

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT
HYDERABAD

W. P.NO. 4076 OF 2010

BETWEEN:-

1. M/s.Mehta & Modi Homes, rep. by its
Authorised Signatory, Soham Modi,
S/o. Satish Modi, aged about 36 years,
Having its Office at 5-4-187/3 & 4, III Floor,
Soham Mansion, MG Road, Secunderabad

2. ... Petitioners

AND

1. Hyderabad Metropolitan Development Authority,
Rep.by its Commissioner, GHMC Buildings,
III Floor, West Marredpally, Secunderabad.

2. The Greater Hyderabad Municipal Corporation,
Rep.by its Commissioner, Tank Bund Road,
Hyderabad.

....Respondents

AFFIDAVIT FILED BY THE PETITIONER

I, Soham Modi, S/o Satish Modi, Aged about 40 years, Occupation:
Business, R/o Secunderabad, do hereby solemnly affirm and state on
oath as follows:-

1. I am the authorized signatory of the first petitioner partnership firm
and as such I am well acquainted with the facts of the case. I am
deposing to this affidavit on behalf of other petitioners also.

2. I submit that the first petitioner firm is a reputed builder involving in
the development of properties and constructions of apartment complexes,
group housing layouts and enclaves. The first petitioner has applied for
issue of layout permission in survey Nos.31, 40(P), 41(P), 42, 44, 45 and
55 of Cherlapally Village, Ghatkesar Mandal, Ranga Reddy District and
initially the same was approved and released on 25.03.2008 vide
L.P.No.07/MP2/PLG/H/2008, dated 23.12.2007 and 25.03.2008. As per

the above said layout, the total area is 43,257.50 square yards and out of the said area, 13,641.06 square yards were left for future development and 440 square yards were affected under the road widening and the balance area of 29,167.44 has been approved and released by HUDA. However, subsequently, the petitioner has submitted revised layout plan for 13,641.06 square yards which has been left out for future development also and in the revised layout plans, the petitioners have shown total layout area 43,257.50 square yards. Subsequently, the then HUDA has cleared the file for entire area of Acs.8-37.50 guntas i.e., 43,257.50 square yards. By letter No.2698/MP2/Planning/HUDA/2007, dated 04.08.2009, the HMDA has intimated to the petitioner regarding the development charges, processing charges and other charges to be paid and also the requirement of fencing of mortgaged plots. In the said letter, the petitioner was required to pay Rs.19,08,975/- towards development charges and other charges and further required to mortgage plot Nos.393 and 394 to an extent of 357 square meters i.e., 5% of the units by fencing the said area and also executing the mortgage deed. The petitioner has executed the said Deed of Mortgage as additional sale and subsequently the technical sanction was released. Pursuant to the said technical sanction, the petitioner approached GHMC for sanction of the permission and by letter No.B/303/CCP/TPS/GHMC/2010/720, dated 19.03.2010, the second respondent, GHMC has demanded for payment of Rs.5,93,755/- towards various charges including building permit fee etc. Subsequently, the GHMC has required the petitioner to mortgage two plots as per the requirement under the Rules for release of the sanction by way of a notarized Affidavit. It is submitted that this demand of second respondent requiring the petitioner to execute a notarized Affidavit mortgaging another two plots as the pre-condition for release of the construction permit and layout is totally illegal, arbitrary and contrary to the Rules under G.O.Ms.No.86, dated 03.03.2006. However, as the petitioner could not wait and as it was hard-pressed for time as it had to comply with the deadlines, the petitioner has executed a notarized Affidavit, dated 27.04.2010 and got release of the construction permission and

sanctioned layout. It is submitted that though the petitioner has executed notarized Affidavit, dated 27.04.2010, the very demand of such a notarized Affidavit by the second respondent in view of the fact that the petitioner has already executed Deed of Mortgage in respect of 5% of the units i.e., Plot Nos.393 and 394 by way of Deed of Mortgage, dated 19.1.2010 is totally arbitrary and illegal and as such the petitioner is approaching this Hon'ble Court seeking a direction to the second respondent to release the plots which are given as Mortgage by way of notarized Affidavit of a subsequent date at the instance of the second respondent. It is submitted that the petitioner has also submitted a letter, dated 05.06.2010 to the second respondent explaining the above position and requesting for release of the said plots. In spite of the said request, the second respondent has not responded and as such the petitioner is now constrained to file the present writ petition.

It is necessary that this Hon'ble Court may be pleased to direct the second respondent to release the plot Nos.393 and 394 mortgaged to the second respondent by way of notarized Affidavit, dated 27.04.2010, pending disposal of the writ petition.

