUDHIANA

26 FEB 2021





Yogesh Maini Versus Municipal Corporation, Ludhiana.

It is also alleged in this application that this plaint is liable to

be rejected in view of Section 91 of CPC also because this suit has been filed regarding public nuisance and any such suit can only be instituted by

two or more persons with the leave of court or by Attorney General.

Perusal of plaint shows that plaintiff is not a neighbourer of defendants

no. 2 to 4 rather he is a resident of the same locality. In this suit, several

reliefs have been sought which include the relief of permanent injunction

restraining the defendants no. 2 to 4, their officials, servants, relatives,

attorneys, assignees etc. from unauthorized parking of cars, from beating

drums, playing DJs in the late night and early morning and switching on

heavy flash lights. In this case, relief has also been sought that defendants

be restrained from spreading garbage and empty plastic bags in the

residential locality. In nutshell, this suit is filed as public nuisance was

allegedly created by defendants no. 2 to 4 in the locality. Section 91 of

CPC clearly provides that suit regarding public nuisance can only

be instituted by Attorney General or two more persons with the

leave of court. Surprisingly, this suit has been filed only by one

person i.e. present plaintiff and no leave of court was ever

obtained. Accordingly, this plaint is also liable to be rejected being barred

by virtue of section 91 of CPC. Accordingly, both the applications filed

under order 7 rule 11 of CPC for rejection of plaint stands allowed and

this plaint is ordered to be rejected.

Pronounced

23.02.2021

Typed by

Pankaj Viridi Stenographer-II

Hasandeep Singh Bajwa, C.J.S.D. Ludhiana.

  
(Hasandeep Singh Bajwa)

Civil Judge, Junior Division.

Ludhiana UID Code PB0387

certified to be true copy

Examiner,

Copying Branch, C.J.S.D.  
Page no. 6 LUDHIANA

Authorized Section 76 of  
The Evidence Act 1872

Number of copy applied 3/2/21  
Date of presentation of application 6/2/21  
Total Number of pages 6  
Grant of leave 12  
Urgent For...  
Search/...  
Date on which copy prepared 6 FEB 2021  
Examiner...

Date of Delivery 08.02.2021  
Examiner,  
Copying Branch,  
Civil Judge (Sr. Division)  
LUDHIANA

COMPARED AND FOUND  
CORRECT  
COPYIST



1

IN THE COURT OF SHRI MUNBESH ARORA, ADDL.  
DISTRICT JUDGE, LUDHIANA (UID No. PB-0135)

CIS No. CA/24/2021

CNR No. PBLD010054052021

Date of decision: 9.12.2021

Yogesh Maini son of late Sh. Kapil Bhushan Maini, resident of 678/1,  
Shiv Mandir Road, Prem Nagar, Civil Lines, Ludhiana.

...Appellant

Versus

1. Municipal Corporation, Ludhiana through its Commissioner.
2. Sushil Raju Thapar son of Balwan Thapar, resident of B-I-704/8,  
Prem Naar, Civil Lines, Ludhiana.
3. Sumit Mehra son of Ashok Mehra,
4. Amit Mehra son of Ashok Mehra, s/o Amar Chand, both residents  
of House No.1241/2, Kitchlu Nagar Extension Block-F, Ludhiana,
5. Sanjeev Kumar Malhotra,
6. Davinder Malhotra;
7. both sons of Tilak Raj, residents of B-XX-3084, Gurdev Nagar,  
Ludhiana (Defendants No.5 and 6 performa-defendants).

...Respondents

*Appeal against the order dated 23.2.2021 passed  
by Sh. Hasandeep Singh Bajwa, PCS, the Ld.  
Civil Judge (Junior Division), Ludhiana in Civil  
suit No. 6179/2020 titled Yogesh Maini s.  
Municipal Corporation, Ludhiana where the suit  
was dismissed while considering the application  
U/O 7 Rule 11 CPC as well as Order 23 Rule 1 of  
CPC and Section 91 CPC.*

ATTESTED  
Examiner

16 DEC 2021



Present: Sh. Varinder S. Mand, Advocate, Counsel for the appellant.  
 Sh. Amit Tandon, Advocate for counsel for respondent No.1 MC  
 Sh.B.K.Rampal, Advocate, counsel for respondent No.2 to 6.

