

IN THE COURT OF JUNIOR CIVIL JUDGE, RR DISTRICT
AT L B NAGAR

O.S.No. 69 OF 2015

Between:

1. Villas at Silver Creek Owners Association
Rep. by its Secretary Sri Soham Modi,
S/o. Sri. Satish Modi
R/o.5-4-187/3&4, 2nd floor, "Soham Mansion",
M. G. Road, Secunderabad, ... Plaintiffs
2. M/s. Mehta and Modi Homes Rep by
its Managing Partner Sri Soham Modi,
S/o. Sri Sathish Modi, aged 44 years,
R/o.5-4-187/3&4, 2nd floor, "Soham Mansion",
M. G. Road, Secunderabad, ... Plaintiffs

And

Lt. Col.BV Naidu, S/o. Sri Subbaiah Rangaiah,
OC Head Quarter, 2 TTR (1STC),
Jabalpur 482 001, Madhya Pradesh,
INDIA

ALSO AT
Villa No.44, Villas at Silver Creek,
Nr. Kinston PG College,
Nagaram - Rampally Road,
Cherlapally - 500 052
Ghatkesar Mandal
R. R. Dist., Telangana State ... Defendant

PLAINT FILED U/S 26 OF CPC FOR MANDATORY INJUNCTION

I. Description of the Plaintiff:

The address for service of all notices, summons and process etc. on the Plaintiff is as mentioned above and of its counsel Sri C. Balagopal, Smt. Ameerunnisa Begum, K. Vijaya Saradhi, C. V. Chandramouli, P. Vikram Kumar, and C.H. Phani Kumar, Advocates, office at Flat No.103, Suresh Harivillu Apartments, Road No.11, West Marredpally, Secunderabad.

II. Description of the Defendant:

The address for service of all notices, summons and process etc. on the Defendant is as mentioned above.

For MEHTA & MODI HOMES

For Villas At Silver Creek Owners Association

III. Facts of the case:

1. The Plaintiffs submit that the Defendant had purchased a plot No.44 in the project developed by the Defendant No.2 under the name and style of Silver Creek, situated at Sy.No.74 and 75, Cherlapally Village, Ghatkesar Mandal, RR Dist., under a Regd. Sale Deed bearing No.1370/13 dtd. 6.2.2013. The Defendant had simultaneously executed an agreement of construction in favour the Plaintiff No.2 for constructing a villa on the land purchased by you.

2. The construction agreement had listed out various terms and conditions like payment of installments and the clause No. 16 & 28 of the said construction agreement and also clause no.28 of Agreement of sale clearly states as follows regarding the front elevation of the villa constructed by our client.

Clause no.16 of Construction Agreement : *The Buyer shall not be allowed to alter any portion of the villa that may change its external appearance without due authorization from the Builder and / or Association / Society In-charge of maintenance for an initial period of about 10 to 15 years i.e. upto the ending of year 2025 and all the villas in the project of Villas at Silver Creek shall have a similar elevation, color, scheme, compound wall, landscaping, trees etc. for which the Buyer shall not raise any obstructions / objections.*

Clause no. 28 of Construction Agreement : *That the Buyer or any person through him shall keep and maintain the villa in a decent and civilized manner. The Buyer shall further endeavor and assist in good up-keeping and maintaining the amenities / facilities / areas which are for the common enjoyment of the occupiers / Buyers of the Villas at Silver creek. To achieve this objective the Buyer, (a) Throw dirt, rubbish etc. in any open place, compounds roads etc. not meant for the same. (b) Use the villa for any illegal, immoral, commercial & business purposes. (c) Use the villa in such a manner which may cause nuisance, disturbance or difficulty to other occupiers / purchasers in the Villas at Silver Creek (d) Store any explosives, combustible materials or any other materials prohibited under any law (e) install grills or shutters in the balconies, main door, etc.; (f) change the external appearance of the villas (g) install cloths drying stands or other such devices on the external side of the villas.*

For MEHTA & MODI HOMES

Partner

For Villas At Silver Creek Owners Association

Secretary

Clause no.28 of Agreement of sale :

That the Vendee shall not be allowed to alter any portion of the villa that may change its external appearance without due authorization from the Vendor and / or Association / Society in-charge of maintenance for an initial period of about 10 to 15 years i.e. upto the ending of year 2025 and all the villas in the project of Villas at Silver Creek shall have a similar elevation, color scheme, compound wall, landscaping, trees, etc. for which the Vendee shall not raise any obstructions / objections.

The Plaintiffs submit that the Defendant had given an undertaking dtd. 21.04.2014 which clearly mentions at point (f), that no changes will be done to the external appearance of the villas. In view of the same the tiles put up by the Defendant in the front portico should be removed. The same has been mentioned in the Memorandum of Association of the villa owners association, which the Defendant is aware.

