

IN THE COURT OF THE HON'BLE PRINCIPAL JUNIOR CIVIL JUDGE**
AT: MALKAJGIRI

O.S. No. 04 OF 2023

BETWEEN:

Sri.Bahadur Singh Malik and another

.....Plaintiff

AND

Kesavam Anjanayelu and Others.

.....Defendants

**WRITTEN STATEMENT FILED BY THE DEFENDANTS UNDER ORDER
VIII RULE 1 CPC**

1. The allegations in the plaint are all false and untenable and the plaintiff is put to strict proof of all such allegations, which are not specifically admitted hereunder.
2. It is submitted that the suit is not maintainable and is liable to be dismissed in limini. The plaintiff is guilty of misrepresentation and suppression of facts and is not entitled of the equitable remedy of injunction.
3. As regards the averments in para 1 of the plaint that the plaintiff is the owner and possessor of the residential flat situated in a gated community apartment namely "MAY FLOWER PLATINUM", is not within the knowledge of the 2nd defendant and who the plaintiff is, because the 2nd defendant has sold flats to thousands of customers, hence it is subject to verification of his identity. The further allegations in the said para are false and untenable and the plaintiff is put to strict proof of all such allegation.

For MODI PROPERTIES PVT. LTD.

Director

4. The allegations in para 2 of the plaint that a room was constructed in an open area on the north west corner of basement cellar-2 of the said apartment by the second defendant in contrary to the sanction plan and also without the consent of the owners of the apartment by violation of the sanction plan, which is laying vacant, and comes into purview of common areas, and the purpose of the room was not disclosed to the owners despite several requests made by the plaintiffs and other owners are all false and untenable and the plaintiff is put to strict proof of the same. The fact is that the said room was constructed in the beginning of the project, for the purpose of storing construction materials etc. and it is just and necessary in every project for storing materials, and all the owners knows pretty well that the purpose of the said room is constructed for storing materials. The plaintiff created all false allegations just for the purpose of framing this present suit against the defendant No.2.
5. The allegations in para 3 of the plaint that the plaintiff reliably learnt that the said room was constructed for the defendant No.1 for his personal use and occupation and he will be given an allotment letter for the said room by the defendant No.2 at the earliest and physical possession of the said room will be delivered to him immediately after the main gate is fixed and all other allegations in the para are baseless and denied, the plaintiff is put to strict proof of all such allegations. The fact is that this defendant has not constructed the said

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room for defendant no.1, and had not assured or promised to give any allotment letter to the D1, this defendant No 2 has no such intention.

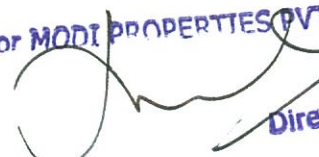
6. The allegations in para 4 of the plaint that the defendant No.1 along with goons at about 1:30 PM came and tried to enter into the said apartment in order to take delivery of the said room forcefully with the help of his antisocial elements. and on coming to know the same the plaintiffs and other owners resisted him from illegally entering into the apartment, and the said room was under the physical possession and enjoyment of the plaintiff and other owners and as such the defendant no.1 has been interfering with their possession and trying to grab the said room, are all false and untenable and denied, the plaintiff is put to strict proof of such allegations. The plaintiff has concocted this story for the purpose of filing of this present suit.
7. The allegations in para 5 and 6 are all false and untenable the plaintiff is put to strict proof of the same. The rest of the averments in para 7 of the plaint that in the above circumstance to prevent the D1 from interfering with the plaintiffs peaceful possession the relief of granting permanent injunction is necessary to protect the physical possession. It is left to the discretion of defendant No.3, this defendant No.2 has nothing to do with the same, as this defendant is likely to handover the project to the defendant No3.

For MODI PROPERTIES PVT. LTD.

Director

The brief facts are as below

- 1) The true facts are that this defendant No.2 is into the business of real estate, constructing residential houses and flats in and around Hyderabad and Secunderabad under the name and style of "Modi Properties Pvt Ltd" having completed so many ventures. Having thousands of cliental list. This venture namely "MAY FLOWER PLATINUM" is one of its Project.
- 2) It is submitted that having acquiring the required land for the above said venture and constructed in an area of Ac 2-20 Gts. of land, situated at Mallapur, adjacent to Noma Function Hall, the said venture has been completed and having sold away all the flats to the customers, only few are left. It is further submitted that this defendant has formed a Registered Welfare association under the name and style of "May Flower Platinum Welfare Association" and also appointed some of the owners as Co-Opted members in the said association for looking after the maintenance of the project owners welfare affairs, and the same is yet to be handed over to the owners by conducting an Annual General Body Meeting immediately after the remaining flats are sold.
- 3) It is submitted that the defendant No.1 is a cable operator in the said project, this defendant No.2 has never promised to allot the said room to the D1. Once

For MODI PROPERTIES PVT. LTD.

