

**YASH PAL MALIK**

**ADVOCATE**

Former Dy. Adocate General, Haryana  
Punjab & Haryana High Court  
Room No. 3, New Bar Complex



**By Registered Post**

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Ref. No.....LN- 7/GHS-79/2019-20

Dated...04<sup>th</sup> July 2019.....

To

1. The District Registrar  
Firms and Societies  
Khadi Board Building, Sector-2, Panchkula.
2. The State Registrar of Societies, Haryana  
Department of Industries & Commerce, Haryana  
30 Bays Building, Sector-17, Chandigarh.
3. District Commissioner  
District Panchkula, Panchkula.
4. Financial Commissioner-cum-Secretary to Govt of Haryana  
Industries and Commerce Department,  
Haryana Secretariat, Chandigarh.
5. The President/General Secretary  
Sandeep Vihar (AWHO) Welfare & Maintenance Society  
GHS-79, Sector-20, Panchkula.

Subject:- **Legal Notice : For charging excess Flat Ownership Transfer Fee against the Judgement of H'ble Punjab & Haryana High Court Chandigarh by Housing Societies - Sandeep Vihar (AWHO) Welfare & Maintenance Society, GHS-79, Sector-20, Panchkula**

Respected Sirs,

Under the instructions and on behalf of my clients mentioned below;-

- i) Col V K Singh(Retd) - resident of D-4/701, GHS-79, Sec-20, Panchkula
- ii) Maj Gen Anil Kumar (Retd) " E-3/703, -do-
- iii) Brig S S Jaswal (Retd) " E-6/404, -do-
- iv) Sh. Pushpinder Kalia " E-9/604 -do-
- v) Sh. Sunit Bansal " D-5/704 -do-
- vi) Sh. Kuldeep Singh " D-3/702 -do-
- vii) Smt Seema Malik " E-9/502 -do-
- viii) Col Navinder Singh " D-1/601 -do-

I hereby serve upon you the following notice:-

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1. That **my clients have become members** of Sandeep Vihar (AWHO) Welfare & Maintenance Society, GHS-79, Sector-20, Panchkula, each by lawfully purchasing individual flats from the original allottees (owners) in this Housing Complex at different dates. **This Housing Society is registered with District Registrar, Firms & Societies, Sector-2, Panchkula** under the Haryana Registration and Regulation of Societies Act, 2012 vide Registration No, 00132 dated 21<sup>st</sup> May 2013 (earlier Registered vide Regn No. 86 datd 12-10-2009 under Societies Act 1860 – Act No. XXV of 1860). On allotment of 13.00 acres of land by HUDA, 556 Dwelling Units in this Housing Complex were constructed by Army Welfare Housing Organisation (AWHO), New Delhi – a Society formed in the year 1978 under Societies Registration Act 1860 with the aim and objectives to construct houses for serving/retired army personnel and their widows in selected stations through out the country on **'no profit no loss basis'** with a provision of allowing the owners to dispose off the flats, in need, by virtue of sale etc after a specified period of time.

2. That by completing all the laid down formalities/documentation, each of my clients deposited the usual amount of Rs. 500/- & Rs. 10,000/- (a copy of receipt usually issued by AWHO/payment made in this regard are attached as **"Annx -1A & 1B"**) as this amount is required to be paid by each of the two i.e. seller and purchaser – viz Rs. 20,000/- per flat as per para 83 of Master Brochure July'87 – (Extract attached as **"Annx - 2"**) with the mother unit i.e. AWHO, New Delhi who thereafter issues the membership number to the new members (Purchasers). But prior to that, for issuing provisional membership to the purchaser/transferee, my clients were compelled to pay a sum of **Rs. 1.00 lakh per flat of Deluxe (D) category and Rs. 80.000/- for per flat of Economy (E) category etc. to the Housing Society GHS-79 as provisional membership fee on account of "Addl Corpus Disaster/Long Term Maint Fund"**. Though my clients objected to this 2nd payment – provisional membership fee amount, but then the actual transfer of the purchased flat used to be held up despite having already paid the full sale amount by them to the original concerned allottee/ transferor. **Thus my clients as transferees were coerced to pay an extra amount of Rs. 1.00 lakh/ Rs.80.000/- per flat as explained ibid to Sandeep Vihar Welfare & Maintenance Society (AWHO), GHS-79, Sector-20, Panchkula (a copy of usual receipt, issued by the Society office in this regard, is attached as "Annx - 3A & 3B")**.

3. Lately one of my clients - Sh Sunit Bansal a transferee/purchaser of Flat No. 704/D-5, in GHS-79, Sec-20 Panchkula who had also paid a sum of Rs. 1.00 lakh as provisional membership

fee to the Society GHS-79, came across a ruling/decision dated 09.05.2014 (copy attached as "**Annx - 4**") of H'ble High Court of Punjab & Haryana, Chandigarh in a **Civil Writ Petition No. 14234 of 2010** whereby **Housing Societies are barred from demanding more than a sum of Rs. 10,000/- as transfer fee from the transferee as the same was found to be misconceived and unjustified.** Consequently my client - Sh. Sunit Bansal verbally talked about this matter with the representatives of the Managing Committee in Society Office during Jan-Feb 2018 but all his pleas fell on deaf ears.\* He, therefore, **appealed by issuing an e-mail** (copy attached alongwith related enclosures as "**Annx - 5,6,7 & 8**") on Society Web-site on **3<sup>rd</sup> Mar 2018** for inclusion of this **point in General Body Meeting likely to be held then on 18<sup>th</sup> March 2018** in response to points (agenda points) asked from the members in terms of Society's Notice dated 24<sup>th</sup> Feb 2018 (copy attached as **Annx - 9**) for GBM for Budget 2018-19. On the subject matter, he also averred in the said e-mail that-