3. The Plaintiffs submit that it was observed by the officials of Plaintiff No.2 that the Defendant is changing the front elevation by the fixing Granite slabs in the front portico of his villa and the officials of Plaintiff No.2 immediately informed the Defendant to stop the work and get necessary permission form the Head Office of Plaintiff No.2. But the Defendant had gone ahead and completed the work. The reason as to why the front façade should not be changed is to maintain a uniformity of all the villas in the project.

4. The Plaintiffs submit that the external façade of all the houses are designed uniformly to maintain a good outlook for the whole gated community. This will go a long way in enhancing the finish of the houses. The porticos are given a good finish with paint and they donot require any tiles or granites. The walls of the portico are the external walls. The Plaintiff No.2 has taken adequate precautions to strengthen the same and there is no threat of damage to the wall and the wall does not require any more strengthening by way of fixing tiles or granites. Infact the fixing of tiles or granites would only unnecessarily put load on the wall which is not good for structure in the long run.

5. The Plaintiffs submit that as a counter blast the Defendant through his wife had sent a notice listing out alleged unfinished works to Plaintiff No.2. The Plaintiff No.2 was surprised to receive a list of alleged unfinished works in the villa. In fact the Plaintiff No.2 had received a list of pending works by email on 5.5.2014 and the same were rectified and Defendant was put in possession of the villa. The suit is filed for Mandatory Injunction for removal of the tiles fixed in the front portion by the Defendant.

IV. Cause of action:

The cause of action for the suit arose on _____ the date on which the defendant alter the elevation and on 05.10.2014 when the plaintiffs got issued a notice through their counsel and on all such subsequent dates when the defendant did not remove the tiles fixed in the front portico.

V. Jurisdiction:

The suit schedule property is situated at Cherlapally, RR Dist., which is within the jurisdiction of this Hon'ble court hence, this Hon'ble Court has got territorial jurisdiction and the value of the suit is less than Rupees One lakh and as such the Hon'ble court has also got pecuniary jurisdiction to try the suit.

VI. Court Fee:

The suit is valued for the purpose of court fee and jurisdiction at Rs.30,000/- being the valuation for the purpose of this suit and a court fee paid is Rs. _____/- U/s. _____ OF A.P.C.F. and S. V. Act.

VII. Prayer:

The Plaintiffs prays that this Hon'ble court be pleased to pass a Judgment and Decree in favour of the Plaintiffs and against the Defendant granting the following reliefs:-

- a) To grant Mandatory Injunction against the Defendant directing him to remove the tiles in the front portion of the


Perumthala & Modi Homes
Partner


For Villa At Silver Creek Owners Association
Secretary

- b) To grant the costs of the suit; and
- c) To pass such other relief or reliefs as are just and necessary in the circumstances of the case.

Counsel for Plaintiff
 LB NAGAR
 Date:

PLAINTIFFS

1 For Villas At Silver Creek Owners Association
 Secretary

2 For MEHTA & MODI HO...
 Partner

VERIFICATION

We the plaintiffs do hereby declare that the facts stated above are true and correct to the best of our knowledge, hence verified.

L.B.NAGAR
 Date:

PLAINTIFFS

1 For Villas At Silver Creek Owners Association
 Secretary

2 For MEHTA & MODI HO...
 Partner

Suit Schedule Property

All that Villa bearing no. No.44 at "Villas at Silver Creek", situated at Sy.No.74 & 75, Cherlapally Village, Ghatkesar Mandal, RR Dist.

North : Plot No. 43
 East : 30" Wide Road
 West : Plot No. 36
 South : Neighbour's Land