### JUDGMENT:

Appellant/Plaintiff (hereinafter referred to as appellant) has filed the present appeal against the order dated 23.2.2021 passed by Sh. Hasandeep Singh Bajwa, PCS, the Ld. Civil Judge (Junior Division), Ludhiana in Civil suit No. 6179/2020 titled Yogesh Maini Vs. Municipal Corporation, Ludhiana whereby the plaint was rejected while considering the application U/O 7 Rule 11 CPC as well as Order 23 Rule 1 of CPC and Section 91 CPC.

2. The appellant filed a civil suit for declaration, permanent injunction and for mandatory injunction against the defendants (respondents) for illegal construction raised by the defendants No.2 to 4 in the front vacant portion etc, detailed in the head note of the plaint. Thereafter, two applications have been filed U/O 7 Rule 11 of CPC. One application was filed by respondent No.1 while another application was filed by respondents No.2 to 4. The respondent No. 1 in its application averred that the appellant had concealed the material facts from the court as he had not disclosed about the previous suit titled 'Jatinder Ahuja and others Versus State of Punjab and others' filed against the applicant/defendant No.1 and in that suit the appellant was also one of the plaintiff. That previous suit was also filed against the same private defendants on similar allegations. The appellant had withdrawn his claim

ATTESTED

Examiner

16 DEC 2021



in that suit and no liberty was sought to file another suit. It is averred in the application that the suit of the appellant is barred by order 23 rule 1 of CPC. It is further averred that even the appellant did not disclose about the factum regarding civil writ petition filed by him titled as Yogesh Maini Vs. State of Punjab and others vide CWP No.12476 of 2020 O & M before the Hon'ble High Court and the Hon'ble High court dismissed the said petition vide order dated 21.9.2020 and cost of Rs. 1 lakh was also imposed upon the appellant. It was prayed that the plaint of the suit of appellant be rejected in terms of Order 7 rule 11 CPC with section 151 CPC as the suit is barred as per Proviso Under Order 23 Rule1 CPC and Section 10CPC.

3. The respondents No.2 to 4 also filed application U/O 7 Rule 11 CPC on the ground that earlier the appellant also filed Writ Petition bearing CWP No.12476 of 2020 O & M on the same grounds and the same was dismissed vide order dated 21.9.2020 and cost of Rs. 1 lakh was also imposed upon the appellant. The appellant has filed this suit regarding the public nuisance and one person cannot file the suit. Only two or more persons or the Advocate General can file the suit and even no application under section 91 CPC was filed to seek permission from the court to file the present suit.
4. Replies to the applications were filed by the appellant on the ground that the applications are not maintainable and averred that the filing of such applications is only to built up the pressure on the person who raise voice against illegality committed by the respondents No.2 to 4. The appellant prayed that these applications be dismissed with costs.
5. After going through the pleadings and documents on record,

**ATTESTED**  
**Examiner**

the learned lower court allowed the application under order 7 Rule 11 CPC of respondent No.6 and also rejected the plaint of the appellant.

6. Feeling aggrieved by the order passed by the learned lower Court, appellant has filed the present appeal.

7. I have heard the learned counsel for the appellant and learned counsel for respondents and have carefully gone through the record of the learned lower Court.

8. It has been contended by the Ld. counsel for the appellant that the impugned order passed by the Ld. Lower Court is based on mere conjectures and surmises. The Ld. Counsel for the appellant argued that it is an admitted fact that the appellant had filed the suit alongwith other persons of the same locality and in the said suit the appellant had filed the applicant for withdrawal of the above titled suit Jatinder Ahuja Vs. State of Punjab and others and the said application was allowed but the reliance of the Ld. Lower Court that the suit was withdrawn without the permission of the court to file the fresh suit has no merits and the impugned order on this ground is illegal. The Ld. Trial court has wrongly observed that the suit is hit by Section 91 of the CPC. Ld. Counsel for the appellant prayed that the present appeal be accepted and applications under Order 7 Rule 11 CPC be dismissed.

9. On the other hand, the Ld. Counsel for the respondents argued that the Ld. Lower Court has rightly accepted the applications U/O 7 Rule 11 CPC and there is illegality or perversity in the said impugned order. A prayer for dismissal of the appeal has been made.

