

THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
HYDERABAD

W.P.NO. 17146 OF 2011

Between:

M/s Vista Homes,
A Partnership firm Rep. by its
Managing Partner, Sri Soham Modi,
Having its office at 5-4-187/3 & 4
Soham Mansion, M.G.Road, Secunderabad. ...Petitioner.

And

1. The Greater Hyderabad Municipal Corporation,
Rep. by its Commissioner, Tank bund, Hyderabad.
2. Chief City Planner,
Greater Hyderabad Municipal Corporation,

AFFIDAVIT FILED ON BEHALF OF THE PETITIONER

I, Soham Modi, S/o Satish Modi, aged about 41 years,
Managing Partner, M/s Vista Homes, 5-4-187/3 & 4 Soham Mansion,
M.G.Road, Secunderabad do hereby solemnly affirm and sincerely state on
oath as follows:

1. I am the Managing Partner of the petitioner firm entitled to
depose to this affidavit on its behalf. I know the facts of the case.
2. I submit that the petitioner firm is involved in construction
and development activity such as developing the lands and constructing
residential and commercial complexes and other allied activities.

3. I further submit that the petitioner firm is the owner and possessor of an extent of Ac. 5.25 guntas covered by Sy.Nos. 193 to 195 of Kapra Village, Kesera Mandal, Ranga Reddy District within the Municipal Corporation limits of Hyderabad. We proposed to construct residential complexes in the said land in 8 blocks. Accordingly, we have submitted building permission proposals on 29-07-2009 to construct residential apartments consisting of basement, stilt + 5 upper floors in 8 blocks and one Amenities block along with the processing fee of Rs.24,320/- vide the file No.0617/CSC/TP-1/EZ/2009, dt.29-07-2009. Thereafter we received a letter from the 2nd respondent dt.27-10-2009 raising about 7 objections/observations mainly seeking survey sketch, combined sketch, the clearance from the SE, Irrigation & Water Bodies etc. We gave explanations to all such objections vide our letter dt. 2-12-2009 clearly giving explanation to each and every objection/observation raised by the 2nd respondent. We also requested the respondents to approve our proposals since all the technical matters have been very much complied with or explained. Though we have submitted such a letter complying with all the requirements raised by the 2nd respondent on 2-12-2009 itself to the above said letter, for about 6 months there was a total silence from the respondents in spite of our staff members and officers continuously pursuing the matter with the respondents. Ultimately, the respondent corporation vide its letter No. No.0617/CSC/TP-1/EZ/2009/947, dt. 11-06-2010 came up with a totally strange objections that the proposed totlot is in 11 bits and pieces and directed us to submit the revised plans showing an organized totlot. Accordingly within 4 days, vide our letter dt.16-6-2010 we explained the legal and technical situation pertaining to

the totlots referring to the prescribed provisions of law which enable us to have the greenery and totlot places even in different pockets with a minimum width of 3 metres and further explaining that the proposed totlots confirm the legal and technical provisions. We also stated that in the earlier letter dt. 2-12-2009 this particular objection was not raised and that it is not at all justified to raise objections that too even smaller ones one after the other in stead of taking all the objections at a time due to which valuable time is unnecessarily being spent resulting a very great hardship to our firm since the construction activity has to be completed in a given time frame to compete with the market requirements. At that juncture the respondent's Assistant City Planner by name Amrutha Kumar requested us to file a fresh and revised plans comprehensively so that without spending any further time the proposals could be placed before the building committee. Thus we were forced to submit such fresh revised and comprehensive plans after meeting and complying with all the objections, clarifications etc. raised by the respondents in different stages and again paid an amount of Rs.12,000/- towards the processing fee. Thereon the 2nd respondent changed the file number showing it as a fresh one assigning Lr. No. 0461/CSC/TP01/EZ/2010, dt. 1-07-2010 and vide letter dt. 1-07-2010 he directed us not to proceed with any construction since the building plans were being examined. Thereafter, there was a lull for about two months without any event or response from the respondents in spite of the persuasions by our staff as usual. Ultimately, we received the letter dt. 7-09-2010 from the 2nd respondent quite surprisingly stating that our proposals were returned for rectification of defects such as the 40 ft approach road requires approval

