

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**  
Under the Consumer Protection Act, 1986

Telephone No. : 011-24608801-04  
Fax No. : 011-24658509

Upphokta Nyay Bhawan  
'F'- Block,  
General Pool Office  
Complex,  
INA, NEW DELHI-  
110023

Revision Petition No. 3377/2016  
(Against the order dated 18/10/2016 in Appeal No 152/2015 of the State Commission  
Andhra Pradesh)

ANGADI VIJAYA LAXMI & ANR.  
Versus  
MODI & MODI CONSTRUCTIONS

.....Petitioner/Appellant

To

.....Opposite Party/Respondent(s)

1. MODI & MODI CONSTRUCTIONS  
REP. BY ITS PARTNER SOHAM MODI,  
H.NO. 5-4-187/3 & 4, 2ND FLOOR, MG ROAD,  
SECUNDERABAD-500003  
TELANGANA STATE.

**Notice**


WHEREAS the Revision Petition above-mentioned has been filed in the National Commission by the Petitioner(s) above-named against the order dated 18 Oct 2016 in Appeal No. 152/2015 of the State Commission Andhra Pradesh . (copy where of is enclosed);

AND WHEREAS the Revision Petition came up for admission hearing on 05 May 2017 and the court has directed to issue notice to the Respondent(s). (Copy Enclosed).

Now, Therefore, TAKE FURTHER NOTICE THAT THE matter above-mentioned will be listed for hearing before the National Commission on 11 Aug 2017 at 10.30 A.M.

TAKE FURTHER NOTICE that in default of your appearance the matter will be heard and determined ex-parte.

Dated New Delhi, on this 19 May 2017.

  
SECTION OFFICER

IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI

REVISION PETITION NO.3377 OF 2016

(From the order dated 18.10.2016 in First Appeal No. 152/2015 of the  
Telangana State Consumer Disputes Redressal Commission, Hyderabad)

Angadi Vijaya Laxmi & Anr.

...Petitioners

Versus

Modi & Modi Constructions

... Respondent

BEFORE:

HON'BLE DR. B. C. GUPTA, PRESIDING MEMBER  
HON'BLE DR. S. M. KANTIKAR, MEMBER

For the Petitioners

: Mr. G. L. Narasimha Rao, Advocate

05-05-2017

ORDER

Heard the learned counsel for the petitioners.

Issue notice to the respondent returnable on 11-08-2017.



Sd/-

.....  
( DR. B.C. GUPTA )  
PRESIDING MEMBER

Sd/-

.....  
( DR. S.M. KANTIKAR )  
MEMBER



rk.16

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BEFORE THE NATIONAL CONSUMER DISPUTES REDRESS  
COMMISSION AT NEW DELHI

R.P. NO. 3377 OF 2016

IN THE MATTER OF :

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,  
Age 58 years, Occ:House Wife.

2) Angadi Mahesh Kumar, & Another .

..Petitioners/Compl

Versus

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003.

.. Respondent/Respondent/O.P.

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

Filed by:

:G.L.Narasimha Rao, Samula Ram Reddy, B.C.S.Reddy &  
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**LIST OF DATES AND EVENTS**

- 2-02-2013.** The OP is builder and developer with an negotiations agreed to Sale the Villa No.46 and The petitioner/ Complainant No.1&2 through Bhasker Rao paid Rs. 25,000/- as advance with an oral agreement that to be paid entire amounts within 9 months.
- 16-2-2013 :** The Complainant No.1&2 paid Rs. 2,00,000/- vide Cheque No. 315822 as 1<sup>st</sup> installment
- 26-06-2013 .** The petitioner/ Complainant No.2 paid Rs. 5,00,000/- vide Cheque No. 024420 as 2<sup>nd</sup> installment.  
As total the Comp. No.1 & 2 paid Rs. 7,25,000/-
- 25-02-2014 :** The OP represented by one Mr. Krishna Prasad on behalf of opposite party called the complaints in hurried manner he was not shown the span of time by misleading the complainants the opposite party obtained the signature of the complainants on the agreement of sale and pressurized for the bulky amounts of Rs.14,75,000/- at a time of in terms of shorter duration agreement
- 09-05-2014:** Immediately, after knowing the same, the complainants through their family elder A. Bhaskar, submitted a representation on 09-05-2014 with a proposal payment schedule in terms of 9 months opted plan and the same was received by the opposite party (represented Mr.Venkat Reddy and acknowledged the same). But there is no any replied received by the complainants.
- Last week of May 2013:** The complainants visited the office of the opposite party in the last week of May,2013 for their reply / answer either to execute their acceptance or to return back the amount of Rs.7,25,000/-already paid by the complainants. But there is no any response from the side of opposite party. That means it is deemed to admitted and accepted the span of 9 months time by the opposite party.
- 20-08-2013:** The Complainants No.1&2 obtained Housing Loan for Rs. 22,00,000/- from LIC Housing Finance ( 17,00,000/- + 7,25,000/- already Paid ) there is short fall of Rs. 9,75,000/- and the OP come forward to assist finance the same as instead of agreed 9 months entered in agreement of sale as 4 months.
- 20-08-2013.:** Accordingly, the complainants applied in writing as formality of the opposite party in support of un-dated cheque for Rs.9.75 lakhs as desired on 20-08-2013.
- 17-Sep-13 to 13-Nov-13** The opposite party came forwarded to assist financial assistance because of their business promotion and reduced the 9 months span period to 4 months time, instead of paying entire short fall amount of Rs.9,75,000/-. The opposite party intentionally paid Rs.2,43,750/- as installments in a rotation manner duly obtained pre-undated cheques from the complaints' father and the complainant No.2. The details and modus operandi of the opposite party rotation is as below.

x 2 -

Amount	Date of credit to A.Bhaskar's account by M/s Modi	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A Bhaskar	Date of debit to M/s Modi account from Mahesh Kumar A/C
243750	17-Sep-13	21-Sep-13	21-Sep-13	24-Sep-13
243750	28-Sep-13	10-Oct-13	10-Oct-13	17-Oct-13
243750	21-Oct-13	25-Oct-13	25-Oct-13	31-Oct-13
243750	08-Nov-13	13-Nov-13	13-Nov-13	18-Nov-13

975000

(From May 2013 to Nov.2013)

The opposite party has paid an amount of Rs.9,75,000/- to the complainants in four (4) installments by means of rotating Rs.2,43,750/- in 4 transactions in the span of 6 months (from May 2013 to Nov.2013) thus resulted expiry of Housing loan validity and one cheque bounce issue. The same as stated above discloses the attitude of the opposite party in providing financial assistance. He was made Rs.2,43,750/- as Rs.9.75,000/- as such the opposite party was intentionally delayed 6 months. It is only made by them for not dropping the sale proposals by the complainants. But not else.

20-11-2 2013:

immediately after completion fulfillment of margin money as per above rotation manner, the opposite party forcedly and registered the villa on the complainants name though the villa was not made ready to occupy and it was in Skelton condition and got released the below mentioned amounts directly from the Housing loan financier without any intimation to the complainants.

1. 27<sup>th</sup> Nov. 2013 Rs.12,48,000/-
2. 27<sup>th</sup> Nov.2013 Rs.6,22,000/-
3. Total Rs.18,70,000/-

(Rupees eithteen lakhs seventy thousands only) got released from the financier (i.e. LIC Housing) without any intimation to the complainants. And remaining Rs.3,30,000/- retained with the financier awaiting the occupation letter from the opposite party to release those amounts till today .

16<sup>th</sup> Feb.2014:

09-6-2014 :

Rs.9.75,000/- which was not reimbursed by the father / husband of the complainants which is amounts kept in his bank awaiting for relaxation of said interest on delayed payments ready to pay and kept in the bank i.e. A.P. VardhamanMahila Cooperated Urban

- 3 -

Bank Limited, Lothugunta Branch, vide A/c No.2291 since. 16-02-2014 and paid on 09-6-2014 vide Cheque No.064939 encashed by OP.

- 01-12-2013 : The Complaints No.1& 2 entitled for Rs. 25,000/- as rent from 1-12-2013 to till the issuing the physical occupation .
- 12-03-2014 : the complainants issued a statutory notice to the opposite party on 12-03-2014 for handing over the villa No.46.
- 10-04-2014: Otherwise, demanding damages and mental agony and the opposite party replied on 10-04-2014 with false allegations. Again the complainants issued another notice on 21-04-2014 for that there is no further reply from the opposite party.
- 21-04-2014 :
- 26-05-2014 : The Complaints No.1& 2 field CD No. 137 of 2014 claiming reliefs therein.
- 09-06-2014 ; The Op Filed Suit vide O.S.No. 98 of 2014 on the file of Hon'ble I ACJ Court at Secunderabad, Hyderabad. claiming the amounts Rs. 20,48,497/- instead of Rs. 3,30,000/-
- 7-10-2014 : The Complainant No.1&2 field W.S. denying the claim and narrating the part of the lapse of the OP.
- 24-07-2015: The District Forum disposed with a direction to the OP. to handover the Villa No.46 and get amounts Rs. 3,30,000/- within one month.
- 18-10-2016: The State Forum dismissed the F.A.No. 152 filed by Complainants as well F.A.No. 138 of 2015 field by the OP. in common orders confirming the District Forum orders.
- : Hence , The Revision Petition.

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BEFORE THE NATIONAL CONSUMER DISPUTES REDRESSAL  
COMMISSION AT NEW DELHI

R.P. NO. 3377 OF 2016

MEMO OF PARTIES

IN THE MATTER OF:

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,  
Age 58 years, Occ:House Wife.

2) Angadi Mahesh Kumar, S/o Bhaskar, Age:35 years,  
rep by his GPA Holder Angadi Vijaya Laxmi

Both are R/o 1-24-253/1, Flat No.32, Sri Sainagar,  
Lotugunta, Alwal, Secunderabad-Telangana State .500015.

..Petitioners/Compl No.1&2

Versus

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003.

.. Respondent/Respondent/O.P.



Counsel for the petitioner



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BEFORE THE NATIONAL CONSUMER DISPUTES REDRESSAL  
COMMISSION AT NEW DELHI

R.P.NO. OF 2016

**In the matter of:**

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,  
Age 58 years, Occ:House Wife.

2) Angadi Mahesh Kumar, S/o Bhaskar, Age:35 years,  
rep by his GPA Holder

Both are R/o 1-24-253/1, Flat No.32, Sri Sainagar,  
Lotugunta, Alwal, Secunderabad-Telangana State. 500015.

..Petitioners/Compl

Versus

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003.

.. Respondent/Respondent/O.P.

**REVISION PETITION IS FIELD UNDER SEC. 21 OF THE CONSUMER PROTECTION ACT**

Most respectfully showed:

That aggrieved by the judgment and Order dated 18-10-2016 passed the Hon'ble STATE CUNSUMER DISPUTES REDRESSAL COMMISSIN of TELANGANA STATE at Hyderabad in F.A. No. 152 OF 2015 the petitioner are filing the present revision petition on the following amongst other

**GROUND S**

- a. Whether the state forum can pass such orders without giving any rents which caused loss to the complaints to pay Rents Rs. 25,000/- P.M. admittedly the condition to handed over the villa No.46 in the month of October 2013. Even after getting entire hard earned amounts except Rs. 3,30,000/- retaining and awaiting for occupation letter by the Financer.
- b. Whether the Hon'ble state forum can came to the conclusion to dismiss the claim when the OP failed to complete the villa and handed over the same with in stipulated time. i.e. **October 2013.**
- c. whether the sufferings of the petitioner were justified with the impugned orders

- d. The main object of the petitioners to purchased the Own house by spending huge amounts Rs.39,00,000/-defeated. And attending Rs. 25,000/- P.M. as interest to the Financer and Rs.25,000/- P.M. as paying Rent to the his rented house.
- e. Whether the state forum with dismissal of the FA. meets the ends of justice where as the petitioners claim in his complaint to award his mental agony loss and damages .
- f. The State forum can pass orders without any loss or interest for the said huge amounts paid and the OP. Field suit O.S.No. 98 of 2014 for his amounts Claiming with interest therein. If the Hon'ble consumers Forums failed to protect the interest of the consumer by taking lenient view for non compliance of the clause in agreement if the OS. Filed by the OP may decreed , the huge loss will be caused to the petitioners.
- g. The both forums failed to asses the mental agony and monitory loss for consumer who wants to purchased the property but the OP did not completed the same handed over the same meantime filed the Suit for his late payments and other incidental charges .
- i. The Ld. State commission failed to appreciate the grounds raised by the petitioners in the memo of appeal filed before it.
- j. The O.P. even got entire amounts from hard earned amount of the petitioners and not completed the constructions and not at all handed over the petitioners will caused loss on part of the negligence of the O.P.
- K. The both Forums below failed to impose the compensation or interest to the amounts which the OP has already received Rs. 35,70,000/- out of Rs.39,00,000/- and remaining Rs. 3,30,000/- retained by Housing financier and petitioners constrained to pay interest to the Financers for entire sanctioned amounts of Rs.22,00,000/- and when the OP claiming interest on Rs. 3,30,000/-due because of his delay of made constructions physical handover, the Banker not give the same. And field suit vide O.S. No. 98 of 2014 . the Forum ought be awarded by following the judgment rendered by this Hon'ble Court in **Rajanpaul case dated. 5-7-2016.**

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- k. Because the state forum of Telangana has erred in concluding by dismissing the FA without any FINE , LOSS , MENTAL AGONY, INTEREST ON LOAN, PAYING RENTS TO RESIDE BY THEM, caused due to the OP for delay of compensation of constructions, when the OP Filed suit for his amounts.
- l. Without appreciation of mind proper evidence on record and hearing the first appeal the State consumer Redressal forum passed present impugned orders which will not satisfied the mental agony of the complainants which is affected the petitioners which is contrary to the law, and settled by the rulings.
- m. For that the Petitioners have prima facie good case and in all likelihood will succeed before this Hon'ble Court.
- n. The balance of convenience is in favour of these petitioners.
- o. The other grounds that may urged at time of hearing of the revision petition with the permission of the Hon'ble commission.