10. I have considered the rival contentions and have perused the file carefully.



ATTESTED  
8  
Examiner

16 DEC 2021



11. The respondent No.1 and respondents No. 2 to 4 had filed two applications on the grounds that earlier one suit titled as 'Jatinder Ahuja and others Versus State of Punjab and others' was filed in which appellant was also one of the plaintiff. The said previous suit was also filed against the same private defendants on similar allegations. The appellant had withdrawn his claim in that suit and no liberty was sought to file another suit. In this way this suit filed on same grounds is barred by order 23 rule 1 of CPC. Further the allegations of the appellant were that that the respondents no. 2 to 4 are creating nuisance in the area by unauthorized parking of cars, by beating drums and by fire works in late night and early morning but the suit was filed by appellant only. It was further averred that a writ petition was also filed by appellant before Hon'ble Punjab & Haryana High Court. In this writ petition fact of filing of earlier suit was concealed by the appellant and that the said writ petition was dismissed by Hon'ble High Court on the ground of concealment of material facts. Cost of Rs. 1,00,000/- was also imposed on the appellant. After considering the rival contentions, the Ld. Lower Court had allowed both the above referred applications. As per opinion of this Court there is no illegality or perversity in the impugned order. Order 7 Rule 11 CPC says-

"The plaint shall be rejected in the following cases-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is

ATTESTED  
Examiner

10.6 DEC 2021

returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."

12. The Hon'ble Supreme Court of India also in case **Srihari Hanumandas Totala Vs. Hemant Vithal Kamat & other**, Civil Appeal No.4665 of 2021 decided on 9.8.2021 observed that

"18. It is clear that in order to consider Order 7 Rule 11, the court has to look into the averments in the plaint and the same can be exercised by the trial court at any stage of the suit. It is also clear that the averments in the written statement are immaterial and it is the duty of the Court to scrutinize the averments/pleas in the plaint. In other words, what needs to be looked into in deciding such an application are the averments in the plaint. At that stage, the pleas taken by the defendant in the written statement are wholly irrelevant and the matter is to be decided only on the plaint averment. These principles have been reiterated in Raptakos Brett & Co. Ltd. v. Ganesh Property, (1998) 7 SCC 184 and Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express, (2006) 3 SCC 100." 20 On a perusal of the above authorities, the guiding principles for deciding an application under Order 7 Rule 11(d) can be summarized as follows:



ATTESTED  
Examiner

106 DEC 2021



(i) To reject a plaint on the ground that the suit is barred by any law, only the averments in the plaint will have to be referred to;

(ii) The defense made by the defendant in the suit must not be considered while deciding the merits of the application;

(iii) To determine whether a suit is barred by res judicata, it is necessary that (i) the 'previous suit' is decided, (ii) the issues in the subsequent suit were directly and substantially in issue in the former suit; (iii) the former suit was between the same parties or parties through whom they claim, litigating under the same title; and (iv) that these issues were adjudicated and finally decided by a court competent to try the subsequent suit; and

(iv) Since an adjudication of the plea of res judicata requires consideration of the pleadings, issues and decision in the 'previous suit', such a plea will be beyond the scope of Order 7 Rule 11 (d), where only the statements in the plaint will have to be perused."

13. In the present case the appellant himself conceded in the plaint that earlier he has filed the suit alongwith other persons of same locality and in that suit titled Jatinder Ahuja and others Vs. State of Punjab and others, and in the said suit he had filed application for withdrawal of the said suit and that his application was allowed. Admittedly, in that suit he had not sought any permission to file the fresh suit on the same cause of action. Order 23 CPC provides for "withdrawal and adjustment of suits". Rule 1 of this Order, as it stands today, was introduced vide the Code of Civil Procedure (Amendment) Act, 1976. It has 5 sub-rules, which are reproduced hereunder:

1. *Withdrawal of suit or abandonment of part of claim.*—(1) At any time after the institution of a suit, the plaintiff may as against all or any of the defendants abandon his suit or abandon a part of his claim.

Order 23 Rule 1 makes a distinction between two types of withdrawal<sup>[3]</sup>:

1. *Absolute withdrawal of the suit, termed as "abandonment of suit"*

**ATTESTED**  
  
**Examiner**

6 DEC 2021

*made under sub-rule (1).*— The plaintiff may abandon the suit or a part of his claim as a matter of his right and in this scenario, he shall be barred from instituting another suit on the same cause of action. This right cannot be reserved by the plaintiff without the court's leave.

