**APPLICATION UNDER ORDER 7 RULE 11 READ WITH SECTION 151 C.P.C. ON BEHALF OF THE DEFENDANTS**

IN THE HIGH COURT OF THE....................

Suit No.................... of 19........................................

A. B................................................................... Plaintiff

*versus*

*C. F...............................................................* Defendant

**Respectfully showeth:**

1. That the plaintiff has filed the suit for declaration and permanent injunction in this Hon’ble Court praying therein as under:

"It is therefore most respectfully prayed that, this Hon’ble Court may be pleased to grant a decree with costs:

(i) Declaring that the defendant’s have no right, title or interest in the land measuring................ sq. yards out of Khasra No................ of .............. in possession and occupation of the plaintiff; and declaring further that the defendant Nos. 1 to 4 have no right in law to eject/ evict the plaintiff therefrom except through the process of law;

(ii) Restraining the defendants permanently from interfering with the peaceful possession, occupation, enjoyment and user of the aforesaid property of the plaintiff and by the plaintiff.

2. That the defendant’s submit that in the entire plaint not even one word has been stated that the plaintiff is the owner of the disputed area. On the other hand it has only been alleged that the plaintiff is in possession of about.................... sq. yards for the last about.................... years. The copy of the khasra upon which the plaintiff relies relates to the crop year from..................... Even earlier to it the ownership is shown of.....................

3. That the defendants submit that the suit is also filed against the .................... has been made defendant No. 1 and as defendant No. 2. Section 53 B of Delhi Development Act provides as under:

"(i) No suit shall be instituted against the Authority, or any member thereof, or any of its Officers or other employees, or any person acting under the directions of the Authority or any member or any Officer or other Employees of the Authority in respect of any Act done or purporting to have been done in pursuance of this Act or any rule or regulation made thereunder until the expiration of two months after notice in writing has been, in the case of the Authority, left at its Office, and in any other case, delivered to, or left at the office or place of abode of, the person to be sued and unless such notice states explicitly the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so left or delivered.

(ii) No Suit such as is described in sub-section (1) shall, unless it is a suit for recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(iii) Nothing contained in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit. "

4. That similarly Section 478 of Delhi Municipal Corporation Act provides as under:

"1. No suit shall be instituted against the Corporation or against any Municipal Authority or against any municipal officer or other municipal employee or against any person acting under the order or direction of any municipal authority or any municipal officer or other municipal employee, in respect of any act done, or purported to have been done, in pursuance of this Act or any rule, regulation or bylaw made thereunder, until the expiration of two months after notice in writing has been left at the Municipal Office and, in the case such Officer, employee or person, unless notice in writing has also been delivered to him or left at his office or place of residence, and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of residence of the intending plaintiff, and unless the plaint contains a statement that such notice has been so left or delivered.

2. No suit, such as described in sub-section (1), shall unless it is a suit for the recovery of immovable property or for a declaration of title thereto be instituted after the expiry of six months from the date on which the cause of action arise.

3. Nothing in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit.’’

Thus from the aforesaid provisions it will be evident that no suit except for the relief of injunction can be instituted against the Delhi Development Authority and Municipal Corporation of Delhi. It will further be seen that the provisions of the aforesaid Acts are same. The defendants 3 & 4 submit that it is a mandatory requirement of law that no suit shall be instituted against the Delhi Development Authority and Municipal Corporation of Delhi until the expiration of two months after notice in writing has been given and unless such notice states explicitly the cause of action, the nature of relief sought unless the plaint contains a statement that such notice has been so left or delivered.

5. That the defendants 3 & 4 submit that the plaint does not contain any averments to the effect that a notice under Section 53 B has been given/served upon the Delhi Development Authority defendant No. 1 and upon Municipal Corporation of Delhi, defendant No. 2, under Section 478 of Delhi Municipal Corporation Act. This being the mandatory requirements, the suit of the plaintiff is liable to be rejected under Order 7 Rule 11.

6. That the defendant Nos. 3 & 4 submit that in view of the above facts the suit is not maintainable and liable to be rejected because the notices under the aforesaid provisions having not been given.

It is therefore, respectfully prayed that this Hon’ble Court be pleased to reject the plaint of the plaintiff under Order 7 Rule 11. Such other and further Order which this Hon’ble Court deems fit and proper in the facts and circumstances of the case be also passed.

Defendent 3 & 4.

Plaintiff

Through Advocate

Place: ..............................

Dated: ..............................