#### PRAYER

It is most respectfully prayed that this Hon'ble Commission may be pleased to:

Allow the Revision petition by modified/ set-a-side the orders Dated 18-10-2016 made in F.A.No. 152 of 2015 of the Telangana State Commission , Hyderabad and allow the Complaint as prayed for and

- b. pass any other or further orders as this Hon'ble Commission may be deemed fit and proper in the facts and circumstances of the case.

New Delhi

Date. 05-12-2016.

Counsel for the petitioner

BEFORE THE NATIONAL CONSUMER DISPUTES REDRESSAL  
COMMISSION AT NEW DELHI

R.P.NO. OF 2016

In the matter of:

1) Mrs. Angadi Vijaya Laxmi, & Another

..Petitioners/Compl

Versus

Modi & Modi Constructions,

.. Respondent/Respondent/O.P.

AFFIDAVIT

I, 1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar, Age 58 years, Occ:House Wife.e  
R/o 1-24-253/1, Flat No.32, Sri Sainagar, Lotugunta, Alwal, Secunderabad- Hyderabad  
Telangana State, do hereby solmny and sincerely affirm and state as follows :

1. I am the deponent herein and the petitioner No.1 in the above revision petition and as such well acquainted with the facts of the case, I am deposing on behalf of the 2<sup>nd</sup> petitioner as his GPA Holder.

2. I state that the contents stated in the above revision petition and the misc. application have been explained to me in the vernacular language and having understood the same, I say that they are true and correct to the best of my knowledge, belief, information based on the records and the legal advice.

3. I state that the annexure filed herein are the true copies of their respective original and are the record .

4. No part of it is false and nothing material has been concealed there from.

Verified on this the 5<sup>th</sup> day of December 2016 at Hyderabad. .

Deponent.

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BEFORE THE NATIONAL CONSUMER DISPUTES REDRESSAL  
COMMISSION AT NEW DELHI

R.P.NO. OF 2016

In the matter of:

1) Mrs. Angadi Vijaya Laxmi, & Another

..Petitioners/Compl

Versus

Modi & Modi Constructions,

.. Respondent/Respondent/O.P.

APPLICATION FOR CONDONATION OF DELAY

1) That the present Revision petition is filed against the order dated 18-10-2016 made in F.A. No. 152 of 2015 of the Telangana State Consumer Disputes Redressal Commission, Hyderabad. and the petition craves leave to refer to and rely upon facts and circumstances set out in the revision petition at the time of hearing of this application as the same are not being repeated for the sake of brevity.

2) It is submitted that the Telangana State forum dispatched the order on 27-10-2016. The complainant received the free copy of the impugned order on 1-11-2016 and approached the counsel and sought his help. The Counsel informed that the petitioner has to approach this Hon'ble Commission at Hyderabad and hand over the papers thereafter the counsel prepared the draft revision petition and sent the same to the petitioners, but the petitioners are not able to approach frequently as such as he was under depression and not contacted frequently when ever required for give instructions to counsel. Under these circumstances, it took some considerable delay time for filing the matter which caused the delay. On merits, the petitioner has got a very good case. If this application is not allowed the petitioner will suffer an irreparable loss and hardship, no prejudice will be caused to the respondent, If the Hon'ble Commission allows this application and consider the petition on merits.

It is therefore, most respectfully prayed that this Hon'ble Commission may be pleased to:

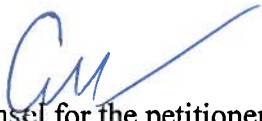
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a. Condone the delay of ( 7 ) days in filing the revision petition against the impugned order dated 18-10-2016 made in F.A.No. 152 of 2016 of the State Commission ,  
Telangana at Hyderabad. and

b. Pass such other order/s as this Hon'ble commission may deem fit and proer in the  
interst of the jsutice.

New Delhi

Dt. 5-12-2016.

  
Counsel for the petitioner.

**BEFORE THE TELANGANA STATE CONSUMER DISPUTES REDRESSAL  
COMMISSION : HYDERABAD**

**FA NO.138 OF 2015 AGAINST CC NO.137 OF 2014  
ON THE FILE OF DISTRICT FORUM, RANGAREDDY**



Between:

Modi & Modi Constructions,  
Having its office at 5-4-187/3 & 4,  
IInd Floor, Soham Mansion, M.G. Road,  
Secunderabad, rep. by its partner  
Mr.Soham Modi S/o Sri Satish Modi,  
Aged 44 years.

...Appellant/Opposite party

And

1) Mrs.Angadi Vijaya Laxmi  
W/o Bhasker, aged 56 years,

2) Mr.Angadi Mahesh Kumar  
S/o Bhaskar, aged 33 years,

Both R/o 1-24-253/1, Flat No.32,  
Sri Sainagar, Lothukunta,  
Alwal, Secunderabad - 500 015.

...Respondents/Complainants

Counsel for the Appellant : Sri C.Bala Gopal

Counsel for the Respondents : Sri G.L.Narasimha Rao  
R2 to R4 Served with notice.

**FA NO.152 OF 2015 AGAINST CC NO.137 OF 2014  
ON THE FILE OF DISTRICT FORUM, RANGAREDDY**

Between:

1) Mrs.Angadi Vijaya Laxmi,  
W/o Bhaskar, aged 56 years, Occ: Housewife,

2) Angadi Mahesh Kumar S/o Bhaskar,  
Aged 33 years,

Both R/o 1-24-253/1, Flat No.32,  
Sri Sainagar, Lothukunta,  
Alwal, Secunderabad - 500 015.

...Appellants/Complainants

And

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2<sup>nd</sup> Floor,  
M.G. Road, Secunderabad - 500 003.

...Respondent/Opposite party

Counsel for the Appellants : Sri G.L.Narasimha Rao

Counsel for the Respondent : Sri C.Bala Gopal  
R2 to R4 Served with notice.

**Coram** :

**Hon'ble Sri Justice B.N.Rao Nalla ... President**

and  
Sri Patil Vithal Rao ... Member

Tuesday, the Eighteenth day of October  
Two thousand Sixteen

Oral Order : (per Hon'ble Sri Justice B.N.Rao Nalla, Hon'ble President)

\*\*\*

- 1) These appeals are proposed to be disposed of by a common order in view of similar facts and circumstances obtained therein.
- 2) For the sake of convenience, the parties are referred to as arrayed in the complaint.
- 3) The case of the complainants, in brief, is that attracted by the publicity made by the Opposite party, husband of Complainant No.1 and father of Complainant No.2 had chosen to purchase independent Villa No.46 for a consideration of Rs.39.00 lakhs payable over a period of 9 months. As a token advance, Rs.25,000/- was received by the OP on 02.02.2013 vide cheque No.315818, dated 20.02.2013. The Complainants further paid Rs.2,00,000/- on 16.02.2013 towards 1<sup>st</sup> instalment; Rs.5,00,000/- towards 2<sup>nd</sup> instalment on 26.02.2013, altogether, amounting to Rs.7,25,000/-. On 25.02.2014, the OP entered into an agreement. The personnel of OP failed to show the span of time and obtained the signatures of Complainants on the agreement and thereby pressurized to pay Rs.14,75,000/- at a time in terms of agreement.
- 4) Complainants made representation on 09.05.2014 bringing the said fact, but there is no response, as such, sought for refund of Rs.7,25,000/- paid by them. On the application, the LIC Housing Finance sanctioned the loan of Rs.22,00,000/- and Complainants were required to pay the margin money of Rs.17,00,000/- for sanction of loan. As complainants were short of funds to the tune of Rs.9,75,000/-, the OP came forward to finance as handloan with a view to honour their short term payment. In that regard, the OP took letter on 09.05.2013 from the Complainants and reduced the 9 months span to 4 months. The OP paid Rs.2,43,750/- as instalment in a rotation manner obtaining undated cheques from the Complainant's father.
- 5) Thus, the OP paid Rs.9,75,000/- in four instalments from May 2013 to November 2013, resulting in expiry of housing loan validity and thereby dishonour of one cheque. Had the OP stucked to its promise, the said loss could not have occasioned. Added to it, the OP forcedly registered the villa on the name of Complainants though it was not made ready for occupation, in a skeleton condition and got released the loan amount in their favour, amounting to Rs.18,70,000/- leaving a balance of Rs.3,30,000/- with the financier. In spite of making correspondence and e-mails, the OP failed to respond, but demanded Rs.14,20,690/- duly adding the service tax of Rs.1,15,690/- without producing any receipt, which put the complainants to shock.



6) The Complainants are due only Rs.3,30,000/- which is retained by the financier. The OP failed to complete the villa in all respects though it promised to complete by October 2013 leading mental agony to the Complainants. For which, the Complainants are entitled to Rs.25,000/- per month from October 2013 till handing over of the possession. As such, complainants got issued a notice on 12.03.2014, to which, OP replied on 10.04.2014 with false allegations, hence, another notice was got issued on 21.04.2014 to which there is no reply. Hence the complaint praying to direct the OP to handover the Villa No.46 situated in Sy.Nos.128, 129, 130 to 136, Rampally village, Keesara mandal, R.R. district with immediate effect duly completing entire works together with Occupation Certificate; to pay Rs.25,000/- per month towards damages, from October 2013; to pay Rs.5,00,000/- to each of the Complainants towards mental agony and award costs of the complaint along with other reliefs.

7) Opposite party resisted the claim contending that it agreed to sell Villa No.46 after completing the construction and handover the same on receipt of total sale consideration of Rs.39.00 lakhs as per the schedule mentioned in clause-3 of the agreement of sale and the terms and conditions are enumerated thereunder. It admitted receipt of Rs.25,000/- as token advance; Rs.2,00,000/- on 16.02.2013 towards 1<sup>st</sup> instalment; Rs.5,00,000/- on 26.02.2013 towards 2<sup>nd</sup> instalment, altogether Rs.7,25,000/- as on 25.02.2013. The agreement was only signed by the Complainant No.2 and not by both. The proposal for payment of amount in 9 months was not accepted by it. It has no knowledge about obtaining of loan from LIC Housing Finance. It admitted to have paid Rs.9,75,000/- to the complainant in four instalments.

8) It denied to have forcibly registered the villa on the name of Complainant though it was not ready and also denied to have got released the loan amount from LIC Housing Finance without the knowledge of Complainants. The dues of Rs.14,20,690/- is inclusive of interest on late payment of instalments and the service tax of Rs.1,15,690/- is payable to the government authorities and no separate receipt will be given for the same. The OP pays the service tax to the government authorities on a monthly basis based on all the transactions done in the month. In fact, the villa is completed in all respects and but for sanitary fittings which would be done just before handing over the possession to avoid damage to the fittings. Possession will be given subject to settlement of all dues by its customers.

9) The OP has always been requesting the Complainants to settle the dues and take over possession. The OP filed suit for recovery of dues from the complainants bearing OS 98/2014 on the file of I-Additional Chief Judge, Secunderabad. As a matter of fact, OP developed a project named as NILGIRI HOMES at Rampally village, Keesara mandal, R.R. District consisting of independent villas and Complainants approached to purchase Villa No.46 for a consideration of Rs.39.00 lakhs. Satisfied with the progress of the project, Complainants agreed to all the terms and conditions as specified by the OP and on such agreement, the OP executed a sale deed registered



as document No.8452 of 2013 for the land admeasuring 125 sq.yards on 16.11.2013 at SRO, Keesara. On the same day, Complainants also executed an agreement for construction in favour of OP which spells out the terms of payment, period of completion and interest on late payments besides other terms and conditions.

10) The Complainants have abnormally delayed in payment of instalments. The OP received Rs.35,70,000/- and further an amount of Rs.11,23,523/- is still due to them towards full and final settlement of the cost of the Villa along with interest, which includes service tax of Rs.2,15,420/-; interest on delayed payment of Rs.4,87,177/-; court fee and legal expenses of Rs.50,926/- and corpus fund of Rs.40,000/-. The Complainants have not taken into consideration these amounts, but they took the difference amount of Rs.3,30,000/-. As per clause-11 of agreement, the Complainants are responsible for payment of sales tax, VAT and service tax. The OP waived off the payment of VAT but not the service tax amounting to Rs.2,15,420/-. Clause-4 of the agreement contemplates for payment of interest on delayed payments while clause-23 stipulates for payment of corpus fund for a row house, since the unit purchased by the Complainants is a row house.

11) The villa is ready in all aspects and it will be in a position to handover to the Complainants after they clear all the dues as specified. The OP got issued a notice dated 18.04.2014 calling upon the Complainants to make payment of Rs.20,48,497/-. Hence, there is no deficiency of service on their part and hence prayed to dismiss the complaint.

