

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, AT:  
HYDERABAD**

W. P. No.

OF 2009

Between: -

Mehta & Modi Homes, Partnership firm,  
represented by its partner Soham Modi,  
S/o. Shri. Satish Modi,  
R/o. Plot No. 280 Road No. 25,  
Jubilee Hills, Hyderabad – 500 034.

...Petitioner

And

1. The Greater Hyderabad Municipal Corporation,  
rep. by its Commissioner, Tank Bund Road,  
Hyderabad.
2. The Deputy Commissioner, GHMC, Kapra Circle,  
Kushaiguda, Hyderabad.
3. A. Sattaiah, S/o A. Ramaiah,  
R/o 1-91, Mallapur, Ranga Reddy District.
4. A. Venkatesh S/o. A. Sathaiah  
R/o 1-91, Mallapur, Ranga Reddy District

...Respondents

**AFFIDAVIT FILED ON BEHALF OF THE PETITIONER**

I, Soham Modi, S/o. Shri. Satish Modi, R/o. Plot No. 280, Road No. 25, Jubilee Hills, Hyderabad – 500 034 do hereby solemnly affirm and sincerely state on oath as follows: --

1. I am the partner of the petitioner firm and as such I am well acquainted with the facts of the case. I am authorized to file this affidavit on behalf of the petitioner firm.
2. I submit that the petitioner firm is owner of land admeasuring Acs. 2.12 guntas of land in survey No:82/1 (P), Mallapur, Uppal Mandal, Ranga Reddy District, having purchased the same vide registered sale deed bearing document Nos. 9609/06, 9610/06 & 507/07. I submit that the third & fourth respondents are having two plots admeasuring 444 square yards which is adjacent to the land of the petitioner firm. The third & fourth respondents are jointly constructing a commercial complex in their plots of land owned by them without obtaining any construction permission from the first respondent, GHMC. In fact, third & fourth respondents are making construction by encroaching into 150 ft wide main road to an extent of about 10 to 15 ft. I submit that the construction which is being raised by third & fourth respondents is totally unauthorized and illegal, and the respondents 1 and 2 are bound to remove the same. As a neighbor the petitioner has given a representation to the second respondent requesting him to take action against the third & fourth respondents and see that the unauthorized construction is stopped. However, respondents 1 and 2 have not taken



any action on our representation till date. I submit that the third & fourth respondents are going ahead with the unauthorized and illegal construction at full speed and as such the petitioner is filing the present writ petition seeking a direction to respondents 1 and 2 to stop the illegal and unauthorized construction and further demolish the illegal construction raised.

3. I submit that Section 452 of the Hyderabad Municipal Corporation Act clearly lays down that any construction is commenced or carried out contrary to the provisions of the Act or bye-laws shall be removed or pulled down. It is settled position of law as laid down in several Judgments of the Hon'ble Court that the unauthorized constructions are to be pulled down by respondent Corporation. It is also settled law that the neighbors to the premises are entitled to question the unauthorized constructions. I submit that by virtue of the illegal and un-authorized constructions being raised by third & fourth respondents including encroachment of the 150 ft wide main road, a bottleneck is created on the main road in front of the property of petitioner as the width of the road is reduced by a minimum of about 10 to 15 ft, resulting in diminishing the value of the property of petitioner and also great inconvenience to all the commuters/users of the road. Thus, the petitioner is constrained to file the writ petition questioning the inaction of respondents 1 and 2.
4. The petitioner has no other alternate remedy except to approach this Honorable Court under Article 226 of the Constitution of India. The petitioner has not approached any court for the same relief, which is sought for in this writ petition.

It is necessary that the Hon'ble Court may be pleased to direct the respondent Nos.1 and 2 to act according to law and stop the illegal construction of the third & fourth respondents in their plots admeasuring 444 square yards in survey No.82/1, Mallapur, Uppal Mandal, Ranga Reddy District, pending disposal of the writ petition.

It is therefore prayed that the Hon'ble Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the inaction of the respondent Nos.1 and 2 in stopping the illegal and unauthorized construction of the third & fourth respondents in their plots admeasuring 444 square yards in survey No.82/1, Mallapur, Uppal Mandal, Ranga Reddy District, as arbitrary and illegal, and consequently direct the respondent Nos.1 and 2 to stop the illegal construction activity of the third & fourth respondents in plot admeasuring 444 square yards in survey No.82/1, Mallapur, Uppal Mandal, Ranga Reddy District, and further demolish the illegal structures already raised by third & fourth respondents illegally in the said plots and pass such other order or orders in the interest of justice.

Sworn and signed before me on this the  
16<sup>th</sup> day of July 2009 at Hyderabad.

  
**Deponent**

Advocate, Hyderabad.

**Verification Statement**

I, Soham Modi S/o. Shri. Satish Modi R/o. Plot No. 280 Road No. 25, Jubilee Hills, Hyderabad – 500 034 being the partner of the petitioner firm, do hereby state that the facts mentioned in paragraphs 1 to 4 are true and correct to the best of my knowledge and belief and the facts mentioned in other paragraphs are true legal advice obtained from my counsel and I believe the same to be true and correct. Hence, verified to be true and correct on this the 16<sup>th</sup> day of July, 2009 at Hyderabad.



Advocate

**Deponent**