2. *Conditional withdrawal of the suit with liberty to institute a fresh one on the same cause of action with the leave of trial court made under sub-rule (3).*— This would enable the plaintiff to avoid the bar under Section 12 CPC. "Invito beneficium non datur. the law confers upon a man no rights or benefits which he does not desire. Whoever waives, abandons or disclaims a right will lose it. In order to prevent a litigant from abusing the process of the court by instituting suits again and again on the same cause of action without any good reason the Code insists that he should obtain the permission of the Court to file a fresh suit after establishing either of the two grounds mentioned in sub-rule (3) of Rule 1 of Order 23."<sup>[4]</sup>

If the plaintiff fails to withdraw the suit as specifically provided by sub-rule (3), he shall be barred from instituting a fresh suit on the same cause of action as is provided by sub-rule (4). It is also worth mentioning here that an order of trial court under sub-rule (3) is neither a decree nor an appealable order. However, such orders can be reviewed and revised.

14. In this case, the copy of plaint of case titled as 'Jatinder Ahuja and others Versus State of Pb. And others' is on the record. Fact regarding filing of prior suit is also admitted by Id. Counsel for appellant even in the present appeal also. Moving of application for withdrawal of the said suit is also not denied but in that application no permission was sought to file fresh suit. The said suit filed by appellant was dismissed as withdrawn qua the appellant vide order dated 29.07.2020 and perusal of said order dated 29.07.2020 shows that no liberty was ever granted to appellant to file fresh suit on the same cause of action. Further perusal of both the plaints show that in both the suits similar reliefs have been claimed. Both the suits are filed regarding the alleged illegal construction raised by respondents no. 2 to 4. Earlier suit was filed for restraining the respondents from raising any construction over the plot in question and directions were also sought that State of Punjab and other parties be



ATTESTED  
 Examiner

10.6 DEC 2020

directed not to issue 'No Objection Certificate'. Declaration was also sought that NOC issued in favour of respondents no. 8 to 10 is null and void and further mandatory injunction was sought for compelling the defendants no. 1 to 7 to demolish the illegal construction raised by respondents. In the suit under reference, the appellant had sought, declaration that illegal construction raised by respondents no. 2 to 4 is liable to be removed/demolished, mandatory injunction has been sought for directing the appropriate authority to remove illegal construction and further permanent injunction has been sought for restraining the respondents no. 2 to 4, their officials, servants, attorneys etc. from unauthorized parking of cars on the road and also from beating drums, playing DJs, spreading garbage and empty plastic bags in the residential locality. The main grudge in both the suits is the alleged illegal construction raised over plot measuring 806 square yards and in both the cases relief of mandatory injunction has been sought for removing of this illegal construction. The appellant had withdrawn the previous suit without taking liberty to institute fresh suit on the same cause of action. In these circumstances, the Ld. Lower Court has rightly observed that this suit is clearly barred under order 23 rule 1 of CPC because as per order 23 rule 1 (4) of CPC; if a suit is withdrawn by plaintiff without permission to institute fresh suit on same cause of action then plaintiff is precluded from instituting fresh suit. In case titled as 'Dropti Devi versus Ram Piari and others 2015 (43) RCR (Civil) 726', the Hon'ble Delhi High Court also pleased to hold that if suit is withdrawn without liberty to file fresh suit, then subsequent suit filed is not maintainable and plaint is liable to be rejected under order 7 rule 11 of CPC. Order 7 Rule 11 (d)



ATTESTED  
Examiner

06 DEC 2021

CPC also says that where the suit appears from the statement in the plaint to be barred by any law, as is in the present case, the plaint is liable to be rejected.



15. Further, copy of Order dated 21.09.2020 passed by Hon'ble High Court is also on the record. Perusal of this order shows that the appellant after withdrawal of previous suit by him has not only filed this suit rather he has also filed a writ petition seeking similar reliefs, prior to filing of this suit before Hon'ble High Court by concealing the factum of earlier suit and the Hon'ble High Court vide order dated 21.09.2020 dismissed the Writ of the appellant and also imposed cost of Rs. 1 lakh for concealment of fate of his earlier suit. Although in the plaint the appellant had mentioned regarding earlier litigation filed by the locality of Kundan Puri and Prem Nagar regarding the same property the details of the earlier suit were not provided and it was also not mentioned that the prior civil suit was withdrawn without obtaining liberty to file the civil suit. The Order 7 rule 1 (j) of CPC provides that while filing the suit, parties are bound to disclose that whether any previous suit was filed between the parties on the same ground and if so, with what results but the appellant has neither disclosed proper result of prior civil suit nor provided proper details of this suit, which is clear violation of this rule. On this score also the plaint of the appellant was liable to be rejected.

