

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

117+240

**(1) CWP-14317-2022 (O&M)
Date of Decision: 29.08.2022**

Satish Kumar and anotherPetitioners

Versus

GMADA and others

....Respondents

**(2) CWP-13235-2022 (O&M)
Date of Decision: 29.08.2022**

Manveer Kaur @ Manveer Kaur AhluwaliaPetitioner

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Gaurav Mohunta, Advocate
for petitioners (in CWP No.14317 of 2022)

Mr. Munish Gupta, Advocate
for petitioner (in CWP No.13235 of 2022)

Mr. V.G.Jauhar, Additional Advocate General, Punjab.

Mr. Aseem Rai, Advocate
for respondent – GMADA.

Mr. Suvir Sidhu, Advocate
for respondents No.6 and 7 (in CWP No.14317 of 2022)
for respondents No.4 and 5 (in CWP No.13235 of 2022)

Harinder Singh Sidhu, J.

Petition No.14317 of 2022 has been filed by the residents of Flat No.151, Tower-3, 15th Floor, Homeland Heights, Sector 70, Mohali.

Petition No.13235 of 2022 has been filed by the President, Homeland Heights Flat Owners Welfare Association, Sector-70, Mohali.

The common grievance in both the petitions is regarding extensive construction/renovation made by the owner of Flat No.161, Tower-3, Homeland Heights, Sector 70, Mohali (respondents No.6 and 7 in CWP No.14317 of 2022). It is alleged that the said construction is in violation of provisions of Punjab Apartment Ownership Act, 1995 and the bye-laws of the Residents Welfare Association. It is also alleged that as a result of the said construction a lot of damage has caused to Flat No.151, Tower-3, Homeland Heights, Sector 70, Mohali.

With a view to determine the actual alterations made by respondents No.6 and 7 (in CWP No.14317 of 2022) and as to whether they had caused damage to the premise of petitioners (in CWP No.14317 of 2022) by consent, Structural Engineer namely ESS ESS Techno Consultant was appointed to inspect and submit a report. Mr. Udit Mendiratta, Advocate was requested to act as Local Commissioner to oversee and supervise the inspection. It was also agreed between the parties that all repairs related to Flat No.151, 15th floor of the petitioners qua damage, if any, caused on account of renovation of Flat No.161, 16th floor, would be borne by respondents No.6 and 7 as assessed by the Structural Engineer and Local Commissioner.

Inspection report dated 12.08.2022 has been submitted by the Structural Engineer as per which, Flat No.151, 15th Floor, Homeland Heights, Sector-70, Mohali, was inspected. The following observations were made:-

- “i. At some places in the false ceiling, dampness was seen (Ref. Pic 4), which can be rectified by repairing and repainting.*
- ii. The internal partition walls were in general found in intact. However, at certain places the paint had peeled off/given way, due to dampness (Ref. Pic 5 and 6). This can be restored back to its original condition by repainting. During removal of existing paint from the peeled off portion, if some cracks are found in the cement plaster, same can be also be repaired before painting.*
- iii. Apparently no damage, in the flooring of this flat, was seen.”*

Mr. Mohunta, states that the report has determined the damage to the Flat of the petitioner. The Structural Engineer appointed by this court has expressed his inability to assess the cost for making good the damage caused to Flat No.151, 15th Floor, Homeland Heights, Sector-70, Mohali. However, one Struczphere Consultants on examination of the site has estimated the cost of repair at Rs.25 lakh.

Mr. Sidhu, Advocate for respondents disputed this figure and states that the amount is highly exaggerated.

After hearing learned counsel for the parties and taking into account the inspection report, it is deemed appropriate that the respondents

No.6 and 7 (in CWP No.14317 of 2022) pay an amount of Rs.4 lakh to the petitioners (in CWP No.14317 of 2022) within two weeks towards repair of the damage to the flat which would include electric work, false ceiling, wooden floor, glass repair work etc. This would be the full and final payment to the petitioners in terms of the offer of the respondents to meet the cost of repairs on account of damage to Flat No.151, 5th Floor as recorded in the order dated 27.07.2022. No further claim in that regard will be entertained.

In the inspection report dated 12.08.2022, it has also been mentioned that on inspection of Flat No.161, 16th Floor, Homeland Heights, Sector-70, Mohali, it was found that:

- “i. Inside the Common Service Duct, an extended R.C.C. slab with wall on it, was seen (Ref. Pic 3). As the copy of the Sanctioned Plan of flat was not available, it could not be ascertained, if this was violation of the Sanctioned Plan. The same can be verified by the Competent Plan Sanctioning Authority and appropriate action can be taken in this regard by the Authorities.*
- ii. Fire Safety is the subject of Fire Department, we are not competent to comment on this. However, as a matter of general awareness of all us know, that the Competent Authority grants the permission for Occupation of the building, only after the Fire Safety norms are met with.”*

Mr. Sidhu, Advocate states that the extended RCC slab would be removed and duct wall would be restored to its original position. He also assures that respondents No.6 and 7 (in CWP No.14317 of 2022) would comply with the fire safety norms as prescribed.

He also assures that respondents No.6 and 7 will comply with the relevant rules and regulations and bye laws of the Residents Welfare Association.

Mr. Mohunta, undertakes that the petitioners (in CWP No.14317 of 2022) will withdraw the appeal filed under Section 33(2) of Punjab Apartment Ownership Act, 1995, (Annexure P/18) which is pending before respondent No.3 – Additional Deputy Commissioner, S.A.S. Nagar, Mohali.

The parties will remain bound by their undertakings.

The petitions are disposed of in the above terms.

(HARINDER SINGH SIDHU)
JUDGE

29.08.2022
Varinder Prashad

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No