**SUIT FOR COMPENSATION FOR MALICIOUS EXERCISE OF POWERS**

Nature of grievance:

***Suit for compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the territories to which this Act extends:***

Where the Govt. / Administrative / Statutory authorities exercises powers with ulterior motives, or without complying with the requirements of law, a Suit for damages / compensation may be filed against the concerned State Govt / Central Govt. for irregular exercise of powers / acts and omissions of Public authorities / Public officials / Private persons, allegedly in the pretence / pretext / colour of provisions of an enactment, or unlawful / illegal acts and omissions under Article 72 of Limitation Act, 1963, within one year from the date of alleged illegal act or omission.

Reliefs prayed:(As may be appropriate and applicable to the facts of one’s case)

a)     The Defendant be ordered and decreed to pay Rs.\_\_\_\_\_, being the compensation, as per the particulars of Claim, annexed to the Plaint at Exhibit “\_\_\_\_”;

b)     That the Defendants be further be ordered and decreed to pay interest on the Suit amount, @12% from the date of filing of Suit, till date of judgment; and further interest @6% from the date of judgment till payment;

c)     That the defendants be permanently injuncted / restrained from acting contrary to law;

d)     The Hon’ble Court be pleased to declare that \_\_\_\_\_\_\_\_\_\_\_  (declaration, in the absence of which the rights of the Plaintiff is frustrated);

e)     The Defendants be permanently injuncted from acting (permanently restrained from doing of certain acts), such acts which would otherwise frustrate the rights of the Plaintiffs, or such acts, which would otherwise run contrary to the rights of the plaintiff.

f)      The Defendants be ordered and decreed by way of Mandatory Injunction to \_\_\_\_\_\_\_\_\_\_ “perform certain acts”;

Interim and Ad-Interim Reliefs: Pending the hearing and final disposal of the Suit, the Hon’ble Court so as to prevent the ends of justice from being defeated, be pleased –

g)     That pending the hearing and final disposal of the above suit, the Hon’ble Court, in the dues exercise of powers u/s 75 and O.26 of CPC, 1908, be pleased to appoint Court Commissioner, to hold a scientific, technical, or expert investigation; or to conduct sale of property which is subject to speedy and natural decay and which is in the custody of the Court pending the determination of the suit; or to perform any other ministerial act.

h)     Interim/ad-interim reliefs in terms of prayer clauses \_\_\_\_\_ as aforesaid.

i)       Such further and other reliefs as this Hon’ble Court may deem fit and proper in the circumstances of the case as may be necessary.

Material facts of the case:

The Plaintiffs, most respectfully submit that, having regard to the nature of reliefs prayed for in this Suit, the following facts become germane to the controversy herein; And, the reasonable satisfaction of the existence or the non existence, as the case may be, of these facts, may entitle the Plaintiffs the judgment in their favour. The chronology / chain of events, which has led to the present situation, and has constrained the Plaintiffs to seek certain Reliefs from this Hon’ble Court. [In the chronology / chain of events, the following facts should be set out in clear terms, at appropriate juncture.]

1.      The law under which the powers were exercised:

2.      The purport and mandate of aforesaid law:

3.      The condition precedent, which the law lays down, before the exercise of such powers:

4.      The absence of such conditions in the instant case:

5.      The procedure which is contemplated under the law, before the exercise of such powers:

6.      The procedure which is followed in the instant case at hand:

7.      The materials, if any, which were placed on record, before powers were exercised at the prejudice of the Petitioner:

8.      The representation, if any, made before the Defendant concerned Authority; and the substance of the said representation, and the reply received, if any:

9.      Demonstrate that the Defendant concerned Authority has completely misread / misunderstood the express mandate of law / law declared in HC / SC Rulings.

10. The facts showing that due to aforesaid exercise of powers, the Plaintiffs have suffered pecuniary and / or other losses:

11. The facts showing that the Plaintiffs took all possible steps to mitigate / minimize the losses which has occasioned due to the aforesaid failures:

Other facts, as may be applicable to the facts of the case, are –

1.      That, the said exercise of powers is without any legal basis,

2.      That, powers were exercised without complying to essential requirements of provisions of law, under which the powers were exercised;

3.      That, powers were exercised without following the procedure established under the law;

4.      That, powers were exercised without any material on record, warranting exercise of such action;

5.      That, whereas the impugned action has caused serious prejudice to the Petitioner’s business interests, the powers were exercised without affording an opportunity of hearing to the Petitioner; (Legitimate expectation)

6.      That there is complete misreading / misunderstanding of the express mandate of law / law declared in HC / SC Rulings.

[To claim any relief in the nature of declaration] The facts showing that the Plaintiff is entitled to some legal position, or to some property, or to some right of any nature whatsoever; and the facts and circumstances showing that the Defendant is doing some act by which the Defendant deny such rights of the Plaintiffs;

[To claim any relief in the nature of permanent injunction] The facts showing that the Plaintiff is entitled to some legal position, or to some property, or to some right of any nature whatsoever; and the facts and circumstances showing that the Defendant is doing some act by which the Defendant interferes with such rights of the Plaintiffs;

[To claim any relief in the nature of mandatory injunction] The facts showing that the Defendant is under obligation under the law or under the contract, to perform certain acts, which he is neglecting to do, and the Courts can compel performance of such acts, and the performance of such acts are essential pending the final disposal of the Suit, and the failure of performance of such acts may render the Suit infructuous.

If an interim Relief is asked for the appointment of Court Commissioner, to hold a scientific, technical, or expert investigation; or to conduct sale of property, etc. then facts showing that such investigation, etc. is just and necessary for the complete disposal of the Suit.