"In this regard following documents are enclosed here with for reference/discussion for all the members of Sandeep Vihar **for General Body meeting in March 2018.**

- 1 Order dated 9 May 2008 of The Registrar Cooperative Societies Haryana, Panchkula (Order attached) – **Annx 6**
- 2 **Punjab & Haryana High Court Decision dated 9 May 2014 related to AWHO (Decision attached) – Annx 4**
- 3 Deputy Commissioner Haryana Gurgaon, office order No 1202/PA dated 31 Dec 2015 (Order attached) - **Annx 7**
- 4 Additional Reference dated 6 Jan 2016 (Reference attached)"- **Annx 8.**

4. **That during the deliberations of re-adjourned GBM of dated 18<sup>th</sup> Mar 2018,** the President kept on elaborating the budgetary and allied issues at length and much of the time was thus consumed by him. Members' points were hurriedly taken up with very little time allowed to members to explain their viewpoints. But when my client Sh. Sunit Bansal rose up for his point, the **President Col R S Rathee (Retd) and General Secretary Lt Col Rohit Mittal (Retd)** replied that aforesaid court decision/orders are related only to **Co-operative Housing Societies and not to their Society viz. Sandeep Vihar (AWHO) Welfare & Maintenance (GHS-79) Sector-20, Panchkula** and thus no elaborate discussion on the matter was allowed. Brig Sarjit Singh (Retd), under whose Presidentship this provision was got passed in the GBM during 2014-15 and was sitting beside my client Sh Sunit Bansal in the GBM, rose and okayed the

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version of the President Col Rathee and GS Lt Col Mittal. The present Management of GHS-79, thus **chose to suppress this lawful issue** with a heavy hand and in a callous/clandestine/undemocratic manner instead of corroborating the facts of the case from concerned authorities to take reasonable action accordingly or by allowing an elaborate discussion on the matter. And on top of it, the **minutes of the proceedings of this point were deliberately not recorded/disseminated through the Minutes of the Proceedings of the said GBM** circulated by the Management vide e-mail dated 22 March 2018 (copy attached as "Annx - 10"). Moreover, the said **Minutes of Proceedings were not signed by the President (for the reasons best known to him) though mandatorily required vide proviso 37(1) & (2) of HRRS Act 2012 as well as para 33(ii) of Society Bye-laws** (extract attached as "Annx 11A & 11B"). This action of the Management smacks of its malafide intention for whatsoever reasons and also to destroy the evidence relating to having been duly apprised the present Managing Committee to take appropriate action on the captioned matter. **The deliberate attempt on the part of Management towards concealment of facts and evading cognizance of H'ble High Court/ State Govt's orders tantamount to making mockery of the system** at the hands of the present President and General Secretary of GHS-79.

5. Whereas under the provisions of various acts/rules of HRRS 2012/ Society Bye-laws, it is obligatory on the part of the office of State/District Registrar of Firms & Societies, to supervise the conduct of GBMs/ affairs of the Housing Societies including that of GHS-79 but it has failed in its bounden duties in this regard. Moreso, the office of State/District Registrar of Firms & Societies have also failed to point out and stop the **illegal collection of preliminary membership fee of Rs. 1.00 lakh/Rs. 80,000/- etc. from my clients** while analyzing/auditing its accounts (Annual Balance Sheets/Income & Expenditure Statements usually filed with them by GHS-79 ) as statutorily required.

6. Moreover, if any relevant information/document is sought from the Society office, the same is not supplied as the **President says that this Society (GHS-79) does not come under RTI Act** (a copy of Presidents letter dated 12 Dec 2017 attached as "Annx - 12" as obtained from the net though relating to a different issue) whereas it does come under RTI Act vide the provisions of Para 83 of HRRS Act 2012 under which it (GHS-79) has been registered.

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7. In view of the facts, enumerated heretofore, I on behalf my clients hereby call upon you (Addresses 1 to 4) –

- a) that necessary directions may please be issued to the Management of Housing Society GHS-79, Sector-20, Panchkula **to refund to my clients the excess charged provisional membership fee Rs. 1.00 lakh/ Rs. 80, 000/-, as the case may be, alongwith 9% interest;**
- b) that **appropriate administrative action, as deemed fit, may also be taken against the present Management** for misleading my clients/the General Body, willfully destroying the evidence and not recognizing the sanctity of H'ble High Court/State Govt's captioned general directions **despite having been duly informed on 03<sup>rd</sup> Mar 2018** on the matter so that in future such indifference is checked and rule of law/ democratic norms are established in the functioning of society affairs **in the interest of justice, equity and fair play;** and
- c) that the **accounts, system and procedure of the office of the GHS-79 Society as well as the conduct of GBM dated 18<sup>th</sup> Mar 2018 etc be got inspected/ checked up** and the guilty persons/office bearer(s) of the present Managing Committee be brought to the book as mandated in HRRS 2012.

8. If no action as mentioned in paragraph No. 7 **ibid** of this notice is taken **within two weeks from the receipt of this notice**, I have clear cut instructions from my above mentioned clients to initiate appropriate legal proceedings, both civil and criminal, against your goodselves in the competent Court of Law having the jurisdiction and in that eventuality your goodselves shall be liable for all the consequences/ expenses incurred by my above said clients on such litigation.

Note: A copy of this Notice has been retained in my office for further necessary action in future.

Yours faithfully,



(YASH PAL MALIK)

Advocate

Encl : As above ( 28 Pages)