For Villas At Silver Creek Owners Association
 Secretary

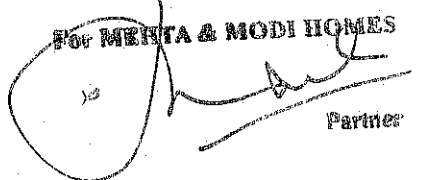
For MEHTA & MODI HOMES
 Partner

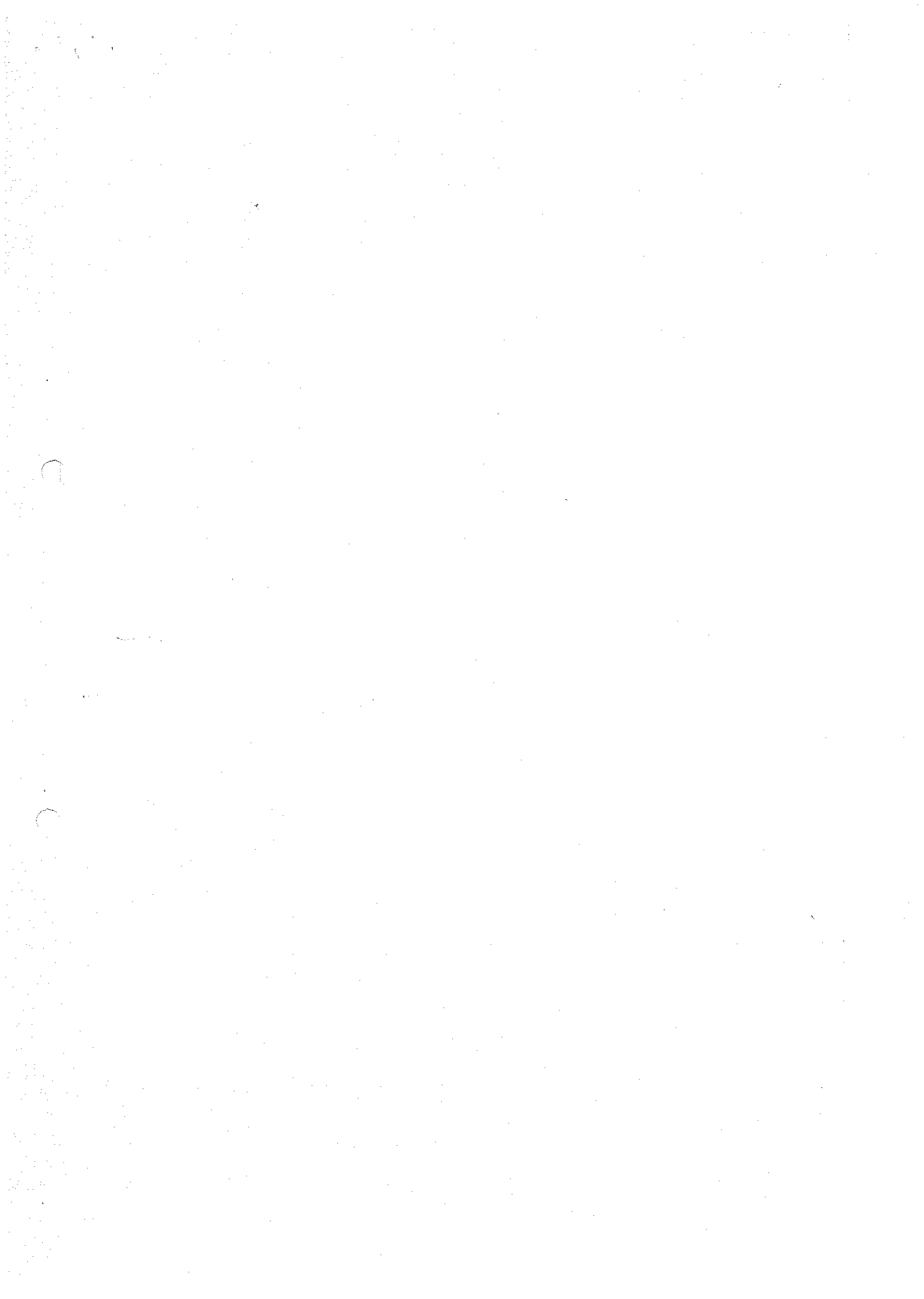
LIST OF DOCUMENTS

<u>Sl. No.</u>	<u>Date</u>	<u>Parties</u>	<u>Description of Document</u>
01.	09.02.2011	Plaintiff No.2 & III party	Sale Deed -- C
02.		Plaintiff No.2 & III party	Agreement of Construction -- True copy
03.		IIIrd party & Defs 1 & 2	Sale Deed -- CC
04.	24.12.2014	Plaintiff No.1 & Defs.	Notices --- OC
05.	20.11.2014	Plaintiff & Defs.	Postal Receipt
06.		Plaintiff & Defs.	Postal Acknowledgement.
07.		Plaintiff & Defs.	Return Covers
08.		Plaintiff & Defs.	Photographs

L.B.NAGAR
Date:

PLAINTIFFS
For Villas At Silver Oak Own...

Secretary

For MEHTA & MODI HOMES

Partner



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Owners Association
-- Plaintiffs

And

Lt. Col.BV Naidu
-- Defendant

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CPC FOR MANDATORY
INJUNCTION

Filed on:

Filed by:

SRI.C.BALAGOPAL
ADVOCATE

Flat No.103, Suresh Harivillu
Apts
Road No.11, West
Marredpally,
Secunderabad - 500 026.
Ph: 64570512/9441782451

COUNSEL FOR PLAINTIFFS

IN THE COURT OF JUNIOR CIVIL JUDGE, RR DISTRICT
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Villas at Silver Creek Owners Association --- Plaintiffs

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Lt. Col.BV Naidu -- Defendant

VERIFIED AFFIDAVIT

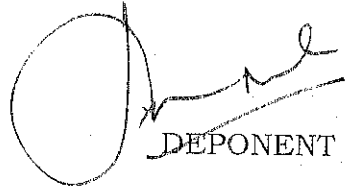
I, Soham Modi S/o Sri Sathish Modi, aged 45 years, occupation: Business, R/o Secunderabad, do hereby solemnly affirm and state on oath as follows:

1. I am the Plaintiff No2 herein and as such I am well acquainted with the facts of the case. I am authorize to file this affidavit also on behalf of the Plaintiff No.1.