16. Then, the Ld. Lower Court also rightly noted down that that the appellant had filed the suit regarding public nuisance. Section 91 CPC provides that in the case of a public nuisance or other wrongful act affecting, or likely to affect, the public, a suit for a declaration and

ATTESTED  
Examiner

11.6 DEC 2021

injunction or for such other relief as may be appropriate in the circumstances of the case, may be instituted,-

(a) by the Advocate General, or

(b) with the leave of the Court, by two or more persons, even though no special damage has been caused to such persons by reason of such public nuisance or other wrongful act.]

17. So as per law, as provided in section 91 of the CPC that any such suit can only be instituted by two or more persons with the leave of court or by Attorney General. But in this Suit, several reliefs have been sought which include the relief of permanent injunction restraining the defendants no. 2 to 4, their officials, servants, relatives, attorneys, assignees etc. from unauthorized parking of cars, from beating drums, playing DJs in the late night and early morning and switching on heavy flash lights. In this case, relief has also been sought that the respondents be restrained from spreading garbage and empty plastic bags in the residential locality. Section 91 of CPC clearly provides that suit regarding public nuisance can only be instituted by Attorney General or two or more persons with the leave of court but this suit has been filed only by one person i.e. appellant and no leave of court was ever obtained. Accordingly, this'plaint is also liable to be rejected being barred by virtue of section 91 of CPC.

18. As far as the contention of Ld. Counsel for the appellant that the appeal before this Court is not maintainable as the suit was dismissed while deciding the application U/O 7 Rule 11 CPC. However, as observed by Hon'ble Supreme Court in judgment Sayyed Ayaz Ali Vs. Prakash



ATTESTED  
Examiner

19 6 DEC 2021

G.Goyal & others, Civil Appeal Nos. 2401-2402 of 2021 decided on 20.7.2021 that the order rejecting the plaint operates as a decree within the meaning of Section 2(2) of the CPC and, therefore, when the rejecting of plaint operates as a decree within the meaning of Section 2(2) of CPC, this appeal is very well maintainable before this court.



19. Keeping in view the discussion made above, it is observed that the impugned order does not suffer from any illegality or perversity as per provisions of Order 7 Rule 11 CPC. Consequently, this appeal lacks merits and accordingly is dismissed. Record be returned alongwith a copy of this judgment. File be consigned to the Record Room.

Pronounced in the open Court  
9.12.2021

(Muneesh Arora),  
Addl. Distt. Judge,  
Ludhiana (UID-0135)

Rajinder Pal, Stenographer-I

No. of Application.....	9103
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(Authorised Under Section 76 of  
the Evidence Act, 1879)

19 6 DEC 2021

IN THE COURT OF SH.VISHAV GUPTA, CIVIL JUDGE  
JUNIOR DIVISION, LUDHIANA.

Jatinder Ahuja and others

Versus

State of Punjab and others

In Re; Suit for Permanent Injunction,  
Declaration and Mandatory  
Injunction,

Written Statement on behalf of  
defendants No.2 to 5.

Sir,

The defendant respectfully submits as  
under:-

**Preliminary Objections:-**

1. That the suit filed by the plaintiff is not maintainable.
2. That the suit is barred as per the section 41 of the Specific Relief Act. No injunction can be granted against the defendants for

conducting his duties/work after following the due process of law.

3. That the plaintiff has not come to the court with clean hands and is guilty of suppression of true, actual and material facts from this Hon'ble court and hence he is not entitled to the relief as prayed for in this suit.

