

**In the High Court of Punjab and Haryana at Chandigarh**

**CWP No.19177 of 2011**

**Date of decision: January 14, 2016**

**Pradeep Kumar Rajgarhia**

**..... Petitioner**

**Versus**

**HUDA, Panchkula and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE SURYA KANT**

**HON'BLE MR. JUSTICE P.B. BAJANTHRI**

Present: Mr. A.S. Narang, Advocate for the petitioner.  
Mr. Amar Vivek, Advocate for HUDA.  
Mr. Tushar Sharma, Advocate for respondent No.5.  
Mr. Anurag Jain, Advocate for respondent No.6.

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**SURYA KANT, J.**

1. The petitioner purchased a preferential residential plot in Malibu Towne, Sector 47, Gurgaon where he has constructed the residential house. His plot is north facing. The site plan (Annexure P-1) depicts that there are three plots bearing Nos.1,2 and 3 facing West, out of which plot No.1 partly abuts the rear side of the petitioner's plot. Western side is another residential plot (corner) bearing No.53.

2. The above-mentioned Plots No.1,2 and 3, according to the petitioner, were originally conceptualized as residential plots but the respondent-builder/developer has got them converted into

'commercial' and merged into one plot. Apprehending that the commercial activities on the rear side would disturb the peaceful enjoyment of his residential site, the petitioner has approached this Court questioning conversion of 'residential' area into 'commercial'.

3. As the matter is pending from last about five years, learned counsel for the petitioner on our asking fairly states that during the interregnum, the respondents have constructed the commercial site, which is now functional. He, however, contends that the construction was subject to final outcome of these proceedings.

4. We have given our thoughtful consideration to the rival submissions. Keeping in view the rear-side location of plots No.1,2 and 3, it appears that there is no likelihood of causing any nuisance on free and peaceful enjoyment of the petitioner's residential site due to day to day commercial activities provided that the same are carried out in a regulated manner and strictly in accordance with law. The un-interrupted rights of the occupiers of commercial site also obligate them to perform their duties towards neighbours as there exists no right without a duty. In the event of any nuisance, noise or environmental pollution caused by them, not only the petitioner even other residents of the locality would be justified in making grievance. As of now, we have no reason to doubt that the occupiers of the commercial site know their responsibility and duty towards their neighbours and the Society in general and would behave like law abiding citizens. The District Administration shall ensure that the activities permitted to be carried out at the commercial site do not in any manner impinge upon the privacy

or enjoyment of the nearby residential area including the petitioner's house.

5. With these directions, observations and expectations, the writ petition is disposed of.

**(SURYA KANT)**  
**JUDGE**

**(P.B. BAJANTHRI)**  
**JUDGE**

**January 14, 2016**  
**jt**