12) During the course of enquiry before the District Forum, in order to prove his case, the Complainant No.1 got filed her evidence affidavit and Exs.A1 to A17 and on behalf of the Ops, one Soham Modi, its partner filed the affidavit and the documents Ex.B1 and B2.

13) The District Forum after considering the material available on record, partly allowed the complaint bearing CC No.137/2014 by orders dated 24.07.2015 directing the OP to deliver the Villa No.46 situated at Rampally village of Keesara mandal in Ranga Reddy district to the Complainants after receiving the balance sale consideration of Rs.3,30,000/- from their financier on production of Occupancy Certificate and further directing to complete the minor works, if any, as agreed under the Agreement of Sale dated 25.02.2013 granting time of one month. It is further observed that the order does not absolve the Complainants from their liability to pay the due amounts, if any, to the Opposite party, to be decided by the civil court.

**FA No.138 OF 2015 (CC No.137/2014)**

14) Aggrieved by the said orders, the Appellant/Opposite party preferred the above appeal contending that the forum below (a) erred in allowing the complaint and ought to have dismissed the complaint; (b) inspite of being aggrieved by the order of the District Forum, the Appellant was ready to deliver possession after receiving the total outstanding amount of Rs.11,23,523/- and the respondent instead of coming forward to take possession after clearing the dues, had filed the complaint without any basis;

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(c) has not appreciated the pleadings of the Appellant and thereby allowed the complaint. Hence prayed to allow the appeal by setting aside the orders of forum below.

**FA No.152 OF 2015 (CC No.137/2014)**



15) Aggrieved by the said orders, the Appellants/Complainants preferred the above appeal contending that the forum below (a) erred in partly allowing the complaint though the Respondent accepted they did not complete and handed over the villa; (b) failed to appreciate the fact that the Respondent is liable to pay Rs.25,000/- per month towards damages and rents until the villa is handed over; (c) failed to appreciate the fraud played by the Respondent in withdrawing the loan amount from LIC housing finance without intimation to appellants; (d) failed to appreciate that Respondent is liable to pay rents and damages for the delay; (e) failed to understand that the delay in release of balance amount occasioned only for not obtaining possession certificate by the Respondent. Hence prayed to allow the appeal by fully awarding the claims instead of allowing in part.

16) The point that arises for consideration is whether the impugned orders as passed by the District Forum suffer from any error or irregularity or whether they are liable to be set aside, modified or interfered with, in any manner? To what relief?

17) It is not in dispute that the Complainant purchasers agreed to purchase the Villa No.46 for a total sale consideration of Rs.39,00,000/- from the Opposite party Builder. It is also not in dispute that purchasers paid the amount of Rs.7,25,000/- on their own and Rs.18,70,000/- by the financier and Rs.9,75,000/- through arrangement of finance by the Builder, to the Builder. It is also not in dispute that the parties entered into an Agreement of Sale on 25.02.2013, which is binding on either of them. It is also not in dispute that the financier retained an amount of Rs.3,30,000/- towards the loan sanctioned in favour of the Purchasers.

18) The only dispute is that the Villa is not completed in all respects and the Purchasers are required to pay only Rs.3,30,000/- as against the demand of Rs.14,20,690/- of the Builder. Apart from Rs.3,30,000/-, the Builder is claiming an amount of Rs.7,92,523/- which includes service tax of Rs.2,15,420/-; interest on delayed payment of Rs.4,87,177/-; court fee and legal expenses of Rs.50,926/- and corpus fund of Rs.40,000/-. It is also not in dispute that, altogether, the Builder received an amount of Rs.35,70,000/- from the Purchasers.

19) The aspects as regards the payment of service tax, corpus fund and court fees and legal expenses are concerned, the same are answered by the forum below. Hence, we do not feel it necessary to go into those aspects. In so far as the demand for interest on delayed payments is concerned, the Builder has already invoked the jurisdiction of civil court, which is pending adjudication. Admittedly, the villa in question is not completed and still some minor works are remained to be attended. For that matter, both the parties are throwing burden on each other. The Purchasers state that they are ready to instruct their financier to release the amount of

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Rs.3,30,000/- provided the Builder obtains the Occupancy Certificate and the Builder on other hand states that if the Purchasers clear-off all the dues, they would complete the left-over minor works. As can be seen from the photos exhibited, most of the works in the Villa are completed except fixing of fixtures in toilets and other minor works. As a matter of fact, except filing the account statement, the Builder has not made any demand demanding the Purchasers to pay the dues amount. From the documents exhibited, it is clear that the Builder has agreed to deliver the possession of the villa within one month after receiving the final disbursements.

20) It is only after the Purchasers got issued a notice dated 12.03.2014 under Ex.A15, the Builder got issued a reply on 10.04.2014 under Ex.A16 claiming an amount of Rs.20,48,497/- inclusive of service tax, corpus fund and interest upto 05.04.2014, without furnishing the particulars of entitlement. Again, the Purchasers got issued another notice on 21.04.2014 under Ex.A17, to which, no reply is given by the Builder. Instead, laid the suit bearing OS No.98/2014 for recovery of Rs.20,48,497/- before the I-Addl. Chief Judge, City Civil Court at Secunderabad, which, admittedly, is pending adjudication.

21) For the reasons stated supra, we do not see any infirmities in the orders passed by the forum below. Hence, we answer this point accordingly.

22) In the result, both the appeals fail and are accordingly dismissed but in the circumstances, parties to bear their own costs.

Sd/-  
PRESIDENT

Sd/-  
MEMBER

//CERTIFIED TRUE COPY//

Case No. FA 138/15 and FA 152/15

Date of Disposal 18/10/16

Free copy of order delivered to

Complainant/Appellant/Respondent

by hand or dispatched on 27/10/16

CC. To,

Dis: 1941

1. The President, District Forum,
2. Petitioner's.
3. Respondents.

*[Signature]* 26/10/2016  
DESIGNATED OFFICER  
Designated Officer-cum-  
Asst. Registrar  
Telangana State Consumer  
Disputes Redressal Commission,  
Hyderabad

DISTRICT CONSUMER DISPUTES REDRESSAL FORUM: RANGA REDDY  
CC 137/2014

Between:

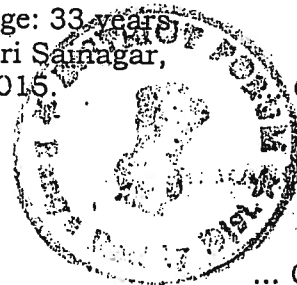
1. Mrs. Angadi Vijaya Laxmi, W/o Bhaskar, Age 56 years, Occ: House wife.
2. Angadi Mahesh Kumar, S/o Bhaskar, Age: 33 years, Both are R/o 1-24-253/1, Flat No.32, Sri Saragar, Lotugunta, Alwal, Secunderabad - 500 015.



Complainants

AND

Modi & Modi Constructions,  
Rep. by its Partner Ssoham Modi,  
H.No.5-4-187/3 & 4, 2<sup>nd</sup> Floor,  
M.G.Road, Secunderabad - 500 003.



... Opposite Party

Counsel for Complainants : Sri G.L.Narasimha Rao, Advocate  
Counsel for Opposite Party : M/s C.Bala Gopal, Advocates

PRESENT: Sri R.GOPALA KRISHNA MURTHY, PRESIDENT  
Smt I.L.PRASANTHI, LADY MEMBER

(PER HON'BLE Sri R.GOPALA KRISHNA MURTHY, PRESIDENT ON BEHALF OF THE BENCH)

FRIDAY, THE TWENTY FOURTH DAY OF JULY  
TWO THOUSAND FIFTEEN

Order:

1. This complaint is filed by the complainants U/Sec 12 of the Consumer Protection Act, 1986 to direct the Opposite Party to handover the Villa No.46 situated at Rampally Village of Keesara Mandal in R.R. District after completion of entire works along with Occupation Certificate and to pay a sum of Rs.25,000/- p.m. towards damages since October 2013 and to pay Rs.5,00,000/- to each of them for causing mental agony and harassment with costs.

2. The material averments of the complaint are mentioned below:

The Opposite Party developed Villas at Rampally Village as builder and developer under the name and style "Nilgiri Homes". The first complainant is the mother of the second complainant. The husband of first complainant by name A.Bhaskar approached the Opposite Party along with the complainants and choose to purchase independent Villa No.46 which was in skeleton condition (only RCC ceiling was completed). They agreed to purchase the above said Villa for a sale consideration of Rs. 10,00,000/- with Occupation Certificate. The first complainant is the mother of the second complainant.

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Rs.39,00,000/- which is payable within a period of nine months. They also paid an amount of Rs.25,000/- as booking advance to the Opposite Party on 02.02.2013 under a cheque. The above stipulated time and amounts were fixed on oral agreement and no written agreement took place on that day. The complainants paid Rs.2,00,000/- on 16.02.2013 as first instalment and Rs.5,00,000/- on 26.02.2013 as second instalment under two cheques. Thus, the complainants paid Rs.7,25,000/- and entered into an Agreement with the Opposite Party. The Opposite Party represented by one Mr.Krishna Prasad obtained the signatures of the complainants on the Agreement in hurried manner by misleading them and brought pressure for the payment of Rs.14,75,000/- in a short duration. Then the complainants submitted a representation on 09.05.2013 with a proposal payment schedule for a period of nine months. But there is no reply from the Opposite Party. The complainants visited the office of Opposite Party in the last week of May 2013 for their reply either to execute their acceptance or to return back the amount of Rs.7,25,000/- already paid by the complainants. There is no response from the side of the Opposite Party. That means it is deemed that the Opposite Party accepted the span of nine months' time.

The complainants applied for a housing loan from the LIC Housing Loan Financial Institution who sanctioned Rs.22,00,000/- and the complainants have to be paid and fulfill the balance amount of Rs.17,00,000/- as margin money for getting loan sanction. Therefore, there has been a short fall of Rs.9,75,000/- (Rs.17,00,000 - Rs.7,25,000/-). The Opposite Party came forward to finance the short fall amount of Rs.9,75,000/- as hand loan with a view to honour their short term duration agreement. The Opposite Party reduced the nine months period to four months time instead of paying entire short fall amount of Rs.9,75,000/-.

The Opposite Party intentionally paid Rs.2,43,750/- in

instalments as mentioned below:-



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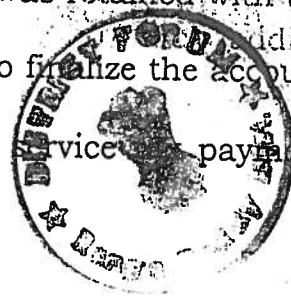
Amount	Date of credit to A.Bhaskar's account by M/s Modi	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A.Bhaskar	Date of debit to M/s Modi account from Mahesh Kumar A/C
243750	17-Sep-13	21-Sep-13	21-Sep-13	24-Sep-13
243750	28-Sep-13	10-Oct-13	10-Oct-13	17-Oct-13
243750	21-Oct-13	25-Oct-13	25-Oct-13	31-Oct-13
243750	08-Nov-13	13-Nov-13	13-Nov-13	18-Nov-13

975000

Thus, the payment of Rs.9,75,000/- was made in the span of six months (from May 2013 to November 2013) which resulted expiry of housing loan validity and one cheque was bounced. On 20.11.2013, immediately after fulfilment of margin money as per above rotation manner, the Opposite Party forcibly registered the Villa on the name of the complainants though it was not made ready to occupy and got released the below mentioned amounts directly from the housing loan financier without any intimation to the complainants.

1.	27 <sup>th</sup> Nov. 2013	Rs.12,48,000/-
2.	27 <sup>th</sup> Nov.2013	Rs. 6,22,000/-
	Total	Rs.18,70,000/- (Rupees Eighteen Lakhs Seventy Thousand only)

The remaining amount of Rs.3,30,000/- was retained with the financier awaiting the occupation letter from the Opposite Party. The complainants made correspondence through emails right from December 2013 to 09.02.2014 and there is no proper response from the Opposite Party. The Opposite Party is showing the due amount as Rs.14,20,690/- duly adding the service tax of Rs.1,15,690/- without producing any receipt. Moreover, it is mentioned that the interest on delayed payments was not reflected in the statement as well as charges of extra specifications not included. The said cryptic reply of the Opposite Party shocked the complainants. In fact the complainants are due only Rs.3,30,000/- which was retained with the financier. The Opposite Party did not come forward to finalize the account by relaxing the interest amount and producing the service payment



receipts. The physical possession of the Villa was not given to the complainants on one pretext or other. The construction of the Villa is not completed even now. It causes mental agony to the complainants after paying huge amounts besides financial loss of Rs.25,000/- p.m. from October 2013 for not handing over the possession of the Villa. Hence the complaint.