The true facts are that the property in dispute was earlier in the name of Sanjeev Kumar and others. As per the official record, Sanjeev Kumar and others purchased the aforesaid property in the year 1988 and in the year 1993. In the year 1994 they have got constructed the property. In the year 1995-1996, the Government had formulated the policy vide Memo No.9/2/986/SS-1/2749-2752 dated 18.3.1998 and as per the policy, the property in question was compounded at that time. Lateron vide order No.4290/ATP-D dated 15.7.2019, the M.C. Ludhiana has directed Devinder Kumar and Sanjeev Kumar to deposit the compounding fee of Rs.18,53,458/- for the

violation and the same was deposited vide G8 No.28/15116 for Rs.9,26,729/- and G8 No.29/15116 dated 4.6.2019 amounting to Rs.926,729/-. No new construction is going on over the property in dispute. Even the structure of the building was in existence since 1994-1995 and as per the Government Scheme of 1998, the building was compoundable and composition fees were taken from the owner. Moreover the building is old and whatever the renovation is going on inside the building and the same cannot be stopped. However, it is submitted that if there will be any violation of the Bye-Laws then the answering respondents will take the appropriate action as per law against the violator.

4. That no legal notice under section 80 CPC & Under Section 396 of PMC Act has been served upon the defendants before filing the present suit and as such the suit of the plaintiff is liable to be dismissed.

5. That the plaintiff has no locus standi to file the present suit in the present form against the answering defendants and the same is not maintainable and liable to be dismissed.

6. That the filing of the present suit is mere an abuse of process of law and the suit filed by the plaintiff is liable to be dismissed.

7. That no cause of action has accrued to the plaintiff against the answering defendants to file the present suit.

8. That the relief of permanent and mandatory injunction cannot be claimed in the present suit and in the present shape in the suit. The relief of permanent injunction could be granted only to law abiding persons who come to court with prima facie, clean hands and with cause of action. No prima facie case is made out in favour of the plaintiff. The

present plaint is mum and as such the suit filed by the plaintiff is liable to be dismissed.

**On Merits:-**

1. Para No.1 of the plaint is denied for want of knowledge and the plaintiff be put to the strict proof of the same.

2. Para No.2 of the plaint is denied for want of knowledge as the same is not relating to the answering defendant. However, the plaintiff has not supplied the document as alleged in this para, as such, the plaintiff be put to the strict proof of the same. As per the official record of the answering defendants it was recorded that Devinder Kumar and Sanjeev Kumar the owners in possession. Regarding separation of the property as shown in this para is a matter of record. It is denied for want of knowledge that the defendants No.8 to 10 have also not paid the proper stamp duty at the time of alleged

registration of the sale deed and the plaintiff be put to the strict proof of the same. It is submitted that the property in dispute was earlier in the name of Sanjeev Kumar and others. As per the official record, Sanjeev Kumar and others purchased the aforesaid property in the year 1988 and in the year 1993. In the year 1994 they have got constructed the property. In the year 1995-1996, the Government had formulated the policy vide Memo No.9/2/986/SS-1/2749-2752 dated 18.3.1998 and as per the policy, the property in question was compounded at that time. Lateron vide order No.4290/ATP-D dated 15.7.2019, the M.C. Ludhiana has directed Devinder Kumar and Sanjeev Kumar to deposit the compounding fee of Rs.18,53,458/- for the violation and the same was deposited vide G8 No.28/15116 for Rs.9,26,729/- and G8 No.29/15116 dated 4.6.2019 amounting to Rs.926,729/-. No new construction is going on over the property in dispute. However, it is submitted that if there will be any violation

of the Bye-Laws then the answering respondents will take the appropriate action as per law against the violator.

3. Para No.3 of the plaint is wrong and denied. It is wrong and denied that the defendants No.8 to 10 after allegedly purchasing the properties in dispute started raising the construction of Hotel, Marriage Palace, Banquet Hall, Rooms, Restaurant Etc. without getting No Objection from the neighbourer. It is wrong and denied that the entire locality of Prem Nagar is a residential locality. The area where the property in question is situated is mixed land use. The structure of the building was in existence since 1994-1995 and as per the Government Scheme of 1998, the building was compoundable and composition fees were taken from the owner. Moreover the building is old and whatever the renovation is going on inside the building and the same cannot be stopped. Moreover the area is a mixed land use.

