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

**1. CR-5055-2025  
Date of decision: 14.10.2025**

**GUNJAN BANSAL**

**..Petitioner**

**Versus**

**MUNICIPAL CORPORATION, AMRITSAR & OTHERS**

**..Respondents**

**2. CR-5348-2025**

**MUNICIPAL CORPORATION AND ANOTHER**

**..Petitioners**

**Versus**

**GURJINDER SINGH AND OTHERS**

**..Respondents**

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Pawan Kumar, Sr. Advocate  
with Ms. Vidushi Kumar, Advocate  
Mr. Bhuvnesh Sharma, Advocate  
for the petitioner (in CR-5055-2025).

Mr. Sanjeev Soni, Advocate  
Mr. Sarthak Soni, Advocate  
Ms. Nishtha Grover, Advocate  
for the petitioners (in CR-5348-2025).

Mr. Amit Jhanji, Sr. Advocate  
with Mr. Manbir Singh Batth, Advocate  
Ms. Kudrit Kaur, Advocate  
for respondents No.3 and 4 (in CR-5055-2025).

Mr. Souman Singh Gill, Advocate  
Mr. Ritish Watts, Advocate  
for respondent No.1 and 2 (in CR-5348-2025).



**SUDEEPTI SHARMA, J. (Oral)**

1. The challenge in both the revision petitions is to order dated 14.07.2025 passed by learned Additional District Judge, Amritsar, whereby, stay application filed by respondent No.3 and 4 (in CR-5055-2025) and respondent No.1 and 2 (in CR-5348-2025) in appeal preferred against judgment and decree dated 17.12.2024 passed by learned Civil Judge (Junior Division), Amritsar has been allowed by Appellate Authority, Amritsar.
2. Since challenge in both the revision petitions is to order dated 14.07.2025 passed by learned Additional District Judge, Amritsar, therefore, both the revision petitions are decided vide this common order.
3. Learned counsel for the petitioner in CR-5348-2025 contends that learned Appellate Authority has gone beyond the scope of Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 (in short 'CPC') by restraining the petitioners from converting the sanctioned site plan from residential purpose qua suit property to commercial purpose during the pendency of the appeal.
4. Learned counsel for the petitioners in CR-5055-2025 contends that learned Appellate Authority has gone beyond the scope of Order XXXIX Rule 1 and 2 of CPC by restraining respondents No.1 and 2 from converting the sanctioned site plan from residential purpose qua suit property to commercial purpose during the pendency of the appeal.
5. Per contra, learned counsel for respondents contends that impugned order dated 14.07.2025 is passed by considering the reply filed by both the petitioners, who are defendants No.1 to 3 in the civil suit and the



appeal. He further contends that appeal is pending for arguments today itself and Appellate Authority be directed to decide the appeal expeditiously.

6. I have heard learned counsel for the parties and have gone through the file of this case with their able assistance.

7. Before proceeding further, it would be apposite to reproduce the relevant portion of order dated 14.07.2025.

*“1. This order shall dispose of stay application so filed by appellants/plaintiffs along with their appeal.*

*2. Appellants/plaintiffs have filed a suit for permanent injunction against defendants/respondents Municipal Corporation through its Commissioner and others restraining defendants no.3 to 6 from converting property-in-question from residential property to commercial property or from using such property-in-question for any commercial purpose and further restraining defendants no.1 and 2 to sanction any site plan for such property-in question for commercial use.*

*While respondents/defendants no.1 and 2 i.e. Municipal Corporation took stand that site plan has been sanctioned for property-inquestion vide GR no.495B dated 11.01.2019, which is residential plan and defendants no.4 and 5 could raise residential building on such property-in-question and further no commercial construction is being raised at spot.*

*While respondent/defendant no.3 took specific stand that the previous owner of property-in-question sold the same in his favour and the allegations in the plaint are false and frivolous. Earlier hotel namely ‘Park Inn’ was being run at the property-in-question for the last more than 40 years and entire expenses of electricity and other taxes were deposited with the authorities as per the commercial use. However, respondent/ defendant no.3*



*has closed that hotel after purchasing the land from previous owner. Rest of the allegations have been specifically denied with the prayer of dismissal of suit.*

*While respondents/defendants no.4 to 6 in their joint written statement simply mentioned that property-in-question is purely a residential property and defendants purchased such property for residential purpose and even site plan was got sanctioned to that effect.*

*3. Learned Trial Court after recording evidence and hearing the arguments and by perusing the record, dismissed the suit of the plaintiffs vide judgment and decree dated 17.12.2024 by considering the aspect that site plan so sanctioned for property-in-question was for residential purpose and further there were certain other properties of commercial nature in the same locality and that aspect had never been challenged by plaintiffs and present suit was bad for non-joinder and mis-joinder of necessary parties.*