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the entire project sales are completed this defendant shall handover the said association to the owners, thereupon it shall be at their discretion of the owners whether the illegal temporarily constructed room to demolished or to keep the same for their use, this defendant No.2 shall not interfere in that matter.

- 4) This suit is also not maintainable in view of the fact that there is no iota of fact for filing of the suit and the plaintiffs ought to have valued the suit under section 26(a) not under section 26(c) of the court fees and suit Valuation Act. On this ground alone the suit is liable to be dismissed. It is submitted that the plaintiff has no cause of action against the defendants and no injunction can be granted for an illegal and temporarily constructed structure just for the purpose of storing materials. This defendant has nothing to do with the said room, it is up to the discretion of the owners to keep or to demolish. Hence the plaintiff is not entitled to any relief as prayed for in the suit.

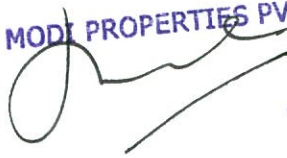
It is therefore prayed that this Hon'ble court may be pleased to dismiss the suit with exemplary costs.

For MODI PROPERTIES PVT. LTD.
Director
Defendant

Counsel for the defendant

VERIFICATION

M/s.Modi Properties Pvt Ltd. Rep by its Authorized Signatory Mr.Shoham Modi ,
defendant No.2 in the suit do hereby declare that the facts stated above are true and
correct to the best of my knowledge and belief, hence verified on this the day of
July 2023,at Hyderabad.

For MODI PROPERTIES PVT. LTD.

Director

Date: 18-07-2023
Place: Hyderabad

Defendant

IN THE COURT OF THE HON'BLE
PRINCIPAL JUNIOR CIVIL JUDGE**
AT: MALKAJGIRI

O.S. No. 4 OF 2023

BETWEEN:

Sri.Bahadur Singh Malik and another.
.....Plaintiff

AND

Kesavam Anjanayelu and Others.
.....Defendants

**WRITTEN STATEMENT FILED
UNDER ORDER VIII RULE 1 CPC
ON BEHALF OF DEFENDANT No.2**

Filed on: 18-07-2023

Filed By: Counsel for D2

Address for services:

P.Vikram Kumar
J.Gangadhar
Advocates
Plot No.11, Railway Colony,
Picket,
Secunderabad-26

IN THE COURT OF THE HON'BLE PRINCIPAL JUNIOR CIVIL JUDGE
AT: MALKAJGIRI
I.A. No. OF 2023
IN
O.S. No. 4 OF 2023

BETWEEN:

Sri.Bahadur Singh Malik and another

.....Petitioner/Plaintiff

AND

Kesavam Anjanayelu and Others.

...Respondents/Defendants

COUNTER AFFIDAVIT

I, Mr. Soham Modi S/o Late Satish Modi, Aged 51 yrs. Occ: Managing Director, also authorize to depose on behalf of the M/s Modi Properties Pvt Ltd. Door No. 5-4-187/3 & 4, M.G.Road, Ranigunj, Secunderabad, Telangana State, do hereby solemnly affirm and state as under:

1. I submit that the I am 2nd respondent/defendant in the above case as such well acquainted with the facts of the case.
2. I submit that the allegations in the petition are all false and untenable the petitioners are put to strict proof of all such allegations which are not specifically denied here under are deemed to have been denied. The petition is not maintainable either under law or on facts.
3. I submit that the averments in para 1 of the plaint that the petitioner is the owner and possessor of the residential flat situated in a gated community apartment namely "MAY FLOWER PLATINUM", is not within my knowledge, who the

For MODI PROPERTIES PVT. LTD.

Director

petitioner is, because I have sold flats to thousands of customers, hence it is subject to verification of his identity. I further submit that the allegations in the said para are all false and untenable and the petitioner is put to strict proof of all such allegation.