3. The Opposite Party filed the Written Version and admitted the purchase of Villa No.46 by the complainants for a total sale consideration of Rs.39,00,000/-. It is also admitted that the complainants paid booking advance of Rs.25,000/- on 02.02.2013 by way of cheque. It is mainly contended that there is no oral agreement with the complainants and both of them entered into an Agreement of Sale on 25.02.2013 i.e. within five days of receipt of the booking advance. All the terms and conditions including payments to be made by the complainants are clearly enumerated in the Agreement of Sale. It is true that the complainants paid an amount of Rs.2,00,000/- on 16.02.2013. It is not true that Rs.5,00,000/- was paid on 26.02.2013. In fact the said sum was paid on 26.06.2013. It is not true to allege that Mr.Krishna Prasad, Manager mislead the complainants. The second complainant signed on the Agreement. The payment schedule was also agreed upon at the time of booking and the same has been mentioned at clause No.3 of the Agreement. It is not true to say that the complainants were pressurized for the bulky amount of Rs.14,75,000/-. It is true that a proposal was given by the complainants on 09.05.2014 regarding payment schedule within nine months but the same was not accepted by them as it was against the terms of the Agreement. They have no personal knowledge regarding the transaction of the complainants with the LIC Housing Loan Financial Institution. The dues of Rs.14,20,690/- is inclusive of interest on late

payments of instalments, the service tax of Rs.1,15,690/- payable to the government. The complainants agreed for payment of sales tax, VAT and





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service tax as per clause-11 of the Agreement. They have waived the payment of VAT but not the service tax. It is clearly mentioned at clause-4 of the Agreement for payment of interest on delayed payments. As per clause-23 of the Agreement the complainants shall pay a sum of Rs.40,000/- as corpus for a Row house. The unit purchased by the complainants is in the row house and hence they are liable to pay the corpus fund. They have received only an amount of Rs.35,70,000/- till now. The complainants have to further pay an amount of Rs.11,23,523/- towards full and final settlement of the cost of the Villa along with the interest. The breakup of the above amount is as follows:

Service Tax	Rs.2,15,420.00
Interest on delayed payments	Rs.4,87,177.00
Court Fee and legal expenses	Rs. 50,926.00
Corpus Fund	Rs. 40,000.00
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TOTAL	Rs.7,92,523.00
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The above amount has not been taken into consideration by the complainants and they have taken the difference of amount which comes to Rs.3,30,000/-. They also filed a suit for recovery of the dues from the complainants which is numbered as O.S.No.98/2014 on the file of Addl. Chief Judge of Secunderabad. They are ready to handover the possession of the Villa to the complainants after clearing all the dues. They also got issued a notice dt.18.04.2014 to the complainants calling upon the complainants to make the payment of Rs.20,48,497/- within seven days. The complainants received the said notice. There is no 'deficiency of service' on their part. They also filed the photographs of the Villa to show its completion. Therefore, it is prayed to dismiss the complaint.

4. The points for consideration in this case are:

- 1) Whether there is any 'deficiency in service' on the part of the Opposite Party?
- 2) To what relief the complainants are entitled?





It is the case of the complainants that the Opposite Party orally agreed to receive the sale consideration within a period of nine months even though four months duration is mentioned under the Agreement. Of course, it is an oral agreement according to the complainants. The complainants filed Ex.A2 and A3 receipts issued by the Opposite Party for Rs.2,00,000/- and Rs.5,00,000/- respectively. Even though the first instalment of Rs.2,00,000/- is payable by the complainants on 05.03.2013, the Opposite Party choose to receive the said sum in earlier i.e. on 16.02.2013 itself. Likewise, the Opposite Party choose to receive the sum of Rs.5,00,000/- in the month of June 2013 under Ex.A3 without insisting payment schedule as mentioned under clause-3 of the Agreement.

Installment	Amount	Due date for payment
I	Rs.2,00,000/-	05.03.2013
II	Rs.14,75,000/-	05.04.2013
III	Rs.15,00,000/-	20.04.2013
V	Rs.5,00,000/-	
VI	Rs.2,00,000/-	On Completion

below:

balance consideration of Rs.38,75,000/- in six instalments as shown of the said Agreement, the complainants (vendees) shall pay the remaining Sale on 25.02.2013 which is marked as Ex.A4 (copy). As per clause No.3 under Ex.A1 receipt. Both the parties have entered into an Agreement of said Villa by paying the advance amount of Rs.25,000/- on 20.02.2013 consideration of Rs.39,00,000/- Admittedly, the complainants booked the villa No.46 from the Opposite Party for a total sale of Rs.39,00,000/-.

**Point No.1:** It is not in dispute that the complainants agreed to

their Written Arguments.

6. The learned counsel for the complainants and Opposite Party filed and B2 are only marked on his side.

complainant filed her Evidence Affidavit and got Ex.A1 to marked. The Opposite Party filed his Evidence Affidavit and Ex.A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14, A15, A16, A17, A18, A19, A20, A21, A22, A23, A24, A25, A26, A27, A28, A29, A30, A31, A32, A33, A34, A35, A36, A37, A38, A39, A40, A41, A42, A43, A44, A45, A46, A47, A48, A49, A50, A51, A52, A53, A54, A55, A56, A57, A58, A59, A60, A61, A62, A63, A64, A65, A66, A67, A68, A69, A70, A71, A72, A73, A74, A75, A76, A77, A78, A79, A80, A81, A82, A83, A84, A85, A86, A87, A88, A89, A90, A91, A92, A93, A94, A95, A96, A97, A98, A99, A100, A101, A102, A103, A104, A105, A106, A107, A108, A109, A110, A111, A112, A113, A114, A115, A116, A117, A118, A119, A120, A121, A122, A123, A124, A125, A126, A127, A128, A129, A130, A131, A132, A133, A134, A135, A136, A137, A138, A139, A140, A141, A142, A143, A144, A145, A146, A147, A148, A149, A150, A151, A152, A153, A154, A155, A156, A157, A158, A159, A160, A161, A162, A163, A164, A165, A166, A167, A168, A169, A170, A171, A172, A173, A174, A175, A176, 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A841, A842, A843, A844, A845, A846, A847, A848, A849, A850, A851, A852, A853, A854, A855, A856, A857, A858, A859, A860, A861, A862, A863, A864, A865, A866, A867, A868, A869, A870, A871, A872, A873, A874, A875, A876, A877, A878, A879, A880, A881, A882, A883, A884, A885, A886, A887, A888, A889, A890, A891, A892, A893, A894, A895, A896, A897, A898, A899, A900, A901, A902, A903, A904, A905, A906, A907, A908, A909, A910, A911, A912, A913, A914, A915, A916, A917, A918, A919, A920, A921, A922, A923, A924, A925, A926, A927, A928, A929, A930, A931, A932, A933, A934, A935, A936, A937, A938, A939, A940, A941, A942, A943, A944, A945, A946, A947, A948, A949, A950, A951, A952, A953, A954, A955, A956, A957, A958, A959, A960, A961, A962, A963, A964, A965, A966, A967, A968, A969, A970, A971, A972, A973, A974, A975, A976, A977, A978, A979, A980, A981, A982, A983, A984, A985, A986, A987, A988, A989, A990, A991, A992, A993, A994, A995, A996, A997, A998, A999, A1000.

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Anyhow, the Opposite Party admits that the complainants paid a total sum of Rs.35,70,000/- as mentioned in their account statement which is marked as Ex.B1. The dispute between the parties is with regard to the payment of service tax and interest on delayed payments. As rightly contended by the learned counsel for the Opposite Party, the vendees agreed to pay the service tax as per clause-11 of Ex.A4 Agreement. The second complainant made mail correspondence with the Opposite Party under Ex.A5 to A14 from 09.05.2013 onwards upto 09.02.2014. The five instalments as mentioned under Ex.A5. The representative of the Opposite Party by name Sri K.Krishna Prasad showed the service tax as Rs.1,15,690/- under Ex.A7 reply. He also informed the said sum to the second complainant in his subsequent reply under Ex.A13. Now the Opposite Party demands to pay Rs.2,15,420/- towards service tax which is contrary to the written representations made on behalf of the Opposite Party. The complainants are also insisting for documentary evidence for payment of the service tax of Rs.1,15,690/-. The Opposite Party is also demanding Rs.40,000/- towards corpus fund. As per the mail correspondence made by the representative of the Opposite Party, the corpus fund is payable only to the Flat Owners Association but not to the builder. In other words, the builder is nothing to do with the corpus fund and maintenance charges. Ex.A7 reveals the same. The Opposite Party is also claiming an amount of Rs.50,926/- towards court fee and legal expenses. In this connection, it is pertinent to note that the Opposite Party stated in his version that he filed O.S.No.98/2014 on the file of the Chief Judge, Secunderabad for recovery of the due amount from the complainants. Hence, the court fee has to be considered by the Civil Court only. The learned counsel for the Opposite Party further contended that the complainants are liable to pay simple interest at 1.5% p.m. on all delayed payments of instalments as per clause No.4 of the Agreement.



The first of the complainants from their liability to pay the due amounts if any

at 25.02.2013. Time for compliance is one month. This order does not

the minor works if any as agreed under the Agreement of Sale

Occupancy Certificate. The Opposite Party is further directed to complete

consideration of Rs.3,30,000/- from their financier on production of

R.R. District to the complainants after receiving the balance sale

the Villa No.46 situated at Rampally Village of Keesara Mandal in

9. Point No.2: In the result, the Opposite Party is directed to deliver

settlement of the account for determination by the Civil Court.

damaged if it is not maintained properly. We left open the issue of

any benefit if the Villa is kept vacant for a longer period. The Villa will be

instalment of Rs.3,30,000/-. The Opposite Party is also not going to get

complainants have already paid considerable amounts except the last

direct the Opposite Party to deliver the possession of the Villa since the

In the above circumstances, we deem it just and proper to

of photos filed by Opposite Party disclose the same.

some minor works which can be completed within few days. Ex. B2 bunch

that the entire construction of the Villa was already completed except

production of Occupation Certificate. It is stated by the Opposite Party

remaining balance of Rs.3,30,000/- through their financier (LIC) on

the complainants are ready to take delivery of the Villa by paying the

suit was already filed by the Opposite Party for the above purpose. Now

payable by the complainants in summary jurisdiction. Moreover, the civil

parties to settle their accounts. It is not possible to decide the due amount

was not delivered to the complainants till now. Disputes arose between the

01.09.2019 with a further grace period of six months. Admittedly, the Villa

Agreement that the property shall be delivered to the vendees on or before

after the due dates. It is clearly mentioned under clause-13 of the

Evidently, the Opposite Party choose to receive some instalments even

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Sherlock  
29/10/15

CA Made ready 29/10/15  
CA Delivered on 29/10/15

CA Fild on 17/10/15

Order Delivered on 3-8-2015

Order Made ready on 3-8-2015

Order Pronounced on 24-7-2015

Dis. No. 884 dt. 3-8-15

MEMBER

PRESIDENT

Ex.B1 - Account Statement  
Ex.B2 - Photos along with CD

Exhibits marked for the Opposite Parties

- Ex.A1 - Copy of Receipt for Rs.25,000/- dt.20.02.2013
- Ex.A2 - Copy of Receipt for Rs.2,00,000/- dt.16.02.2013
- Ex.A3 - Copy of Receipt for Rs.5,00,000/- dt.26.06.2013
- Ex.A4 - Copy of Agreement of Sale dt.25.02.2013
- Ex.A5 - Copy of Letter dt.09.05.2013
- Ex.A6 - Copy of Email dt.14.12.2013
- Ex.A7 - Copy of Email dt.28.12.2013
- Ex.A8 - Copy of Email dt.29.12.2013
- Ex.A9 - Copy of Email dt.02.01.2014
- Ex.A10 - Copy of Email dt.10.01.2014
- Ex.A11 - Copy of Email dt.15.01.2014
- Ex.A12 - Copy of Email dt.05.02.2014
- Ex.A13 - Copy of Email dt.08.02.2014
- Ex.A14 - Copy of Email dt.09.02.2014
- Ex.A15 - Copy of Legal Notice dt.12.03.2014
- Ex.A16 - Copy of Reply Notice dt.10.04.2014
- Ex.A17 - Copy of Legal Notice dt.21.04.2014

For Complainants

EXHIBITS MARKED

For Complainants  
Complainant No.1 filed Affidavit

For Opposite Party  
Affidavit filed

APPENDIX OF EVIDENCE  
WITNESSES EXAMINED

MEMBER

PRESIDENT

Dictated to the Steno-typist, transcribed by her, corrected by me and pronounced by us in the Open Forum on this the 24th day of July, 2015.

The complaint is to the Opposite Party to be decided by the Civil Court. The agreement is partly allowed accordingly. There will be no order as to costs.

BEFORE THE HON'BLE DISTRICT CONSUMER REDRESSAL FORUM  
R.R. DISTRICT, AT L.B.NAGAR

C.C.No. 102 OF 2014

BETWEEN:

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar, Age 56 years, Occ: House Wife.

2) Angadi Mahesh Kumar, S/o Bhaskar, Age: 33 years, Both are R/C :- 24-253/1, Flat No.32, Sri Sainagar, Lotugunta, Alwal, Secunderabad-500015.

..Complainants

AND

Modi & Modi Constructions, Rep. by its Partner Soham Modi, H.No.5-4-187/3 & 4, 2nd Floor, MG Road, Secunderabad-500003

...Opposite Party

**COMPLAINT FILED U/S.12 OF CONSUMER PROTECTION ACT, 1986**

1. DESCRIPTION OF COMPLAINANT:

The description and the address of Complainants are as shown in the Cause Title above. The address of the Complainants for the purpose of service of all notices, summons, process is that of her Counsel M/s G.L.Narasimha Rao, Advocate, B.002, Prasad Enclave, Barkatpura, Hyderabad.