It is, therefore, prayed that this Hon'ble Court may be pleased to issue writ of Mandamus or any other appropriate writ or order or direction declaring the action of the second respondent in directing the petitioners to mortgage two plots by letter dated 19.3.2010 as the pre-condition for issue of sanctioned layout and construction permission in respect of the petitioners' land in survey Nos. 31, 40(P), 41(P), 42, 44, 45 and 55 of Cherlapally Village, Ghatkesar Mandal, Ranga Reddy District as arbitrary and illegal and consequently direct the second respondent to release the said plot Nos.393 and 394 from mortgage and pass such other order or orders in the interest of justice.

DEPONENT

Sworn and Signed before me on this the
day of 10th day of December, 2010 at Hyderabad

(ADVOCATE HYDERABAD)

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

W. P.NO. ~~2312~~ OF 2010

BETWEEN:-

1. M/s. Mehta & Modi Homes, rep. by its
Authorized Signatory, Soham Modi,
S/o. Satish Modi, aged about 41 years,
Having its Office at 5-4-187/3 & 4, III Floor,
Soham Mansion, MG Road, Secunderabad
... Petitioners

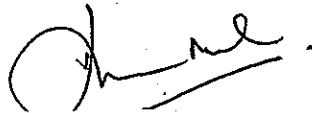
AND

1. Hyderabad Metropolitan Development Authority,
Rep.by its Commissioner, HMDA (HUDA) Complex
Tarnaka, Secunderabad.
2. The Greater Hyderabad Municipal Corporation,
Rep.by its Commissioner, Tank Bund Road,
Hyderabad.
....Respondents

AFFIDAVIT FILED BY THE PETITIONER

I, Soham Modi, S/o Satish Modi, Aged about 41 years, Occupation:
Business, R/o Secunderabad, do hereby solemnly affirm and state on oath
as follows:-

1. I am the authorized signatory of the first petitioner partnership firm
and as such I am well acquainted with the facts of the case. I am deposing
to this affidavit on behalf of other petitioners also.
2. I submit that the first petitioner firm is a reputed builder involving in
the development of properties and constructions of apartment complexes,
group housing layouts and enclaves. The first petitioner has applied to
HMDA for issue of layout permission in survey Nos.31, 40(P), 41(P), 42,
44, 45 and 55 of Cherlapally Village, Ghatkesar Mandal, Ranga Reddy
District and initially the same was approved and released on 25.03.2008
vide L.P.No.07/MP2/PLG/H/2008, dated 23.12.2007 and 25.03.2008. As
per the above said layout, the total area is 43,257.50 square yards and out
of the said area, 13,641.06 square yards were left for future development




and 440 square yards were affected under the road widening and the balance are of 29,167.44 has been approved and released by HMDA. However, subsequently, the petitioner has submitted revised layout plan for 13,641.06 square yards which has been left out for future development also and in the revised layout plans, the petitioners have shown total layout area 43,257.50 square yards. Subsequently, the then HUDA has cleared the file for entire area of Acs.8-37.50 guntas i.e., 43,257.50 square yards. By letter No.2698/MP2/Plg/HUDA/2007, dated 04.08.2009, the HMDA has intimated to the petitioner regarding the development charges, processing charges and other charges to be paid and also the requirement of fencing of mortgaged plots. In the said letter, the petitioner was required to pay Rs.19,08,975/- towards development charges and other charges and further required to mortgage plot Nos.393 and 394 to an extent of 357 square meters i.e., 5% of the total units by fencing the said area and also executing the mortgage deed. The petitioner has executed the said Deed of Mortgage as additional security and subsequently the technical sanction was processed to GHMC for release. Pursuant to the said technical sanction, the petitioner approached GHMC for release of the permission and by letter No.B/303/CCP/TPS/GHMC/2010/720, dated 19.03.2010, the second respondent, GHMC has demanded for payment of Rs.5,93,755/- towards various charges including building permit fee etc. Subsequently, the GHMC has required the petitioner to mortgage two plots as per the requirement under the Rules for release of the sanction by way of a notarized Affidavit. It is submitted that this demand of second respondent requiring the petitioner to execute a notarized Affidavit mortgaging another two plots as the pre-condition for release of the construction permit and layout is totally illegal, arbitrary and contrary to the Rules under G.O.Ms.No.86, dated 03.03.2006. However, as the petitioner could not wait and as it was hard-pressed for time as it had to comply with the deadlines, the petitioner has executed a notarized Affidavit dated 05.06.2010 for Plot Nos. 387 & 388 to an extent of 341.16 Sq. mtrs and got release of the construction permission and sanctioned layout. It is submitted that though the petitioner has executed notarized Affidavit, dated 05.06.2010, the very demand of such a notarized Affidavit by the second respondent in view of the fact that the petitioner has already executed a