and that separate totlot area is also to be provided. It is disgusting that objections are taken one after the other with very long time gaps due to which the project is being delayed which is not at all congenial for a competitive spirit of constructions in a rapidly changing and fluctuating market scenario which would ultimately spoil the image of the construction companies. In spite of this set back, we continued our efforts by once again submitting the revised plans vide our letter dt. 7-10-2010 and again paying Rs.12,000/- on which the 2nd respondent again changed the file number as Lr. No. 36678/11/01/10, dt.11-10-2010. He addressed a letter dt. 11-10-2010 to us again directing us not to proceed with the construction as our plans were being examined. In fact there is no necessity to change the file number so often. It is obvious that if the same file number is continued it shows that the file is long pending one which could be objected by the inspecting authorities. To circumvent such a situation, the 2nd respondent changed the file numbers from time to time to show that it is a fresh one though in fact it has become an old one.

4. I further submit that we submitted our revised plans, as stated above as long back as on 7-10-2010 again complied with all the requirements'. But till today, there is an absolute silence from the respondents. By now a period of more than 8 months had elapsed after our resubmission of the application and there is absolutely no communication from the respondents as to the fate of our building plan proposals. As usual our staff members have been relentlessly roaming around the office of the respondents enquiring about the plans. That there is no response our staff members on several occasions, personally met the 2nd respondent herein as well as his subordinates in their Head

Office at Tank Bund. They are not divulging any information and all most kept the file in a cold storage. It is highly unjust and in expectable as to how the file could be kept pending without any event for more than 8 months in spite of the fact that the file started its move about 2 years back.\

5. I further submit that the proposals of any building plans have to be disposed of within 90 days as per the relevant provisions, But the same is given a go bye and our proposals are not disposed of even after lapse of about 2 years. Our firm has got a very good reputation in the public and it cannot afford to have its proposals kept pending for years together by the respondents in spite of complying with all the objections and meeting all the legal and technical requirements. The respondents have to take all the objections at a time and they cannot do it piece-meal one after the other with long intervals thus adopting delaying tactics the purpose of which one can easily understand. The respondents being responsible officers of the corporation cannot delay the discharge of their duties for such longer times putting public and firms like the petitioner to such hardship as such we are constrained to approach this Hon'ble Court as there is no other alternative.

6. In these circumstances, I have no other alternative or effective remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India.

7. I submit that I have not filed any writ or other proceedings in this regard I any court of law.

8. It is therefore, prayed that this Hon'ble Court may be pleased to issue writ or order or direction more particularly one in the nature of Writ of mandamus declaring the action of the respondents in keeping our building plan proposals pending right from 29-07-2009 without disposal taking objections one after the other with long gaps in stead of taking all the objections at a time and changing its file numbers from time to time and ultimately in keeping it in a cold storage from 7-10-2010 without any action on it till today as illegal, arbitrary, unjust, malafide and against the constitutional guarantees and to consequently direct the respondents to approve our building plan approvals with present File No. 36678/11/10/2010 with its earlier file Lr. No. 0461/CSC/TP01/EZ/2010, dt. 1-07-2010 and Lr.No.0617/CSC/TP-1/EZ/2009, dt.29-07-2009 immediately and to pass such other or further orders as deemed fit.

9. It is further prayed that this Hon'ble Court may be pleased to pass an interim order directing the respondents to approve our building plan approvals with present File No. 36678/11/10/2010 with its earlier file Lr. No. 0461/CSC/TP01/EZ/2010, dt. 1-07-2010 and Lr.No.0617/CSC/TP-1/EZ/2009, dt.29-07-2009 immediately pending disposal of the above writ petition and to pass such other and further orders as deemed fit in the circumstances of the case.

Solemnly affirm and signed
Before me on this the 20th day
of June 2011 Hyderabad.

Deponent

Advocate : Hyderabad