*4. Feeling aggrieved with that judgment and decree dated 17.12.2024, appellants/plaintiffs have preferred present appeal and they have also filed application for stay restraining respondents/defendants no.3 to 6 from converting residential property bearing no.11, Rani Ka Bagh, Amritsar into commercial property and further from using that property for any commercial purpose and further restraining defendants no.1 and 2 from sanctioning any site plan qua that property for commercial purpose.*

*5. This application is being contested by respondents/defendants no.1 to 3 by filing separate replies. While respondents/defendants no.4 to 6 did not appear during the pendency of the appeal and were proceeded against exparte.*



6. *Arguments have been heard and record has been perused.*

7. *It is not disputed that respondents/ defendants no.3 to 6 have purchased property-in-question i.e. property no.11, Rani Ka Bagh, Amritsar from previous owner and it is also not disputed that previous owner of such property had been running hotel 'Park Inn' over that property for the last about 40 years and he had been using that property for commercial purpose by depositing requisite charges with defendants no.1 and 2. That aspect necessitated the appellants/plaintiffs to file the present suit not to use that property for commercial purpose and defendants be restrained from converting that residential property into commercial property and further defendants no.1 and 2 shall not sanction any site plan in favour of defendants no.3 to 6 for using that property as commercial property.*

*It is material to mention here that defendants no.3 to 6 in their respective written statement took specific stand that they got sanctioned site plan to use that property for residential purpose and they shall use the property for residential purpose only. Similarly, defendants no.1 and 2 took stand in their written statement that site plan was sanctioned for raising residential property over property-in-question. During the course of arguments, it was offered by counsel for appellants/plaintiffs that in case defendants no.3 to 6 would suffer statement in Court that they shall not use such property-inquestion for commercial purpose then plaintiffs would withdraw their suit. That offer has been declined by counsel for defendant no.3 appearing in the case and he requested to decide application on merits and he urged that since there is no cause of action, stay application is required to be dismissed on the face of it.*



*There is no force in such arguments at this stage. Firstly, as submitted earlier, previous owner was using that property for commercial purpose by depositing the requisite expenses with Municipal Corporation and secondly, as per the written statement of defendant no.3, there are certain other commercial properties situated in the same colony. Apart from that, there was stay in favour of plaintiffs during the pendency of the suit, with the disposal of application under Order 39 Rule 1 and 2 CPC. In that eventuality, it would be in the interest of justice to restrain defendants no.3 to 6 not to raise any kind of commercial building at their property-in-question during the pendency of the appeal. However, at the same time, such defendants can use their property, on the basis of sanctioned site plan, for residential sake and further defendants no.1 and 2 are also restrained from converting the sanctioned site plan from residential purpose qua suit property to commercial purpose during the pendency of appeal. With these observations, stay application is allowed.*

*However, anything said above shall not effect the merits of the case.”*

8. A perusal of above referred to order shows that learned Appellate Authority while allowing the stay application filed by the respondents has relied upon written statement filed by the petitioners in both the revision petitions as well as stay granted by the Civil Court during the pendency of civil suit in favour of respondents. Learned Appellate Authority did not appreciate that during the pendency of the civil suit the simplicitor stay was granted without any further order restraining defendant No.1 and 2, petitioners in CR-5348-2025 from converting the sanctioned site plan from



residential purpose qua suit property to commercial purpose. This restraint would amount to going beyond the scope of Order XXXIX Rule 1 and 2 of CPC. In view of the same, order dated 14.07.2025 is required to be modified.

9. Accordingly, without commenting upon the merits of the case, the last para of order dated 14.07.2025 is modified to the extent of deleting the following portion of the impugned order dated 14.07.2025:-

*“and further defendants no.1 and 2 are also restrained from converting the sanctioned site plan from residential purpose qua suit property to commercial purpose during the pendency of appeal.”*

10. Now, the last para of order dated 14.07.2025 would be read as under:-

*“There is no force in such arguments at this stage. Firstly, as submitted earlier, previous owner was using that property for commercial purpose by depositing the requisite expenses with Municipal Corporation and secondly, as per the written statement of defendant no.3, there are certain other commercial properties situated in the same colony. Apart from that, there was stay in favour of plaintiffs during the pendency of the suit, with the disposal of application under Order 39 Rule 1 and 2 CPC. In that eventuality, it would be in the interest of justice to restrain defendants no.3 to 6 not to raise any kind of commercial building at their property-in-question during the pendency of the appeal. However, at the same time, such defendants can use their property, on the basis of sanctioned site plan, for residential sake. With these observations, stay application is allowed.*

*However, anything said above shall not effect the merits of the case.”*



11. With the aforesaid modification, both the revision petitions are disposed of.

12. Since the appeal is pending for arguments, learned Appellate Authority is requested to decide the same expeditiously.

**October 14<sup>th</sup>, 2025**

*Ayub*

**(SUDEEPTI SHARMA)  
JUDGE**

*Whether speaking/reasoned* : *Yes/No*

*Whether reportable* : *Yes/No*