Deed of Mortgage infavour of the first respondent in respect of 5% of the total units i.e., Plot Nos.393 and 394 by way of Deed of Mortgage, dated 19.1.2010 is totally arbitrary and illegal and as such the petitioner is approaching this Hon'ble Court seeking a direction to the second respondent to release the plots which are given as Mortgage by way of notarized Affidavit of a subsequent date at the instance of the second respondent. It is submitted that the petitioner has also submitted a letter, dated 05.06.2010 to the second respondent explaining the above position and requesting for release of the said two plots. In spite of the said request, the second respondent has not responded and as such the petitioner is now constrained to file the present writ petition.

It is necessary that this Hon'ble Court may be pleased to direct the second respondent to release the plot Nos.387 and 388 mortgaged to the second respondent by way of notarized Affidavit, dated 05.06.2010, pending disposal of the writ petition.

It is, therefore, prayed that this Hon'ble Court may be pleased to issue writ of Mandamus or any other appropriate writ or order or direction declaring the action of the second respondent in directing the petitioners to mortgage two plots by letter dated 19.3.2010 as the pre-condition for issue of sanctioned layout and construction permission in respect of the petitioners' land in survey Nos. 31, 40(P), 41(P), 42, 44, 45 and 55 of Cherlapally Village, Ghatkesar Mandal, Ranga Reddy District as arbitrary and illegal and consequently direct the second respondent to release the said plot Nos.387 and 388 from mortgage and pass such other order or orders in the interest of justice.



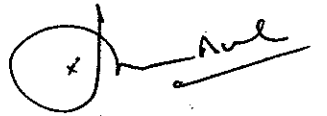
DEPONENT

Sworn and Signed before me on this the
day of 14th day of December, 2010 at Hyderabad

(ADVOCATE, HYDERABAD)

VERIFICATION STATEMENT

I, Soham Modi, S/o Satish Modi, Aged about 41 years, Occupation: Business, R/o Secunderabad, do hereby state that the facts mentioned in paragraphs are true and correct to the best of my knowledge and belief. Hence, verified to be true and correct on this the 14th day of December, 2010 at Hyderabad.

A handwritten signature in black ink, appearing to read 'Soham Modi', is written over a horizontal line. To the left of the signature is a circle containing a small 'x' mark.

ADVOCATE

DEPONENT

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NOTE ON MORTGAGING PLOTS WITH HMDA AND GHMC

1. M/s. Mehta & Modi Homes have applied to HMDA for gated community group housing permission vide file No. 2698/MP2/H/P/2008 dated. 03.04.2008 for construction of 35 Nos residential bungalows in Sy. Nos. 31, 40 (P), 41 (P), 42, 44, 45 & 55 situated at Cherlapally Village, GHMC Kapra Circle, Hyderabad, R. R. Dist.
2. After 16 months HMDA has approved the above said file and has issued a letter bearing No. 2698/MP2/Plg/H/2007 dated 04.08.2009 requesting us to pay development charges of Rs. 19,08,975/- and also asked us to mortgage of 5% of total units i.e., 2 plots infavour of HMDA.
3. Mehta & Modi Homes has paid the above development charges and have executed a mortgage deed for two units in favour of HMDA vide document No. 603/2010 dated 19th January 2010 and the same submitted to HMDA on 25th January 2010.
4. HMDA has sent the approved plans to GHMC for release on 20th February 2010 vide their proceedings No. 2698/MP2/H/P/2007 dated. 09.02.2010.
5. After through scrutiny GHMC has issued a letter bearing No.B/303/CCP/TPS/ GHMC/ 2010/720 dated 19.03.2010 requesting us to pay a sum of Rs. 5,93,755/- towards building permit fee and also requested to submit the required documents.
6. We have submitted to GHMC D.D for Rs.5,93,755/- towards fee along with necessary documents on 15.04/2010.
7. We have already executed mortgage deed for two units infavour of HMDA. Again GHMC is asked us to handover two units (i.e., 5% of the units) to GHMC as per G. O. Ms. No. 86 MA dated 03.03.2006 clause 20 (c) and G.O.Ms.No.171 M.A dated 19.04.2006 clause 9.
8. As per the above said G. Os we have already executed mortgage deed for 2 units (i.e., 5% of total units) infavour of HMDA and executed a notarized affidavit in favour of the Commissioner, GHMC for another two units.
9. As per the above said two G. Os for row houses/independent houses/cluster housing/ residential enclaves, 5% of the units shall be handed over to sanctioning authority. But in our case they have taken twice (5% at HMDA and 5% at GHMC) i.e., 10% of the units.