4. I submit that the allegations in para 2 of the plaint that a room was constructed in an open area on the north west corner of basement cellar-2 of the said apartment by the me in contrary to the sanction plan and also without the consent of the owners of the apartment by violation of the sanction plan, which is laying vacant, and comes into purview of common areas, and the purpose of the room was not disclosed to the owners despite several requests made by the petitioners and other owners are all false and untenable and the petitioner is put to strict proof of the same. The fact is that the said room was constructed in the beginning of the project itself, for the purpose of storing construction materials etc. and it is just and necessary in every project for storing materials, and all the owners knows pretty well that the purpose of the said room was constructed for storing materials. The plaintiff just for the purpose of framing this present petition made all false allegations against me.
5. I submit that the allegations in para 3 of the plaint that the petitioner reliably learnt that the said room was constructed for the respondent No.1 for his personal use and occupation and he will be given an allotment letter for the said

For MODI PROPERTIES PVT. LTD.

Director

room by the me at the earliest and physical possession of the said room will be delivered to him immediately after the main gate is fixed and other allegations in the para are all baseless allegations and denied, the petitioner is put to strict proof of all such allegations. The fact is that this defendant has not constructed the said room for respondent no.1, and had not promised to give any allotment letter to the R1, I have no such intention.

6. I submit that the allegations in para 4 of the plaint that the respondent No.1 along with goons at about 1:30 PM came and tried to enter into the said apartment in order to take delivery of the said room forcefully with the help of his antisocial elements. and on coming to know the same petitioners and other owners resisted him from illegally entering into the apartment, and the said room was under the physical possession and enjoyment of the petitioners and other owners and as such the respondent no.1 has been interfering with their possession and trying to grab the said room are all false and untenable and denied, the petitioners is put to strict proof of such allegations. The petitioner has concocted this story for the purpose of filing of this present petition.
7. I submit that the allegations in para 5 and 6 are all false and untenable the petitioner is put to strict proof of the same. The rest of the averments in para 7 of the petition that in the above circumstance to prevent the respondents the relief of granting temporary injunction is necessary to protect the physical

For MODI PROPERTIES PVT. LTD.

Director

possession, it is left to the discretion of respondent No.3, I have nothing to do with the same, as I am likely to hand over the project to the respondent No.3.

8. The true facts are that I am into business of Real Estate, constructing residential houses and flats in and around Hyderabad and Secunderabad under the name and style of "Modi Properties Pvt Ltd" having completed so many ventures. Having thousands of cliental lists. This venture namely "MAY FLOWER PLATINUM" is one of its project.
9. I submit that having acquiring the required land for the above said venture and constructed in an area of Ac 2-20 Gts. of land, situated at Mallapur, adjacent to Noma Function Hall, the said venture has been completed and having sold away all the flats to the customers, only few are left. I further submit that I have formed a Registered Welfare association under the name and style of "May Flower Platinum Welfare Association" and also appointed some of the owners as Co-Opted members in the said association for looking after the maintenance of the project owners welfare affairs, and the same is yet to be handed over to the owners by conducting an Annual General Body Meeting, immediately after the remaining flats are sold.
10. I submit that the respondent No.1 is a cable operator in the said project, I have never promised to allot the said room to the R1. Once the entire project sales are completed I shall handover the said association to the owners, thereupon it shall

For MODI PROPERTIES PVT. LTD.

Director

be at the discretion of the owners, whether the illegal temporarily constructed room be demolished or to keep the same for their use, I shall not interfere in that matter.

11. This petition is also not maintainable in view of the fact that there is no iota of fact for filing of this petition, I submit that the petitioners have no cause of action against the respondents and no injunction can be granted for an illegal and temporarily structure constructed for the purpose of storing materials. I have nothing to do with the said room, it is up to the discretion of the owners to keep or to demolish. Hence the petitioners are not entitled to any relief as prayed for in the petition.

It is therefore prayed that this Hon'ble court may be pleased to dismiss the petition.

For MODI PROPERTIES PVT. LTD.

Director

Deponent

Solemnly affirm and stated in my
Presence on this the day of 18th
July 2023, at Hyderabad

Advocate

IN THE COURT OF THE HON'BLE
PRINCIPAL JUNIOR CIVIL JUDGE**
AT: MALKAJGIRI

I.A.No. OF 2023
IN
O.S. No. 4 OF 2023

BETWEEN:

Sri.Bahadur Singh Malik and another.
.....Petition
er/Plaintiff

AND

Kesavam Anjanayelu and Others.
.....Respondent
/Defendants

**COUNTER AFFIDAVIT FILED BY
RESPONDENT No.2**

Filed on: 18-07-2023

Filed By: Counsel for R2

Address for services:

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J.Gangadhar
Advocates
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Picket,
Secunderabad-26