2. DESCRIPTION OF THE OPPOSITE PARTY:

The description and address of the Opposite Party for the purpose of service of all notices, summons, and processes is as shown in the Cause Title above.

3. The Complainants submit that the opposite party herein is Builder and Developer who used to purchasing the land and constructing the buildings/houses/villas/apartments and they have developed villas at Sy.No.128, 129, 132-136, situated at Rampally revenue village, Kaesara Mandal, R.R. District under the name & style 'Nilgiri Homes';

4. It is submitted that after knowing the same through publicity made by the opposite party, the complainants and the husband of 1<sup>st</sup> complainant and father of 2<sup>nd</sup> complainant by name A. Bhaskar herein went to the site and chosen to purchase independent Villa No.46 which was Skelton condition (only RCC ceiling was completed).

H. Vijaya Lakshmi

Mahesh Kumar

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5. It is submitted that with the conversation by the complainants along with A. Bhaskar and opposite party herein agreed to purchase the above said villa No.46 and the opposite party agreed to sell the same after completing the entire construction and hand over the same to the complainants and the span of payment of Rs.39,00,000/- lakhs has been fixed for a period of 9 months time. The same was accepted by the complainants and Rs.25,000/- has been paid by the complainants to the opposite party on 2<sup>nd</sup> Feb.2013 as booking advance by way of cheque No.315818 dated 20-02-2013 belongs to A. Bhaskar(Husband of petitioner No.1 and father of petitioner No.2). The above amounts fixed and span of time is occurred as on oral agreement. Except the receipt as well as booking, there is no any written agreement took place on that day.

6. It is submitted by the complainants and the complainants has been paid Rs.2,00,000/- on 16-02-2013 as 1<sup>st</sup> installment vide cheque No.315822 belongs to A. Bhaskar(Husband of petitioner No.1 and father of petitioner No.2) and Rs.5,00,000/- on 26-02-2013 as 2<sup>nd</sup> installment vide cheque No.024420 belongs to Mahesh Kumar. As such, the complainants paid Rs.7,25,000/- and on 25-02-2014 the opposite party called the complainants and entered agreement for fulfillment of written formalities between both parties. The opposite party represented by one Mr. Krishna Prasad on behalf of opposite party in hurried manner he was not shown the span of time by misleading the complainants the opposite party obtained the signature of the complainants on the agreement and pressurized for the bulky amounts of Rs.14,75,000/- at a time of in terms of shorter duration agreement. Immediately, after knowing the same, the complainants through their family elder A. Bhaskar, submitted a representation on 09-05-2014 with a proposal payment schedule in terms of 9 months opted plan and the same was received by the opposite party (represented Mr. Venkat Reddy and acknowledged the same). But there is no any replied received by the complainants and the complainants visited the office of the opposite party in the last week of May, 2013 for their reply / answer either to execute their acceptance or to return back the amount of Rs.7,25,000/- already paid by the complainants. But there is no any response from the side of opposite party. That means it is deemed to admitted and accepted the span of 9 months time by the opposite party.

7. It is submitted that as the complainants applied for a housing loan and the LIC Housing Loan Financial Institution accorded Rs.22,00,000/- as Housing loan and the complainants have to be paid & fulfill the balance amount Rs.17,00,000/- as margin money for getting loan sanction. Therefore, there has

H. Vijayaraghavan

H. Vijayaraghavan

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been a shortfall of Rs.9,75,000/- (Rs.17,00,000/- - 7,25,000/- = 9,75,000/-). For the short fall of the above said amount, the opposite party came forward to finance as hand loan with a view to honour their short term duration agreement as per terms and conditions therein as the head of the family of the complainants; represented his grievance through the letter dated 09-05-2013 as stated supra. Accordingly, the complainants applied in writing as formality of the opposite party in support of un-dated cheque for Rs.9.75 lakhs as desired on 20-08-2013.

8. It is humbly submitted that the opposite party came forwarded to assist financial assistance because of their business promotion and reduced the 9 months span period to 4 months time, instead of paying entire short fall amount of Rs.9,75,000/-. The opposite party intentionally paid Rs.2,43,750/- as installments in a rotation manner duly obtained pre-undated cheques from the complainants' rather and the complainant No.2. The details and modus operandi of the opposite party rotation is as below.

Date of debit to M/s Modi account from Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A Bhaskar	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of credit to account by M/s Modi	Amount
24-Sep-13	21-Sep-13	21-Sep-13	17-Sep-13	243750
17-Oct-13	10-Oct-13	10-Oct-13	28-Sep-13	243750
31-Oct-13	25-Oct-13	25-Oct-13	21-Oct-13	243750
18-Nov-13	13-Nov-13	13-Nov-13	08-Nov-13	243750

975000

9. It is humbly submitted that from the above statement, it may be seen that the opposite party has paid an amount of Rs.9,75,000/- to the complainants in four (4) installments by means of rotating Rs.2,43,750/- in 4 transactions in the span of 6 months (from May 2013 to Nov.2013) thus resulted expiry of Housing loan validity and one cheque bounce issue. The same as stated above discloses the attitude of the opposite party in providing financial assistance. He was made Rs.2,43,750/- as Rs.9,75,000/- as such the opposite party was intentionally delayed 6 months. It is only made by them for not dropping the sale proposals by the complainants. But not else.

10. It is submitted that had the opposite party not encouraged for fulfillment of shortfall amount of Rs.9,75,000/- and stucked on to complainants proposal payment schedule of 9<sup>th</sup> May 2013, the said problem might not be arose and the complainants made their efforts for their own. But the opposite party neither

A. V. Jagya Lakshmi

Mahesh Kumar

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disposed the application dated 09-05-2013 nor he responded financial assistance with bonafied stipulated time.

11. It is submitted that on 20<sup>th</sup> November 2013 immediately after completion fulfillment of margin money as per above rotation manner, the opposite party forcedly and registered the villa on the complainants name though the villa was not made ready to occupy and it was in Skelton condition and got released the below mentioned amounts directly from the Housing loan financier without any intimation to the complainants.

1.	27 <sup>th</sup> Nov. 2013	Rs.12,48,000/-
2.	27 <sup>th</sup> Nov. 2013	Rs. 6,22,000/-
3.	Total	Rs.18,70,000/- (Rupees eighteen lakhs seventy thousands only) got released from the financier (i.e. LIC Housing) without any intimation to the complainants. And remaining Rs.3,30,000/- retained with the financier awaiting the occupation letter from the opposite party to release those amounts.

12. It is submitted that even after 09-05-2013 correspondence was made by the complainants to the opposite party through e-mails right from December 2013 to till 09-02-2014, the opposite party did not respond properly and intimated as the complainants have due Rs.14,20,690/- duly adding the service tax Rs.1,15,690/- without producing any receipt. And further he mentioned that interest on delayed payments was not reflected in the statement as well as charges of extra specifications not included in the above statement. The said cryptic reply of the opposite party was shocked to the complainants. In fact, the complainants are dues only Rs.3,30,000/- which was retained with financier (LIC Housing) awaiting the letter of opposite party. In the case Rs.9,75,000/- which is not reimbursed by the father / husband of the complainants which is amounts kept in his bank awaiting for relaxation of said interest on delayed payments ready to pay and kept in the bank i.e. A.P. Vardhman Mahila Cooperated Urban Bank Limited, Lothugunta Branch, vide A/c No.2291 since 16<sup>th</sup> Feb.2014. But so far, the opposite party not comforward to finalise by relaxing the imposition of interest amount and producing the service tax payment receipts to attend by the complainants.

13. It is humbly submitted by the complainants the tactics played by the opposite party for only the drag on the matter to avoid the physical possession of the Villa No.46 to the complainants as as on today the villa was not completed by the opposite party with one pretext or other. In fact, it has to be completed

H. Vijaya Lakshmi

Mahesh Kumar

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by October 2013 and did not complete even today itself. And it leads the mental agony to the complainants even after paying the entire amounts and the complainants attending the installments to the financier since December 2013 but so far the opposite party not handed over the villa No.46 in Nilgiri Homes, by completing the same and handed over to the complainants along with Occupation letter. For that the complainants are entitled to a tune of Rs.25,000/- p.m. i.e. from October 2013 to handing over the possession of villa No.46 to the complainants and Rs.5,00,000/- as a mental agony caused by the opposite party for the harassment by way of sending notices for undue interest and delay in not handing over the said villa.

14. It is submitted that the complainants issued a statutory notice to the opposite party on 12-03-2014 for handing over the villa No.46. Otherwise, demanding damages and mental agony and the opposite party replied on 10-04-2014 with false allegations. Again the complainants issued another notice on 21-04-2014 for that there is no further reply from the opposite party.

Hence, this Complainant.

14. The cause of action arose on 20-02-2013, 16-02-2013 and 26-02-2013 (but wrongly mentioned as 26-06-2013) when the Complainant approached to Opposite Party for purchase the Villa No.46 and paid amount on Rs.7,25,000/- later on 27-11-2013 for Rs.18,70,000/- paid by the financier and remaining Rs.9,75,000/- paid by the complainants, on 24-09-2013 to 18-11-2013 and remaining amounts Rs.3,30,000/- retained with the financier (LIC Housing) awaiting for occupation letter by the opposite party. And the cause of action is still continuing. The opposite party send a notice to the father of complainant by depositing the cheque which was kept for security and without intimation and issued 138 N.I. Act Notice for harassing and complainants and family members even though there is elaborate correspondence by the complainants to the Opposite party to clear the payments. But there is no any positive respondent for amicable receiving the payments and handing over the villa to the complainants and issued notice on 12-03-2014 and on 21-04-2014. Hence the Complainant is filed within time.

15. The Complainant though residing at H.No.1-24-253/1, Srisainagar Colony, Lothugunta, Alwal, R.R. District and the property which involved in the present complaint situated in Rampally vilage of Keesara Mandal, R.R. District is within the territorial Jurisdiction of this Hon'ble Forum to entertain this Complaint.

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*Handwritten signature*

*A. Vijaya Lakshmi*

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16. The Complainant submits that the Complaint is filed within the stipulated period of two years limitation from the date of cause of action, which is still continuing.

It is, therefore, prayed that this Hon'ble Forum may be pleased to direct the Opposite Parties:

To direct the Opposite Party:

- (a) to handed over the villa No.46 situated in Sy.No.128,129,130 to 136, Rampally viliage, Keesara mandal. R.R. District with immediate effect after completion of entire works along with occupation certificate.
- (b) to direct the Opposite Party to pay a sum of Rs.25,000/- (RupeesTwenty Five thousands only) p.m. towards damages since October 2013 and
- (c) to direct the Opposite Party to pay Rs.5,00,000/- for each complainant for creating mental agony and harassment caused by the opposite party even after receiving huge amounts.
- (c) to award costs of this Complaint, and
- (c) to pass such other relief or reliefs as this Hon'ble Forum deems fit and proper in the interest of justice.

Date: 26-05-2014  
L.B.NAGAR

A. Vijaya Lakshmi  
2 Mahesh Kumar  
Complainants

VERIFICATION

I, Mrs. Angadi Vijaya Laxmi, W/o Bhaskar and A. Mahesh Kumar, S/o Bhaskar, do hereby declare that the facts stated supra are true to the best of my knowledge, information and belief. Hence verified on 26-05-2014 at L.B.NAGAR.

Date: 26-05-2014  
L.B.NAGAR

A. Vijaya Lakshmi

Mahesh Kumar  
Complainant

-32-A (20)

IN THE COURT OF THE DISTRICT CONSUMER FOURM, RR DISTRICT  
AT : L B NAGAR

C.C. No: 137 OF 2014

Between:

Smt.A. Vijaya Lakshmi & another ... COMPLAINANTS

And ... Opposite Party  
Modi & Modi Constructions,

WRITTEN SUBMISSIONS OF THE OPPOSITE PARTY

The Opposite party humbly submit as follows:


The Opposite Party denies all adverse submissions made in the complaint and if any submission not specifically denied should not be deemed to have been admitted by the opposite party.

With regard to para 1 and 2 the same are formal and do not call for any reply.

With regard to para 3 the submissions therein are true and hence not denied.

With regard to para No.4 it is true that the complainants went to the site and chose to purchase Villa No. 46 which was in the initial state of construction at that point of time.

With regard to para No.5 it is true that the opposite party agreed to sell Villa No.46 after completing the construction and hand over the same to the complainants on receipt of complete sale consideration of Rs.39 lakhs as per the schedule mentioned in clause 3 of the agreement of sale. It is true that the complainants paid a booking advance of Rs.25,000/- on 2<sup>nd</sup> February'2013 by way of Cheque dtd. 20<sup>th</sup> February'2013. It is not true to say that the total amount payable and also the time frame for delivery was agreed upon orally between the complainant and the opposite party. It is pertinent to mention here that the Opposite Party does not have practice of agreeing or finalising monetary transactions orally. The Opposite party and the complainant No.2 had entered in to an agreement of sale on 25<sup>th</sup> February'2013, ie. Within five days of receipt of the booking advance. All the terms and conditions including payments to be made by the complainants are clearly enumerated in the said agreement of sale.