File writ petition against HMDA/GHMC for release of two out of four mortgaged units. We are not concerned with the jurisdiction of HMDA/GHMC. We are liable to mortgage 2 units i.e., 5% of the units to one of the bodies.

Approved Draft

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HYDERABAD

W. P.NO. OF 2010

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55 of Chengicherla Village, Ghatkesar Mandal, Ranga Reddy District and
initially the same was approved and released on 25.03.2008 vide
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the above said layout, the total area is 43,257.50 square yards and out of the said area, 13,641.06 square yards were left for future development and 440 square yards were affected under the road widening and the balance are of 29,167.44 has been approved and released by HUDA. However, subsequently, the petitioner has submitted revised layout plan for 13,641.06 square yards which has been left out for future development also and in the revised layout plans, the petitioners have shown total layout area 43,257.50 square yards. Subsequently, the then HUDA has cleared the file for entire area of Acs.8-37.50 guntas i.e., 43,257.50 square yards. By letter No.2698/MP2/Planning/HUDA/2007, dated 04.08.2009, the HMDA has intimated to the petitioner regarding the development charges, processing charges and other charges to be paid and also the requirement of fencing of mortgaged plots. In the said letter, the petitioner was required to pay Rs.19,08,975/- towards development charges and other charges and further required to mortgage plot Nos.393 and 394 to an extent of 357 square meters i.e., 5% of the units by fencing the said area and also executing the mortgage deed. The petitioner has executed the said Deed of Mortgage as additional sale and subsequently the technical sanction was released. Pursuant to the said technical sanction, the petitioner approached GHMC for sanction of the permission and by letter No.B/303/CCP/TPS/GHMC/2010/720, dated 19.03.2010, the second respondent, GHMC has demanded for payment of Rs.5,93,755/- towards various charges including building permit fee etc. Subsequently, the GHMC has required the petitioner to mortgage two plots as per the requirement under the Rules for release of the sanction by way of a notarized Affidavit. It is submitted that this demand of second respondent requiring the petitioner to execute a notarized Affidavit mortgaging another two plots as per the condition for release of the construction payment and layout is totally illegal, arbitrary and contrary to the Rules under G.O.Ms.No.86, dated 03.03.2006. However, as the petitioner could not wait and as it was hard-pressed for time as it had to comply with the deadlines, the petitioner has executed a notarized Affidavit, dated 27.04.2010 and got release of the construction permission and

sanctioned layout. It is submitted that though the petitioner has executed notarized Affidavit, dated 27.04.2010, the very demand of such a notarized Affidavit by the second respondent in view of the fact that the petitioner has already executed Deed of Mortgage in respect of 5% of the units i.e., Plot Nos.393 and 394 by way of Deed of Mortgage, dated 19/1/2010 is totally arbitrary and illegal and as such the petitioner is approaching this Hon'ble Court seeking a direction to the second respondent to release the plots which are given as Mortgage by way of notarized Affidavit of a subsequent date at the instance of the second respondent. It is submitted that the petitioner has also submitted a letter, dated 05.06.2010 to the second respondent explaining the above position and requesting for release of the said plots. In spite of the said request, the second respondent has not responded and as such the petitioner is now constrained to file the present writ petition.

It is necessary that this Hon'ble Court may be pleased to direct the second respondent to release the plot Nos.393 and 394 mortgaged to the second respondent by way of notarized Affidavit, dated 27.04.2010, pending disposal of the writ petition.

It is, therefore, prayed that this Hon'ble Court may be pleased to issue writ of Mandamus or any other appropriate writ or order or direction declaring the action of the second respondent in directing the petitioners to mortgage two plots by letter dated 19/3/2010 as the pre-condition for issue of sanctioned layout and construction permission in respect of the petitioners' land in survey Nos. 31, 40(P), 41(P), 42, 44, 45 and 55 of Chengicherla Village, Ghatkesar Mandal, Ranga Reddy District as arbitrary and illegal and consequently direct the second respondent to release the said plot Nos.393 and 394 from mortgage and pass such other order or orders in the interest of justice.

DEPONENT

Sworn and Signed before me on this the
day of 1st day of November, 2010 at Hyderabad

(ADVOCATE HYDERABAD)

VERIFICATION STATEMENT

I, Soham Modi, S/o Satish Modi, Aged about 40 years, Occupation: Business, R/o Secunderabad, do hereby state that the facts mentioned in paragraphs are true and correct to the best of my knowledge and belief. Hence, verified to be true and correct on this the 1st day of November, 2010 at Hyderabad.

ADVOCATE

DEPONENT