

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

W.P.NO.                      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

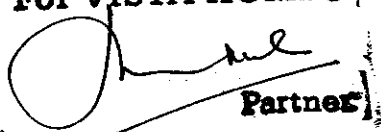
1. The Greater Hyderabad Municipal Corporation,  
Rep. by its Commissioner, Tank bund, Hyderabad.
2. Chief City Planner,  
Greater Hyderabad Municipal Corporation,
3. The Building Committee of Greater Hyderabad  
Municipal Corporation rep. by the Chief City Planner,  
GHMC, Hyderabad.

**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

**For VISTA HOMES**

  
Partner

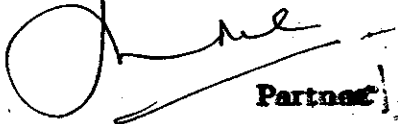
Hyderabad. We proposed to construct residential complexes in the said land in 8 blocks. Accordingly, we have submitted building permission proposals on 29-07-2009 to construct residential apartments consisting of basement, stilt + 5 upper floors in 8 blocks and one Amenities block along with the processing 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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

**For VISTA HOMES**

  
**Partner**

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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 2<sup>nd</sup>

**For VISTA HOMES**

  
**Partner**

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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 inexplicable 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 being vexed with the in action of the respondents we filed W.P.No. 17146 of 2011 seeking issuance 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

For VISTA HOMES

  
Partner

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. When the matter came up for hearing the respondents counsel submitted that the petitioner's application was placed before the building committee on 17-06-2011 and that it had 'proposed' to return the plans un approved and that such a decision was communicated to us. However, till today no such communication is there to us, but the respondents counsel submitted a copy of the decision of the building committee dated 17-06-2011 along with the covering letter addressed to us dated 16/27-07-201. A copy of the same was served by him on our counsel, then only we came to know about the decision of the building committee. This Hon'ble Court disposed off the writ petition leaving it open to us to challenge the order passed by the building committee dated 17-06-201. Thus the decision of the building committee came to our knowledge only when we filed the writ petition which it self shows the attitude of the respondents in disposing of the applications.

6. I further submit that the decision of the building committee dated 17-06-2011 as said to have been communicated to us on 17/26-07-2011 by the respondent corporation is bad and unsustainable on the following among other :

#### GROUNDS

(a) The building committee for the first time resorted to analysis of OSRT Photographs which has no legal support or sanctity to decide the application of the petitioner.

For VISTA HOMES

  
Partner

(b) In any case the direction of the building committee to create 9 meters width thorough access on any one side of the periphery for the convenience of the accessibility of other sites and to the lands located in the interior is absurd and meaning less since even according to the observations of the building committee our land is surrounded by the Government Lands on all sides excepting the approach road already existing to reach the subject matter lands in which case there is absolutely no necessity to create a road on the other side of the periphery and it would always be the basic responsibility of the State to give access to the private lands through its own lands.

(c) The building committee ought to have seen that when the petitioner's land is surrounded on all sides by the Government Lands it is not possible for the petitioner to create another access through the Government Lands since the Government is not a private party.

(d) The building committee ought to have seen that already a topo detailed plan has been submitted with all details showing even the nala position also and that it is only a vexatious objection to again insist for the same.

(e) The building committee grossly erred in insisting on No Objection Certificate from the Revenue authorities on the ground that there is a nala and a burial ground around the petitioner's site since the said nala and burial ground are not alleged to have been disturbed or encroached by the petitioner and since it is very well beyond the petitioner's land in which

For VISTA HOMES

  
Partner

case there is no purpose of what so ever to insist for No Objection certificate from the Revenue authorities.

(f) The building committee could not have insisted for such NOC, since the same is illogical and meaningless.


On the said grounds and the other grounds that would be urged at the time of hearing the writ petition the order of returning the building plan application of the petitioner is illegal, arbitrary, unjust, vexatious, absurd and is unsustainable being violative of Constitutional Guarantees and the Principles of Natural Justice, Hence the petitioner is constrained to approach this Hon'ble Court.

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

8. It is submitted that the petitioner has not filed any writ or other proceedings prior to the present one on the cause of action in this writ petition in any court of law.

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 particularly the action of the 3<sup>rd</sup> respondent in returning building plan proposals 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 submitted by the petitioner vide

For VISTA HOMES

  
Partner

its decision dated 17-06-2011 as communicated by the 2<sup>nd</sup> respondent vide letter No.36678/11/10/2010/2378 dated 16/27-07-2011 as illegal, arbitrary, absurd, unjust, malafide and against the constitutional guarantees and the principles of Natural Justice and to consequently direct the respondents to approve the building plan application of the petitioner 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 forthwith and to pass such other or further orders as deemed fit.

It is further prayed that this Hon'ble Court may be pleased to pass an interim order directing the respondents to approve the 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 forthwith 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 8<sup>th</sup> day  
Of August' 2011 Hyderabad.

Advocate: Hyderabad

For VISTA HOMES

Deponent  
Partner

VERIFICATION

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 declares that the information mentioned in the above paras 1 to 9 are true and correct to the best of my knowledge and belief to be on legal advise and the same is believed to be true and correct.

Verified on this the 8<sup>th</sup> day of August, 2011, at Hyderabad

Advocate.

Deponent