For MODI & MODI CONSTRUCTIONS  


(2)

33-B

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With regard to para No.6 it is true that the complainants paid an amount of Rs.2 lakhs on 15<sup>th</sup> February 2013 as 1<sup>st</sup> installment through a cheque but it is not true to say that Rs.5 lakhs was paid on 26<sup>th</sup> February 2013. In fact the above Rs.5 lakhs was paid on 26<sup>th</sup> June 2013. It is not true to say that the complainants have paid Rs.7,25,000/- as on the date of the agreement of sale i.e., 25.2.2013 but wrongly mentioned as 25.2.2014 in the complaint. It is true that Mr. Krishna Prasad, Manager- Customer Relations was coordinating with the complainants but it is not true to say that the complainants were misled by him and obtained signature of the complainants. The agreement was signed only by complainant No.2 and not both the complainants. The payment schedule was already agreed upon at the time of booking and the same has been mentioned at clause No.3 of the agreement. The complainant No.2 who has signed the agreement has been briefed about the payment schedule and moreover the copy of the agreement of sale is with the complainant. It is not true to say that the complainants were pressurized for the bulky amounts of Rs.14,75,000/- it was only as per the agreement. It is true that a proposal on 09/05/2014 was given on behalf of the complainants regarding payment of payment schedule within 9 months but the same was not accepted by the opposite party, as it was against the terms of agreed agreement.

With regard to para no.7 the opposite party does not have any personal knowledge regarding the transaction of the complainant with the LIC Housing Loan financial institution and hence the same is denied. The other facts in the said para regarding handloan is true.

With regard to para no.8 the averments therein are true.

With regard to para no.9 it is true that 9,75,000/- was paid to the complainant in four instalments but all the other averments are false and hence denied.

With regard to para no.10 the averments therein are false and hence denied.

With regard to para no.11 it is not true to say that the opposite party forcibly registered villa on the complainants name though the villa was not ready. It is not true to say that the opposite party got released the loan amount from LIC Housing Finance without the complainant knowledge.

For MOVI & MNDI CONSTRUCTIONS



Partner

31-C

(Signature)

With regard to para no.12 it is not true to say that the opposite party did not respond between December 2013 and 09/02/2014. The dues of Rs.14,20,690/- is inclusive of interest on late payments of installments, the Service Tax of Rs.1,15,690/- is payable to the Govt. authorities and no separate receipt is given for the same. The opposite party pays the service tax to the Govt. authorities on a monthly basis based on all the transactions done in the month. All the other allegation in the para are denied.

With regard to para no.13 it is not true to say that the opposite party is playing any tactics to avoid giving physical possession on Villa No.46. In fact the Villa is completed in all respects and but for sanitary fittings which is done just before handing over the possession to avoid damages to the fittings. The opposite party does not unnecessarily delay handing over possession. It has always been the endeavour of this Opposite Party to complete the villas and handover possession within time subject to settlement of all dues by its customers. The Opposite Party has always been requesting the complainants to settle the dues at the earliest and take over possession.

The Opposite Party has filed suit for recovery of dues from the complainants which is numbered as O.S. No. 98 of 2014 on the file of the 1st Addl. Chief Judge, Secunderabad.

With regard to para No.14 there is no cause of action for filing this complaint.

The Opposite Party submits as follows:

The Opposite Party had developed a project named as NILGIRI HOMES at Rampally Village, Keesara Mandal, R R Dist. The said project consists of Independent Villas. The Complainants approached the Opposite Party for purchase of Villa No.46 in the said venture for a total consideration of Rs. 39 lacs. The Opposite Party informed the Complainants that the villa chosen by them is in an advanced stage of construction and if the dues are paid within four months, they would be able to complete and handover the possession of the villa. The Complainants were satisfied about the progress of the project at that point of time and agreed to all the terms and conditions as specified by the Opposite Party. On such agreement having been reached, the Opposite Party had executed a regd. sale deed bearing No. 8452 of 2013 for the land admeasuring 125 sq yards on 16/11/2013 at SRO, Keesara, RR dist. On the same day the Complainants also executed an agreement of construction in favour of the Opposite Party which clearly spells out the terms of payment,

For MODI & MODI CONSTRUCTIONS

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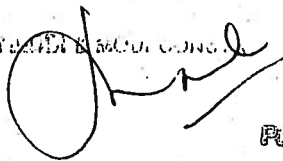
4

period of completion and interest on late payments besides the other terms and conditions. The Complainants have abnormally delayed in the payment of the instalments. The Opposite Party has received an amount of Rs.35,70,000/- till date. The Complainants have to further pay an amount of Rs.11,23,523/- to the Opposite Party towards full and final settlement of the cost of the villa alongwith interest. The breakup of the amount of Rs.11,23,523/- is as follows:

Service Tax	Rs. 2,15,420.00
Interest on delayed payments	Rs. 4,87,177.00
Court Fee and legal expenses	Rs. 50,926.00
Corpus Fund	Rs. 40,000.00
	-----
TOTAL	Rs. 7,92,523.00

The above amount has not been taken in to consideration by the complainants and they have only taken the difference of amount claimed by this Opposite Party i.e., Rs.11,23,523.00/- less Rs.7,92,523.00/- which comes to Rs.3,30,000/-. The above payments are all according to the agreement of construction executed by the complainants in favour of the Opposite party. As per Clause 11 of agreement of sale it is very clear that the complainants are responsible for payment of Sales Tax, VAT and Service Tax. The Opposite Parties as a sales promotions had waived the payment of VAT by the complainant but not the Service Tax amounting to Rs.2,15,420/-. The said agreement of sale is filed by the complainants. With regard to the payment of interest on delayed payments it is very clearly mentioned at clause 4 of the said agreement. As per the clause 23 of the agreement of sale it is clear that the complainants shall pay a sum of Rs.40,000/- as corpus fund for a Rowhouse. The unit purchased by the complainants is a rowhouse thus they are liable to pay the above corpus fund. The complainants have conveniently ignored the above amount and wrongly claiming that they are liable to pay only Rs.3,30,000/-. In fact the interest is calculated till the date when the complete dues are settled.

The Opposite Party submits that the villa is ready in all aspects and it will be in a position to handover the possession to the Complainants after they clear all the dues as specified above. In support of this contention the opposite party is filing the photographs of the Villa No.46 to show the completion.

  
Printed Name

Printed Name

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The Opposite Party had got issued a notice dated 18/04/2014 through its Counsel to the Complainants calling upon the Complainants to make the payment of Rs. 20,48,497/- within 7 days from the date of receipt of the notice and take possession of the villa. The Complainants received the notice.

The Opposite Party submits that there is no deficiency of service on the part of the Opposite party and in fact the complainants have been informed by the Opposite party from time to time to take possession of the villa after settling all the dues payable by the complainants. Hence this Hon'ble forum should dismiss the complaint as filed by the complainants.

HYDERABAD  
Date: 28/08/2014

For MODI & MODI CONSTRUCTIONS  
OPPOSITE PARTY Partner

- LIST OF DOCUMENTS**  
1. Photographs with CD  
2. Accounts Statement



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BEFORE THE HON'BLE DISTRICT CONSUMER REDRESSAL FORUM  
R.R. DISTRICT, AT L.B.NAGAR

C.C.No. 137 OF 2014

BETWEEN:

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,  
Age 56 years, Occ: House Wife.

2) Angadi Mahesh Kumar, S/o Bhaskar, Age: 33 years,  
Both are R/o 1-24-253/1, Flat No.32, Sri Sainagar,  
Lotugunta, Alwal, Secunderabad-500015.

...Complainants

AND

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003.

...Opposite Party

**WRITTEN ARGUMENTS OF COMPLAINANTS**

May it be pleased your Honour,

This written arguments humbly submitting on behalf of complainants.

1. It is submitted that the complainants (Mother and son) have purchased the villa No.46 situated in 128,129, 130-136, situated in Rampally village, keesara Mandal, called as Nilgiri Homes for the amount of Rs.39,00,000/- But so far the O.P. did not handed over the villa by completing the entire works (till date the villa was not handed over) and creating mental agony and harassment and caused damages to the complainants.

2. It is submitted submit that the opposite party herein is Builder and Developer who used to purchasing the land and constructing the buildings/houses/villas/apartments and they have developed villas at Sy.No.128, 129, 132-36, situated at Rampally revenue village, Keesara Mandal, R.R. District under the name & style 'Nilgiri Homes'.

3. It is submitted that after knowing the same through publicity made by the opposite part, the PW-1 along with her husband who is father of 2<sup>nd</sup> complainant byname A. Bhaskar herein went to the site and chosen to purchase

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independent Villa No.46 which was Skelton condition (only RCC ceiling was completed).

4. It is submitted that with the conversation by the complainants along with A.Bhaskar and opposite party herein agreed to purchase the above said villa No.46 and the opposite party agreed to sell the same after completing the entire construction and hand over the same to the complainants and the span of payment of Rs.39,00,000/- lakhs has been fixed for a period of 9 months time. The same was accepted by the complainants and Rs.25,000/- has been paid by them to the opposite party on 2<sup>nd</sup> Feb.2013 as booking advance by way of cheque No.315818 dated 20-02-2013 belongs to A. Bhaskar(Husband of petitioner No.1 and father of Petitioner No.2). The above amounts fixed and span of time is occurred as on oral agreement. Except the receipt as well as booking, there is no any written agreement took place on that day.

5. It is submitted that the complainants were paid Rs.2,00,000/- on 16-02-2013 as 1<sup>st</sup> installment vide cheque No.315822 belongs to A. Bhaskar(Husband of petitioner No.1 and father of Petitioner No.2) and Rs.5,00,000/- on 26-06-2013 as 2<sup>nd</sup> installment vide cheque No.024420 belongs to Mahesh Kumar(2<sup>nd</sup> respondent). As such, the complainants paid Rs.7,25,000/-. And on 25-02-2014 the opposite party called the complainants and entered agreement for fulfillment of written formalities between both parties. The opposite party represented by one Mr. Krishna Prasad on behalf of opposite party in hurried manner he was not shown the span of time by misleading the complainants and the opposite party obtained the signature of the complainants on the agreement and pressurized for the bulky amounts of Rs.14,75,000/- at a time in terms of shorter duration agreement. Immediately, after knowing the same, the complainants through their family elder A. Bhaskar, submitted a representation on 09-05-2014 with a proposal payment schedule in terms of 9 months opted plan and the same was received by the opposite party (represented Mr.Venkat Reddy and acknowledged the same). But there is no any reply received by the complainants and the complainants visited the office of the opposite party in the last week of May,2013 for their reply / answer either to execute their acceptance or to return back the amount of Rs.7,25,000/-already paid by the complainants. But there is no any response from the side of opposite party. That means it is deemed to admitted and accepted the span of 9 months time by the opposite party.

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6. It is submitted that the complainants applied for a housing loan and the LIC Housing Loan Financial Institution accorded Rs.22,00,000/- as Housing loan and the complainants have to be paid & fulfill the balance amount Rs.17,00,000/- as margin money for getting loan sanction. Therefore, there has been a shortfall of Rs.9,75,000/-. (Rs.17,00,000/- - 7,25,000/- (already paid)= 9.75,000/-). For the short fall of the above said amount, the opposite party came forward to finance as hand loan with a view to honour the complainants short term duration agreement as per terms and conditions therein as the head of the family of the complainants represented his grievance through the letter dated 09-05-2013 as stated supra. Accordingly, the complainants have applied in writing as formality of the opposite party in support of un-dated cheque for Rs.9.75 lakhs as desired on 20-08-2013.

7. It is submitted that the opposite party came forwarded to assist financial assistance because of their business promotion and reduced the 9 months span period to 4 months time, instead of paying entire short fall amount of Rs.9,75,000/-. The opposite party intentionally paid Rs.2,43,750/- as installments in a rotation manner duly obtained pre-undated cheques from the complainants. The details and modus operandi of the opposite party rotation is as below.

Amount	Date of credit to A.Bhaskar's account by M/s Modi	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A Bhaskar	Date of debit to M/s Modi account from Mahesh Kumar A/C
243750	17-Sep-13	21-Sep-13	21-Sep-13	24-Sep-13
243750	28-Sep-13	10-Oct-13	10-Oct-13	17-Oct-13
243750	21-Oct-13	25-Oct-13	25-Oct-13	31-Oct-13
243750	08-Nov-13	13-Nov-13	13-Nov-13	18-Nov-13

975000

8. It is submitted that from the above statement, it may be seen that the opposite party has paid an amount of Rs.9,75,000/- to the complainants in four (4) installments by means of rotating Rs.2,43,750/- in 4 transactions in the span of 6 months (from May 2013 to Nov.2013) thus resulted expiry of Housing loan validity and one cheque bounce issue. The same as stated above discloses the attitude of the opposite party in providing financial assistance. He was made Rs.2,43,750/- as Rs.9.75,000/- as such the opposite party was intentionally delayed 6 months. It is only made by them for not dropping the sale proposals by the complainants but not else.

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9. It is submitted that had the opposite party not encouraged for fulfillment of shortfall amount of Rs.9,75,000/- and stuck on complainants' proposal payment schedule of 9<sup>th</sup> May 2013, the said problem might not be arose and the complainants made their efforts for their own. But the opposite party neither disposed the application dated 09-05-2013 nor he responded financial assistance with bonafied stipulated time.

10. It is submitted that on 20<sup>th</sup> November 2013 immediately after completion fulfillment of margin money as per above rotation manner, the opposite party forcedly and registered the villa on complainants name though the villa was not made ready to occupy and it was in Skelton condition and got released the below mentioned amounts directly from the Housing loan financier without any intimation to the complainants.

