

IN THE COURT OF HARPREET KAUR,
CIVIL JUDGE (SENIOR DIVISION), JALANDHAR
[UID NO.PB0312]

Case Type	CS	
Filing No.	650/2023	Filing Date: 03-02-2023
Case No.	334/2023	Registration Date: 03-02-2023
CNR No.	PBJL01-000627-2023	
Date of Order	12.11.2025	

HDFC Ltd. i.e. Housing Development Finance Corporation Limited, a company incorporated under the Companies Act 1956 having it registered office at Ramon House, HT Parekh Marg, 169, Backbay Reclamation, Churchgate, Mumbai 400020 and one of its branch office at Unit No.5, Link Road, Model Town near Guru Amardass Chowk, Jalandhar, through its Authorized Signatory/Attorney.

-----Plaintiff

Versus

1. Upesh Khattar son of Krishan Kumar Khattar, resident of House No.4334, Mohalla Adarsh Nagar, Shankar Road Boys Wing, Nakodar, District Jalandhar.
2. Krishan Kumar Khattar son of Shankar Dass Khattar, resident of House No.4334, Mohalla Adarsh Nagar, Shankar Road Boys Wing, Nakodar, District Jalandhar.
3. M/s OZONE Urbana Infra Developer Pvt. Ltd., 36, Ulsoor Road, Bangalore-560042 through its Directors.

-----Defendants

Application under Order VII Rule 11 of CPC read with section 151 of CPC for rejection of plaint as suit being without any cause of action.

IN

Suit for recovery of ₹36,49,018/- as on 27.09.2022 along with interest @ 18% per annum interest pendent lite and future interest @ 18% per annum till realization of amount.

Present: Shri Akhil Chopra, Advocate, learned counsel for plaintiff.
Shri Kunwar Sood, Advocate, learned counsel for defendants.

ORDER:

1. This order of mine will dispose of an application filed by the

defendants under Order VII Rule 11 of CPC for rejection of plaint.

2. Learned counsel for the applicants/defendants has argued that present suit has been filed by the plaintiff on the basis of a try petite agreement, which has been executed with regard to a loan which was taken for a property situated in Bengaluru Karnataka and defendant No.3 was the developer of the property. That dispute had arisen on account of failure on the part of defendant No.3, who failed to complete construction and to deliver lawful possession in furtherance of agreement and on account of negligence on the part of plaintiff who should not have disbursed loan without checking the status of construction, and already a Civil Writ Petition No.18713 of 2021 titled as “Veer Raj and others Vs. National Housing Board and others” has been filed before the Hon’ble High Court of Karnataka, Bengaluru in which the Hon’ble High Court was pleased to pass an order dated 16.11.2021 whereby interim relief was granted and directions were issued to the respondents including plaintiff from ceasing and desisting from recovery of EMI payment along with other reliefs. That plaintiff is respondent No.5 and defendant No.1 Upesh Khattar is petitioner No.92 in the said writ petition. That the said order is still in operation and matter is still subjudice before the Hon’ble High Court of Karnataka, Bengaluru and interim relief so granted was extended from time to time. That passing of the said order is in full knowledge of the plaintiff and inspite of said order the present suit has been filed. That further even as per the agreement this Court has no territorial

jurisdiction to try and decide the present suit. The present suit cannot be proceed on account of non existence of cause of action. The matter regarding pendency of said CWP No.18713 of 2021 has been concealed by the plaintiff. Finally, it has been argued that application may be allowed by rejecting the plaint as suit being without any cause of action.

3. On the other hand, learned counsel for the plaintiff has argued that present application is not maintainable. The present application has been filed by the defendant with an intention to misuse the process of law. The present application is vague, indefinite and vexatious. The present application has been filed to delay the proceedings of the present suit. Defendants No.1 and 2 had availed financial assistance from the plaintiff and they are under bounden duty and having legal liability to repay the loan. That only an interim injunction order has been passed in the above refereed Civil Writ Petition and it has not been finally disposed of till date. However, there are reasonable grounds on the basis of which the Civil Writ Petition can be finally dismissed. Moreover, if at this stage, the present application is allowed then in that eventuality the plaintiff will suffer irreparable loss and injury and further his legal right to recover the amount from defendants will be forfeited and technically the limitation period for recovery will be lapsed. That the plaintiff/respondent has already filed application dated 15.07.2025 for sine die the proceeding of the suit, till the final disposal of the aforesaid writ petition. The defendant has not made

payment of loan to the plaintiff/respondent, therefore, cause of action is still in continuation. Moreover, public money is involved in the present case and every efforts and endeavors should be made to recover the said amount from the defendants. Finally, it has been argued that the application may be dismissed.

4. After hearing learned counsel for the parties and after going through the record carefully this Court is of the considered opinion that the defendants have placed on record order dated 16.11.2021 passed by the Hon'ble High Court of Karnataka, Bangalore whereby interim relief has been granted, whereby, respondent was desisted from making any recovery. The said order is still in operation and not been set aside by Hon'ble Supreme Court of India or any other Court. That during operation of said order whereby recovery has been stayed, the present suit is not liable to be continued and is not maintainable as it has been specifically restrained by the Hon'ble High Court. It is not the case of the plaintiff that he has no knowledge of the said order but plea of the plaintiff is that said writ petition has not attained finality and can be dismissed and limitation to recover the amount could expire. The plea of the plaintiff is without any merit, whereas, *vide order dated 16.11.2021 interim relief has been granted by the Hon'ble High Court of Karnataka, Bengaluru directing the respondent Bank/Financial institutions (respondents No.5, 6, 7 & 8(i)) to cease and desist from recovery EMI payments from the petitioners and restrained them from initiating/continuing any sort of precipitative action including*

but not limited to any civil or criminal proceedings in order to recover the purported loan cease to take any coercive actions during pendency of the present petition. Hence, the preset suit is totally violative of said order dated 16.11.2021 and not legally maintainable.

5. In view of the preceding discussions, the application under reference stands allowed and plaint filed by the plaintiff is rejected. File be consigned to the record room.

Pronounced in open Court;

Dated: 12.11.2025

Anoop Joshi JW*

**(Harpreet Kaur),
Civil Judge (Senior Division),
Jalandhar. [UID No.PB00312]**