

COMS No. 19 of 2019 a/w CS(Counter Claim) No.77 of 2019

26.03.2021

Present: Mr.Ravinder Singh Chandel, Advocate, for the plaintiff/non-counter claimant.
Mr. Navneet Kumar Bhalla, Advocate, for the defendants/Counter Claimants.

COMS No. 19 of 2019 & CS(Counter Claim) No.77 of 2019

Civil Suit filed by the plaintiff and Counter Claim preferred on behalf of the defendants, registered as separate Civil Suit, are to be decided together by adjudicating common facts and common question of law and, therefore, for the purpose of trial as well as passing judgment both these suits, i.e. COMS No.19 of 2019 and Civil Suit (Counter Claim) No.77 of 2019, are clubbed together.

From the pleadings of the parties, documents on record and submissions of learned counsel for the parties, following issues are framed:-

1. Whether defendants have developed the plot and are raising construction on Khasra No.1845/688/1 and 2006/690/1, situated at Mauza Ser-Solan, Tehsil and District Solan, H.P., in rash and negligent manner in violation of Municipal Laws and Bye Laws, as alleged?
..... OPP
2. Whether defendants have encroached upon the path comprised in Khasra No.690/2 and Khasra No.688/1 situated at Mauza Ser-Salon, Tehsil and District Solan, H.P. and thus are raising the construction upon such land, as alleged?
..... OPP
3. Whether the area of land of plaintiff has been reduced as a result of forgery in latest the revenue records from 392 sq.mts. To 331 sq.mts., as alleged?
..... OPP

4. Whether defendants have intentionally adopted illegal methods to demolish the building and to encroach upon plaintiff's land forcibly, as alleged?
..... OPP
5. Whether plaintiff is entitled for recovery of a sum of ₹1,00,17,000/- alongwith interest, on account of damages caused to the well furnished building, business, mental peace and loss of amenities, as alleged?
..... OPP
6. Whether plaintiff is entitled for a decree of permanent prohibitory and mandatory injunction, as prayed for?
..... OPP
7. Whether Municipal Council has wrongly passed the Naksha (Map) of defendants?
..... OPP
8. Whether Municipal Council Solan had sanctioned plan for construction of four storeyed building by plaintiff in the year 1987 and 1992, as alleged?
..... OPP
9. Whether plaintiff has not come to the Court with clean hands and has suppressed material facts?
..... OPD
10. Whether plaintiff has no lawful and subsisting cause of action in her favour?
..... OPD
11. Whether counter claimants are entitled for decree of mandatory injunction, as prayed for?
.....OPD/Counter claimant
12. Whether counter claimants are entitled for recovery of ₹40,00,000/- alongwith interest @ 18% per annum?
.....OPD/Counter claimant

13. Whether plaintiff/non-counter claimant has encroached upon 12 sq.mts. of land in Khasra No.1845/688/1 and 10 sq.mts. of land in Khasra No.2006/690/1 and path existing on Khasra No.690/2 and 688/1?
.....OPD/Counter claimant
14. Whether counter claim is not maintainable in present form?
..OPP/Non-counter claimant
15. Whether counter claimants have no enforceable cause of action to file and maintain the present counter claim against non-counter claimant/plaintiff?
..OPP/Non-counter claimant
16. Whether counter claimants are estopped to file present counter claim due to their act, conduct and omissions?
..OPP/Non-counter claimant
17. Whether counter claim has not been properly valued for the purposes of court fee and jurisdiction?
..OPP/Non-counter claimant
18. Whether counter claimants have not approached the Court with clean hands?
..OPP/Non-counter claimant
19. Whether counter claim is bad for non-joinder of necessary parties?
..OPP/Non-counter claimant
20. Whether counter claimants have suppressed true and material facts, as alleged?
..OPP/Non-counter claimant
21. Whether counter claim has been filed on false and frivolous grounds and forged documents to counter the suit filed by non-counter claimant/plaintiff, as alleged?
..OPP/Non-counter claimant
22. Relief.

No other issue arises nor claimed. Additional documents, if any, be filed within 15 days. Appropriate steps, including filing of List of Witnesses, for recording evidence also be taken within the same period.

List for plaintiff's evidence on a date to be fixed by Additional Registrar (Judicial).

(Vivek Singh Thakur)
Judge

March 26, 2021
(Purohit)