1.	27 <sup>th</sup> Nov. 2013	Rs.12,48,000/-
2.	27 <sup>th</sup> Nov.2013	Rs. 6,22,000/-
3.	Total	Rs.18,70,000/- (Rupees eithteen lakhs seventy thousands only) got released from the financier (i.e. LIC Housing) without any intimation to the complainants. And remaining Rs.3,30,000/- retained with the financier awaiting the occupation letter from the opposite party to release those amounts.

11. It is submitted that even after 09-05-2013 correspondence was made by the complainants side, the opposite party through e-mails right from December 2013 to till 09-02-2014, the opposite party did not respond properly and intimated the complainants that they are due Rs.14,20,690/- duly adding the service tax Rs.1,15,690/- without producing any receipt. And further he mentioned that interest on delayed payments was not reflected in the statement as well as charges of extra specifications not included in the above statement. The said cryptic reply of the opposite party was shocked to the complainants. In fact, the complainants dues are only Rs.3.30,000/- which was retained with financier (LIC Housing) awaiting the occupancy letter of opposite party. **(Till today, the O.P. neither handed over the physical possession nor given a occupancy certificate because of that the Housing Financier i.e. LIC Finance Housing not releasing Rs.3,30,000/- even collecting instaiments + interest to that amount.)** Then only the Financier will come and inspect the physical occupation of the complainants and release that amounts. In case Rs.9,75,000/- which was not reimbursed by the complainants or the father / husband of the complainants which is amounts kept in his bank



awaiting for release of said interest on delayed payments ready to pay and kept in the bank i.e. A.P. Vardhaman Mahila Cooperated Urban Bank Limited, Lothugunta Branch, vide A/c No.2291 since 16<sup>th</sup> Feb.2014 **(the said amount was already paid on 9-6-2014 vide cheque No.064939.** The said document of cheque may be received as additional material paper along with intimation letter of O.P.No.2 may be marked as Document No.18 & 19). But so far, the opposite party not come forward to finalize by relaxing the imposition of interest amount, legal expenses, service Tax etc., and producing the service tax payment receipts to attend by the complainants.

12. It is submitted submit that the tactics played by the opposite party for only the drag on the matter to avoid the physical possession of the Villa No.46 to the complainants as on today the villa was not completed by the opposite party with one pretext or other. In fact, it has to be completed by October 2013 and did not complete even today itself. And it leads the mental agony to the complainants even after paying the entire amounts and the complainants are attending the installments to the financier since December 2013 but so far the opposite party not handed over the villa No.46 in Nilgiri Homes, by completing the same and handed over to the complainants along with Occupation letter. For that the complainants are entitled to a tune of Rs.25,000/- p.m. i.e. from October 2013 to handing over the possession of villa No.46 to the complainants and Rs.5,00,000/- as a mental agony caused by the opposite party for the harassment by way of sending notices for undue interest and delay in not handing over the said villa.

13. It is submitted that the complainants are issued a statutory notice to the opposite party on 12-03-2014 for handing over the villa No.46. Otherwise, demanding damages and mental agony and the opposite party replied on 10-04-2014 with false allegations. Again the complainants have issued another notice on 21-04-2014 for that there is no further reply from the opposite party.

14. It is submitted that after filing of present complaint as a counter blast case, the opposite party filed a suit vide O.S.No.98 of 2014 on the file of I Addl.Chief Judge, Secunderabad and creating mental agony without handing over the said Villa to the complainants even today. If the O.P. gave occupancy certificate to the complainants, the Financier will release the remaining amount of Rs.3,30,000/- which is retaining with the Financier for final check up. The O.P. dragging the matter and prolonging time which caused mental agony to the



complainants. The documents filed the below for which were marked on behalf of the complainants clearly shows that they are bonafied.

<u>Exhibits</u>	<u>Date</u>	<u>Parties to the document</u>	<u>Description</u>
P-1	20-02-2013	Complainants and O.P.	Cash receipt Rs.25,000/- issued by the O.p.
P-2	16-02-2013	Complainants and O.P.	Cash receipt Rs.2,00,000/- issued by the O.p.
P-3	20-02-2013 /26-06-2013	Complainants and O.P.	Cash receipt Rs.5,00,000/- issued by the O.p.
P-4	25-02-2013	Complainants and O.P.	Agreement of sale by the O.P.
P-5	09-05-2013	Head of the Complainants and O.P.	Letter given to the O.P. for seeking 9 months time
P-6	14-12-2013	Complaint to O.P.	e-mail correspondence
P-7	28-12-2013	Complaint to O.P.	Reply by/op
P-8	29-12-2013	Complaint to o.p.	e-mail correspondence
P-9	02-01-2014	Complaint to o.p.	Reply / op
P-10	10-01-2014	Complaint to o.p.	e-mail correspondence
P-11	15-01-2014	Complaint to o.p.	Reply by op
P-12	05-02-2014	Complaint to o.p.	e-mail correspondence
P-13	08-02-2014	Complaint to o.p.	Reply / o.p.
P-14	09-02-2014	Complaint to o.p.	e-mail correspondence
P-15	12-03-2014	Notice to the o.p.	Legal notice to the o.p. by the complainants' counsel
P-16	10-04-2014	O.P.'s counsel reply	Reply notice by the op's counsel to the complainant's counsel
P-17	21-04-2014	2 <sup>nd</sup> notice to o.p.	Legal notice to the o.p. by the complainants' counsel

15. It is submitted that when the opposite party failed to build and handed over to the complainants, the O.P. ceased his rights to claim interest on dues and also the O.P. filed O.S. 98 of 2014 against the complainants seeking an amount of Rs.20,48,497/- (not excluded the amounts Rs.9,75,000/- as rotating mere Rs.2,43,750/- paid since 24-9-2013 to 18-11-2013. Thus the O.P. ceased to claim service charges and VAT if any. The plaint of O.S. 98 of 2014 may be taken as additional document No.20.

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16. It is submitted that the opposite party submitted account statement along with written statement in page No.2. That admittedly Rs.9,75,000/- was paid in 4 installments but the same was suppressed in the suit filed and Rs. 20,48,497/- claimed including Rs.9,75,000/- and interest therein, thus the claiming of service tax herein for that amount Rs.2,64,170/- (mentioned in account statement) does not arise. The adding of registration charges Rs.98,900/- which was waived i.e. a precondition to free registration in favour of the complainants by the O.P. and court fee and legal expenses of Rs.50,926/- will not liable by the complainants. The carpus fund Rs.40,000/- will pay by the complainant at the time of physically handed over the villa.

17. It is submitted that in the account statement, the O.P. claiming interest Rs.4,87,177/- does not aroused because of that the O.P. did not completed the villa and handed over the same to the complainants. In fact, the incompleteness of villa as agreed by the O.P. in written submission page 3 bottom paragraph *"the opposite party informed the complainants that the villa chosen is in advanced stage of construction and the dues are paid within 4 months they would be able to complete and handover the possession of the villa"*. Thereby, the mode of O.P. itself is shows that he was not completed until the payments cleared by the complainants. In fact, the complainants last installment paid Rs.9,75,000/- on 9-6-2014. The remaining amounts Rs.3,30,000/- is retained with Housing Financier for want of Occupation Certificate which the O.P. did not complete the villa and not handed over to the complainants for want of that the banker did not released the said amounts to the O.P.

18. It is submitted that in the written submission page 2 and unnumbered para 2 stated that *"with regard to para No.7, the O.P. does not have any personal knowledge regarding the transaction of the complainant with the LIC HOUSING loan financial institution and hence the same is denied."* It is clearly clinches the attitude of the O.P. that he filed the written submission on 28-8-2014 before this Hon'ble Court /Forum by saying as a layman even he taken amounts from the financier on 27-11-2013 Rs.12,48,000/- and Rs.6,22,000/- totally Rsd.18,70,000/- retained Rs.3,30,000/- out of sanctioned loan Rs.22,00,000/-. Thereby, the contention and intention of the O.P. shows to suffer the complainants without handing over the villa.

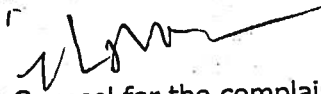
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19. Therefore, the complainants are entitled to seek handed over the villa No.46 immediately from the O.P. along with occupation certificate.

20. The complainants are entitled Rs.25,000/- p.m. towards damages/rents since October 2013. Thus total an amount of Rs.5,45,000/-(3 months - 2013 + 12 months in 2014 + 6 months in 2015) and entitled till handed over the villa along with compensation of Rs.5,00,000/- for mental agony and harassment. By consider this written argument and pass award as prayed for.

Date::23-06-2015

  
Counsel for the complainants

L.B.Nagar.



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IN THE COURT OF THE DISTRICT CONSUMER FOURM, RR DISTRICT  
AT: L B NAGAR

C.C. No: 137 OF 2014

Between:

Smt. A. Vijaya Lakshmi & another

... Complainants

And

Modi & Modi Constructions,

... Opposite Party

**WRITTEN ARGUMENTS FILED BY THE OPPOSITE PARTY**

May it please to your honour,

The complaint has filed by the complainants are not based on facts thus the same has to be dismissed.

1. It is true that the complainants went to the site and chose to purchase Villa No. 46 which was in the initial stage of construction at that point of time.
2. The OP had agreed to sell Villa No.46 after completing the construction and hand over the same to the complainants on receipt of complete sale consideration of Rs.39 lakhs as per the schedule mentioned in clause 3 of the agreement of sale. The complainants paid a booking advance of Rs.25, 000/- on 2<sup>nd</sup> February' 2013 by way of Cheque dtd. 20<sup>th</sup> February'2013. It is not true that the total amount payable and also the time frame for delivery was agreed upon orally between the complainant and the opposite party. It is pertinent to mention here that the Opposite Party does not have practice of agreeing or finalising monetary transactions and other terms and conditions orally. The Opposite party and the complainant No.2 had entered in to an agreement of sale on 25<sup>th</sup> February' 2013, ie. Within five days of receipt of the booking advance. All the terms and conditions including payments to be made

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2.

by the complainants are clearly enumerated in the said agreement of sale, which is marked ex - P4.

3. The complainants paid an amount of Rs.2 lakhs on 16<sup>th</sup> February' 2013 as 1<sup>st</sup> installment through a cheque but it is not true to say that Rs.5 lakhs was paid on 26<sup>th</sup> February' 2013. In fact, the above Rs.5 lakhs was paid on 26<sup>th</sup> June'2013. It is not true to say that the complainants have paid Rs.7,25,000/- as on the date of the agreement of sale ie., 25.2.2013 but wrongly mentioned as 25.2.2014 in the complaint. It is true that Mr. Krishna Prasad, Manager- Customer Relations was coordinating with the complainants but it is not true to say that the complainants were misled by him and obtained signature of the complainants. The agreement was signed only by complainant No.2 and not both the complainants. The payment schedule was already agreed upon at the time of booking and the same has been mentioned at clause No.3 of the agreement. The complainant No.2 who has signed the agreement has been briefed about the payment scheule and moreover the copy of the agreement of sale is with the complainant. It is not true to say that the complainants were pressuried for the bulky amounts of Rs.14, 75,000/- it was only as per the agreement. It is true that a proposal on 09/05/2014 was given on behalf of the complainants regarding payment schedule with in 9 months but the same was not accepted by the opposite party, as it was against the terms of agreement.

4. Tthe opposite party does not have any personal knowledge regarding the transcation of the complainant with the LIC Housing Loan financial institution and hence the same is denied. The other facts regarding the hand loan is true. The amount of Rs. 9, 75,000/- was paid to the complainant in four instalments.

5. The opposite party did not forcebily registred villa on the complainants name though the villa was not ready. The opposite party did not

get released the loan amount from LIC Housing Finance without the complainant's knowledge.

5. It is not true that the opposite party did not respond between December 2013 and 09/02/2014. The dues of Rs.14,20,690/- is inclusive of interest on late payments of installments, the Service Tax of Rs.1,15,690/- which is payable to the Govt. authorities and no separate receipt is given for the same. The opposite party pays the service tax to the Govt. authorities on a monthly basis based on all the transactions done in the month.

6. It is not true that the opposite party is playing any tactics to avoid giving physical possession on Villa No.46. In fact the Villa is completed in all respects and but for sanitary fittings which is done just before handing over the possession to avoid damages to the fittings. The opposite party does not unnecessarily delay handing over possession. It has always been the endeavour of this Opposite Party to complete the villas and handover possession within time subject to settlement of all dues by its customers. The Opposite Party has always been requesting the complainants to settle the dues at the earliest and take over possession. The Opposite party has filed a completion certificate dated 05.05.2013 by a qualified engineer regarding the completion of Villa no.46 in all respects. A certificate from chartered accountant of the Opposite party regarding the amount received by the Opposite party and the balance receivable by the Opposite party is also filed.

7. The Opposite Party has filed a suit for recovery of dues from the complainants which is numbered as OS. No. 98 of 2014 on the file of the 1st Addl. Chief Judge, Secunderabad, which is pending before the Hon'ble Court.