4. Para No.4 of the plaint is wrong and denied.

5. Para No.5 of the plaint is wrong and denied. It is wrong and denied that the defendants No.8 to 10 are political and influential person and having good relations with high-ups as the wife of the respondent No.8 is a sitting Councilor from the ruling party of the Ward under which the property in dispute is situated and illegal construction is going on. It is wrong and denied that the defendants have cleverly got registered different sale deeds of total property measuring 806 sq.yards and without obtaining any permission clubbed the same in one unit for construction of illegal hotel/restaurant etc. It is wrong and denied that the defendants by using their influence alleged themselves to get CLU for the same. It is wrong and denied that the alleged CLU issued by any department in favour of the defendants No.8 to 10 is totally illegal and against the

provisions of law. It is wrong and denied that the defendants No.8 to 10 by concealing the true facts from the Government in connivance with the officials of defendants No.1 to 7 got the same sanctioned. It is wrong and denied that the Master plan for construction of commercial building over the property more than 500 sq.yards is to be sanctioned by the Local Body, Chandigarh, but in the present case the alleged CLU has got issued by defendants No.8 to 10 from the Local Authority i.e. M.C. Ludhiana, which is against the building bye laws framed by the Government. It is wrong and denied that the illegal construction is going on by defendants No.8 to 10 over the property in question is otherwise against the building bye laws as the same is falls under A-6 Category as per building bye laws which is multi-storey category and is above 15 meter height. It is wrong and denied that as per the building bye laws to construction of Hotel/High Rise Building Etc. must have land above 1000 sq.yards, and Master

Plan for the said building is required to be sanctioned from the Local Body Government, Punjab, Chandigarh which requires so many safety measures as mentioned in the Building Bye Laws. It is wrong and denied that the defendants No.8 to 10 are raising construction Hotel/High rise building over the Property in Dispute which is consisting of 5 stories building excluding basement which is more than 15 meters in height over the properties in dispute which is only 806 sq.yards. It is wrong and denied that the defendants No.8 to 10 in connivance with the office of PSPCL defendants No.6 got sanctioned the high voltage (MS) connection, which is totally against the law. It is submitted that all the facts mentioned in this para are far from truth and is based on false, frivolous and unfounded facts. The property in dispute was earlier in the name of Sanjeev Kumar and others. As per the official record, Sanjeev Kumar and others purchased the aforesaid property in the year 1988 and in the year

1993. In the year 1994 they have got constructed the property. In the year 1995-1996, the Government had formulated the policy vide Memo No.9/2/986/SS-1/2749-2752 dated 18.3.1998 and as per the policy, the property in question was compounded at that time. Lateron vide order No.4290/ATP-D dated 15.7.2019, the M.C. Ludhiana has directed Devinder Kumar and Sanjeev Kumar to deposit the compounding fee of Rs.18,53,458/- for the violation and the same was deposited vide G8 No.28/15116 for Rs.9,26,729/- and G8 No.29/15116 dated 4.6.2019 amounting to Rs.926,729/-. No new construction is going on over the property in dispute. The area where the property in question is situated is mixed land use. The structure of the building was in existence since 1994-1995 and as per the Government Scheme of 1998, the building was compoundable and composition fees were taken from the owner. Moreso the building is old and whatever the renovation is going on inside the building and the same cannot be stopped. Even

where the property in question is situated does not fall under the Master Plan Scheme.

6. Para No.6 of the plaint is wrong and denied. It is wrong and denied that before sanctioning of NOC in favour of defendants No.8 to 10 no consent was obtained from immediate neighbourers. It is wrong and denied that the plaintiffs are immediate neighbourer and suffering lot due to illegal act of the defendants. It is wrong and denied that since the day of starting of the construction they are suffering lot. It is wrong and denied that the entire locality is a residential locality and no commercial activity can be allowed in the residential area. It is submitted that no new construction is going on over the property in dispute. The area where the property in question is situated is mixed land use. The structure of the building was in existence since 1994-1995 and as per the Government Scheme of 1998 the building was compoundable and composition fees were taken from the

owner. Moreso the building is old and whatever the renovation work is going on inside the building and the same cannot be stopped. Even where the property in question is situated does not fall under the Master Plan Scheme.