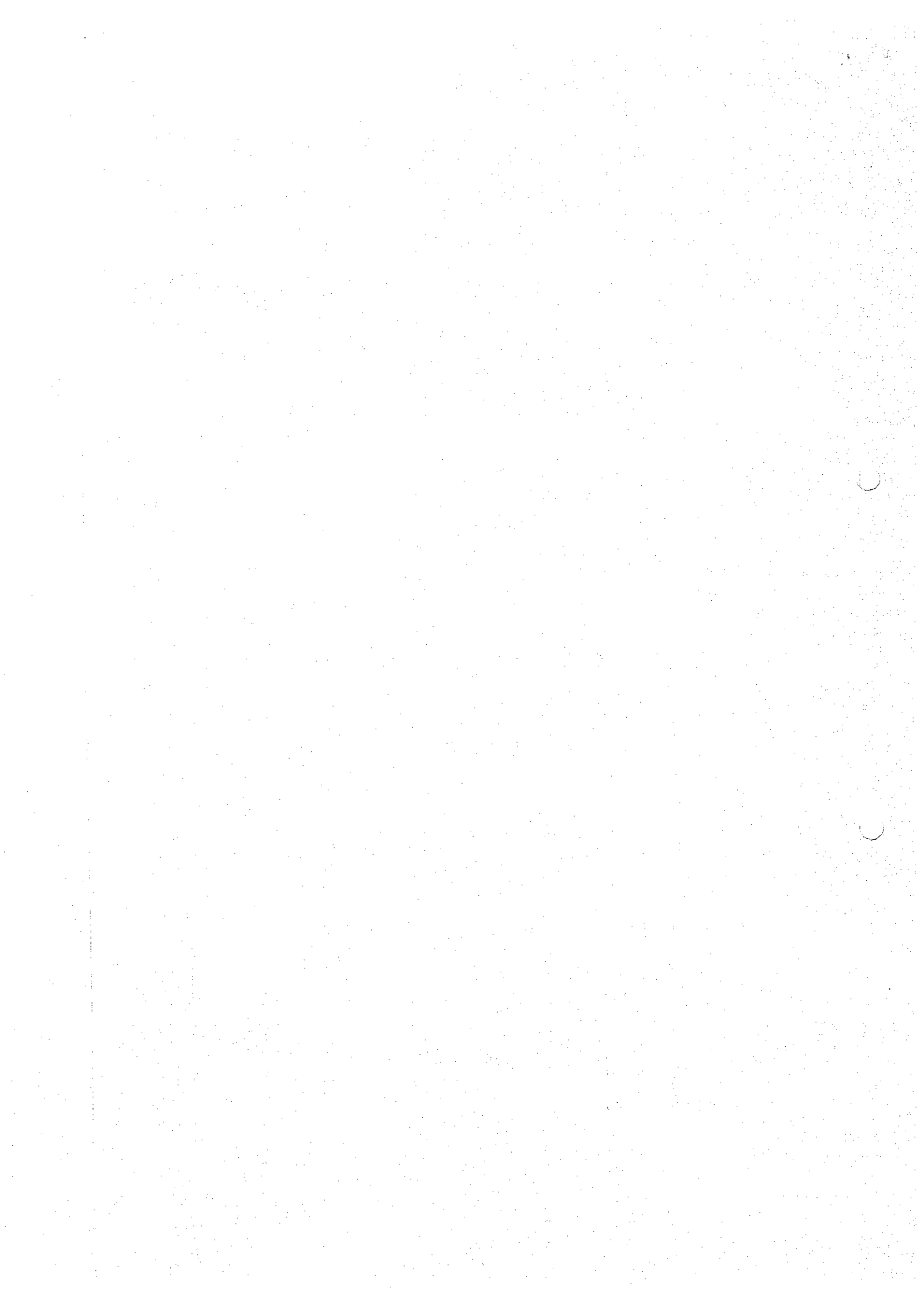
2. I state the facts mentioned in the plaint are true and correct to the best of my knowledge and belief.

Hence this verified affidavit.

Sworn and signed before me
on this the day of January, 2015
at L. B. Nagar.


DEPONENT

ADVOCATE / L.B.NAGAR



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DISTRICT AT L B NAGAR

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Owners Association

--- Plaintiffs

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VERIFIED AFFIDAVIT

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Filed by:

SRI.C.BALAGOPAL
ADVOCATE

Flat No.103, Suresh Harivillu
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COUNSEL FOR PLAINTIFFS

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