7. Para No.7 of the plaint is wrong and denied. It is wrong and denied that the defendants No.8 to 10 by raising illegal construction over the properties in dispute wants to start the business of Hotel, Marriage Palace, Restaurant and Liquor Bar etc. in the same and also put high voltage generator sent for the same. It is wrong and denied that by doing so they will create grate trouble for the residence of the locality, people because due to above said act there is lot of Traffic and Parking Problem. It is wrong and denied that due to heavy DJ it will create noise Pollution. It is wrong and denied that the defendants have not made proper arrangement of parking in the hotel. It is wrong and denied that even the girls and women are not safe. It

is wrong and denied that there is no proper parking place for the customers of the Hotel/Marriage Place. It is wrong and denied that most of the plaintiffs and resident of the surrounding are old age and suffering from so many old age ailments. It is wrong and denied that by running the said hotel/marriage palace they will also suffer other ailments due to traffic and noise pollution etc. caused by the defendants No.8 to 10. It is submitted that the story put forward by the plaintiff is nothing but is based upon the false and frivolous facts. The building is old and whatever the renovation is going on inside the building cannot be stopped. Even where the property in question is situated does not fall under the Master Plan Scheme. If any violation of the Bye Laws of M.C. Ludhiana done by any person then the same will be dealt according to law and appropriate action will be taken against them.

8. Para No.8 of the plaint is wrong and denied. It is wrong and denied that the

plaintiffs many times requested the defendants to stop illegal construction over the properties to stop illegal construction over the properties in dispute but the defendants have not paid any heed to the genuine request of the plaintiffs. It is further wrong and denied that rather the defendants No.8 to 10 threatened the plaintiffs to involve them in false litigation as they are influential persons and having links with high-ups including Municipal Corporation. It is wrong and denied that the illegal construction of the defendants is still doing on. It is submitted that all the averments made in this para are false and frivolous one. No request was made by the plaintiff as alleged in this para. Even the building is old and whatever the renovation is going on inside the building cannot be stopped. Even where the property in question is situated does not fall under the Master Plan Scheme.

9. Para No.9 of the plaint is wrong and denied. It is wrong and denied that on

2.1.2020 the plaintiffs alongwith respectable approached the defendants and requested them to stop the illegal construction, but they paid no heed to the request of the plaintiff and threatened the plaintiff, so the plaintiffs have a cause of action to file the present suit. It is submitted that the plaintiffs never approached the answering defendants as alleged in this para. The structure of the building was in existence since 1994-1995 and as per the Government Scheme of 1998, the building was compoundable and composition fees were taken from the owner. Moreso the building is old and whatever the renovation is going on inside the building and the same cannot be stopped. Moreover the area is a mixed land use. Even no cause of action accrued to the plaintiffs against the answering defendants as alleged in this para.

10. Para No.10 of the plaint is wrong and denied. It is wrong and denied that the act of the defendant is full of force and is illegal,

unwarranted and created a terror in the mind of the plaintiffs. It is wrong and denied that the defendants have no authority to raise illegal construction against the bye-laws. It is wrong and denied that if the defendants will succeed in their evil design then the plaintiffs shall suffer an irreparable loss and injury which cannot be compensated in terms of money lateron. It is wrong and denied that the plaintiffs have strong prima facie case in their favour and balance of convenience also lies in favour of the plaintiffs and against the defendants. It is wrong and denied that the plaintiffs have no other efficacious remedy except to file the present suit. It is submitted that the structure of the building was in existence since 1994-1995 and as per the Government Scheme of 1998, the building was compoundable and composition fees were taken from the owner. Moreso the building is old and whatever the renovation is going on inside the building

and the same cannot be stopped. Moreover the area is a mixed land use.

11. Para No.11 of the plaint is wrong and denied. Legal notice under section 80 CPC & Under Section 396 of PMC Act are very much required to be served upon the M.C. Ludhiana before the filing the suit against the M.C. Ludhiana. But the plaintiff has not served upon the answering defendants before filing the present suit and as such the suit of the plaintiff is liable to be dismissed.

12. Para No.12 of the plaint is wrong and denied. No cause of action accrued to the plaintiff against the answering defendants as alleged in this para of the plaint.

13. Para No.13 of the plaint is matter of record.

14. Para No.14 of the plaint is legal.

15. Para No.15 of the plaint is also legal.

Last para of the plaint is the prayer of the plaintiff which is wrong and denied and the plaintiff is not entitled to the same.

It is, therefore, prayed that the suit of the plaintiff may kindly be dismissed with exemplary costs.

Ludhiana

Defendants No.2 to 5

Dated:

Through Counsel

Amit Tandon, Advocate

Verification:-

Verified that the contents of paras No.1 to 8 of preliminary objections and paras No.1 to 15 of written statement on merits are true and correct to the best of my knowledge, belief and information derived from the official record. Last Para is prayer.

Verified at Ludhiana.

Dated:

Defendants No.2 to 5