The Opposite Party had developed a project named as NILGIRI HOMES at Rampally Village, Keesara Mandal, R. R. Dist. The said project consists of Independent Villas. The Complainants approached the Opposite Party for

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purchase of Villa No.46 in the said venture for a total consideration of Rs. 39 lacs. The Opposite Party informed the Complainants that the villa chosen by them is in an advanced stage of construction and if the dues are paid within four months, they would be able to complete and handover the possession of the villa. The Complainants were satisfied about the progress of the project at that point of time and agreed to all the terms and conditions as specified by the Opposite Party. On such agreement having been reached, the Opposite Party had executed a regd. sale deed bearing No. 8452 of 2013 for the land admeasuring 125 sq yards on 16/11/2013 at SRO, Keesara, RR dist. On the same day, the Complainants also executed an agreement of construction in favour of the Opposite Party, which clearly spells out the terms of payment, period of completion and interest on late payments besides the other terms and conditions. The Complainants have abnormally delayed in the payment of the instalments. The Opposite Party has received an amount of Rs.35,70,000/- till date. The Complainants have to further pay an amount of Rs.11,28,870/- to the Opposite Party towards full and final settlement of the cost of the villa alongwith interest. The breakup of the amount of Rs.11,28,870/- is as follows:

Service Tax	Rs. 2,15,420.00
Interest on delayed payments upto on 05.04.2014	Rs. 4,87,177.00
Court Fee and legal expenses	Rs. 50,926.00
Corpus Fund	Rs. 40,000.00
Electricity and Other Misc Charges	Rs. 5,347.00
<b>TOTAL</b>	<b>Rs. 7,98,870.00</b>

I submit the above amount has not been taken in to consideration by the complainants and they have only taken the difference of amount claimed by this Opposite Party ie., Rs.11,28,870.00/- less Rs.7,98,870.00/- which comes to Rs.3,30,000/-. The above payments are all according to the agreement of construction executed by the complainants' infavour of the Opposite party. As per Clause 11 of agreement of sale, it is very clear that the complainants are responsible for payment of Sales Tax, VAT and Service Tax. The Opposite

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(37)

Parties as a sales promotions had waived the payment of VAT by the complainant but not the Service Tax amounting to Rs.2,15,420/-. The said agreement of sale is filed by the complainants. With regard to the payment of interest on delayed payments, it is very clearly mentioned at clause 4 of the said agreement. As per the clause 23 of the agreement of sale it is clear that the complainants shall pay a sum of Rs.40,000/- as corpus fund for a Rowhouse. The unit purchased by the complainants is a rowhouse the thus they are liable to pay the above corpus fund. The complainants have conveniently ignored the above amount and wrongly claiming that they are liable to pay only Rs.3,30,000/-. In fact, the interest is calculated till the date when the complete dues are settled.

The villa is ready in all aspects and the opposite party will be in a position to handover the possession to the Complainants after they clear all the dues as specified above.

The Opposite Party had got issued a notice dated 18/04/2014 through its Counsel to the Complainants calling upon the Complainants to make the payment of Rs. 20,48,497/- within 7 days from the date of receipt of the notice and take possession of the villa. The Complainants received the notice.

There is no deficiency of service on the part of the Opposite party and in fact the complainants have been informed by the Opposite party from time to time to take possession of the villa after settling all the dues payable by the complainants. Hence, this Hon'ble forum may be pleased to dismiss the complaint as filed by the complainants.

The Opposite party is relying on the following documents in support of its case.

Date: 08.07.2015

Counsel for Opposite Party

**G.L.NARSIMHA RAO**  
Advocate



H.No.3-4-778, BARKATPURA,  
HYDERABAD -500 027.  
Cell:9848994240 .

By Hand - 46-  
BY REGD. POST WITH ACK. DUE

Date: 13-08-2015.

To

Modi & Modi Constructions Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003.

Sub: To handed over the villa as per the orders in C.C.No.137 of 2014  
Dated 24-07-2015 on the file of District Consumer Disputes  
Readdressal Forum, R.R. District – Reg.

\*\*\*

Under the instructions of my clients 1) Mrs. Angadi Vijaya Laxmi, W/o  
Bhaskara Rao, Age 56 years, Occ:House Wife, 2) Angadi Mahesh, S/o Bhaskara  
Rao, Both are R/o 1-24-253//1, Flat No.32, Sri Sainagar, Lotugunta, Alwal,  
Secunderabad-500015, do hereby issue this notice upon the following brief facts.

1. My clients states that you are as a Builder/Developer offered them to purchase  
a Villa No.46 in Sy.No. 134, 135 & 136, with free registration situated at  
Rampally village of Keesar Mandal and the same was registered but so far it was  
not handed over to my clients. They have approached the Hon'ble District  
Consumer Forum for their grievance. They have purchased the villa by spending  
huge amounts but you are not handed over the same and they constrained to  
paying rents Rs.25,000/- per month and facing mental agony. Anyhow, the  
Hon'ble Consumer Forum passed its orders and you are well aware about the  
financiar who financed to my clients and they have retained amounts  
Rs.3,30,000/- for want of production of occupancy certificate. After showing the  
occupancy certificate, immediately they will release the said amounts to you.  
Remaining things will be settled in the suit pending between you and my clients.  
My clients reserved their rights to approach Hon'ble State Forum regarding  
remaining prayers for mental agony and compensation etc.

Therefore, you are, hereby called upon by this notice to complete the  
entire works and handover the building to my clients immediately duly issuing  
occupancy certificate. My clients will instruct their financier i.e. LIC Housing  
Finance to release remaining amount of Rs.3,30,000/- in favour of you in  
compliance of orders in C.C. No.137 of 2014 to avoid any further delay in this  
regard.



Ramachari  
13/8/15

*G.L.N. Rao*  
G.L.NARSIMHARAO  
Advocate

A copy of the judgment in C.C.No.137 of 2014 is enclosed herewith for ready reference.

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DEC NO 20

IN THE COURT OF THE 1 ADDL. CHIEF JUDGE CITY CIVIL COURT  
AT SECUNDERABAD

O. S. No. 98 OF 2014

Between:

Modi & Modi Constructions, a partnership firm  
Having its registered office at 5-4-187/3 & 4,  
Soham Mansion, M. G. Road, Secunderabad  
Represented by its Managing Partner,  
Sri Soham Modi S/o Sri Satish Modi aged 44 years,

... PLAINTIFF

And

1. Smt. A. Vijaya Lakshmi W/o. A. Bhasker  
Aged 56 years,
2. A. Mahesh Kumar S/o A Bhasker,  
Aged 31 years, Occupation Service  
Both R/o. H.No. 1-24-253/1, Plot No. 32,  
Sri Sai Nagar Colony, Loathkunta,  
Alwal, Secunderabad - 15.

... DEFENDANTS

SUIT FOR RECOVERY OF RS. 20,48,497/- PLAINT FILED UNDER SECTION  
26 C.P.C.

I. Description of the Plaintiff:

The addresses for service of all notices, summons and process etc. on the Plaintiff is as mentioned above and of their counsel Sri C. Balagopal, Smt. Amcerunnisa Begum, K. Vijaya Saradhi, C. V. Chandramouli and P. Vikram Kumar, Advocates, having their office at Flat No.103, Suresh Harivilla Apartments, Road No. 11, West Marredpally, Secunderabad.

II. Description of the Defendants:

The addresses for service of all notices, summons and process etc. on the Defendants are the same as mentioned above.

III. Facts of the case:

a). The Plaintiff is a Builder of repute and has developed and constructed several residential flats, Villas and bungalows in and around the Twin Cities of Secunderabad and Hyderabad. One of the projects undertaken by the Plaintiff is "NILGIRI HOMES", situated at Survey Nos.128,129,132 & 136, Rampally Village, Keesara Mandal, Ranga Reddy District.

For MODI & MODI CONSTRUCTIONS

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b). The said project consists of Independent Villas. The Defendants approached the Plaintiff for purchase of a Villa No.46 in the said venture for a total consideration of Rs. 39 lacs. The Plaintiff informed the Defendants that the villa chosen by them is in an advanced stage of construction and if the dues are paid within four months, they would be able to complete and handover the possession of the villa. The defendants were satisfied about the progress of the project at that point of time and agreed of all the terms and conditions as specified by the plaintiff. On such agreement having been reached the Plaintiff had executed a regd. sale deed bearing No. 8452 of 2013 for the land admeasuring 125 sq yards on 16/11/2013 at SRO, Keesara, RR dist. On the same day the Defendants also executed an agreement of construction in favour of the Plaintiff which clearly spells out the terms of payment, period of completion and interest on late payments besides the other terms and conditions. The Defendants have abnormally delayed in the payment of the instalments. The Plaintiff has received an amount of Rs.25,95,000/- till date. The Defendants have to further pay an amount of Rs.20,48,497/- to the Plaintiff towards full and final settlement of the cost of the villa. The above amount includes service tax, corpus fund and interest on late payments.

c) The Plaintiff submits that the villa is ready in all aspects and it will be in a position to handover the possession to the Defendants after they clear all the dues as specified above.

d) The Plaintiff had got issued a notice dated 18/04/2014 through its Counsel to the Defendants calling upon the Defendants to make the payment of Rs. 20,48,497/- within 7 days from the date of receipt of the notice and take possession of the villa. Though the defendants received the notice, they have not so far replied.

For MODI & MODI CONSTRUCTIONS

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Partner



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IV). The Plaintiff declares that it has not filed any suit or proceeding for the same relief sought herein against the Defendants in any court of Law.

V. Cause of action:

The cause of action for the suit arose on..... the date of booking of bungalow by the Defendant and on 16/11/2013 the date on which the sale deed was executed in favour of the Defendants and also the Agreement of Construction executed by the Defendants infavour of the Plaintiffs and on all other subsequent dates when the dues remained unpaid and the cause of action is subsisting.

V. Jurisdiction:

The Registered office of the Plaintiff is at M.G.Road, Secunderabad, which is within jurisdiction of this Hon'ble court and hence this Hon'ble Court has got jurisdiction to try the suit.

VI. Court Fee:

a) The suit is valued for the purpose of court fee and jurisdiction at Rs. 20,48,497/- on which a court fee of Rs...../- is paid hcrewith paid under Section 20 of A.P.C.F. and S. V. Act.

VII. Prayer:

The Plaintiff prays that this Hon'ble court be pleased to pass a Judgment and Decree in favour of the Plaintiff and against the Defendants granting the following reliefs:-

- a) To pass a decree and Judgment in favour of the Plaintiff against the Defendants for recovery of Rs. 20,48,497/- with interest @ 18% p.a. from the date of this suit till realization;
- b) and to award costs of the suit; and
- c) To grant any other relief or reliefs to which the plaintiffs are otherwise entitled to in the circumstances of the case.

For MODI & MODI CONSTRUCTIONS

Plaintiff Partner

Advocate for the Plaintiff

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LIST OF DOCUMENTS FILED ALONG WITH THE PLAINT

S. No.	Date	Description of document
1.		Copy of the Registration of Plaintiff firm
2.		Booking form - Xerox copy
3.	16.11.2013	Sale Deed executed by Plaintiff in favour of Defs Xerox copy
4.	16.11.2013	Agreement of construction. Xerox copy
5.	28.04.2014	O/c of Notice issued by Plaintiff's counsel to Defs. Statement of Account
6.		

Secunderabad  
Date:

COUNSEL FOR PLAINTIFF

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IN THE COURT OF THE  
I ADDL. CHIEF JUDGE  
CITY CIVIL COURT  
AT SECUNDERABAD

O. S. No:                      OF 2014

Between:

Modi & Modi Constructions  
.... PLAINTIFF

And

Smt. A. Vijaya Lakshmi & another  
... DEFENDANTS

SUIT FOR RECOVERY OF  
RS.20,48,497/- PLAINT FILED  
UNDER SECTION 26 C.P.C.

Filed on:

Filed by:

**Sri C.BALAGOPAL**  
**ADVOCATE**

Flat No.103, Suresh Harivillu Apts  
Road No.11, West Marredpally  
Secunderabad - 26.  
Ph: 64570512

COUNSEL FOR PLAINTIFF

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**IN THE COURT OF THE HON'BLE I ADDL. CHIEF JUDGE::CITY CIVIL  
COURT AT SECUNDERABAD**

O.S.No. 98 OF 2014

BETWEEN:

Modi & Modi Constructions,

.... PLAINTIFF

AND

Smt. A. Vijaya Lakshmi and another

.....DEFENDANTS

**WRITTEN STATEMENT FILED BY THE DEFENDANTS No.1 & 2**

We, A. Vijaya Laxmi, W/o A. Bhaskar, A. Mahesh Kumar, S/o A. Bhaskar above named defendants, do hereby solemnly and sincerely affirm and sincerely state on oath as follows:

1. It is submitted that the defendants No.1 & 2 humbly herein know the facts of the case and submit the following written statement as against the claim of the plaintiff herein as under:
2. That the allegations in the plaint under reply are absolutely false and baseless. The plaintiff files the present suit against defendant and there is no cause of action for the suit. The plaintiff herein has filed this suit with malafide intention to have a wrongful gain and to deprive the legitimate rights of defendant. The plaintiff has suppressed the material facts that the E-mail communications and notices between the plaintiff and defendants and have approached the Hon'ble court with un-clean hands and thus the suit on this single point is liable to be dismissed.
3. That the adverse allegations are denied except those, which are specifically admitted hereunder. The allegations, which are not specifically admitted hereunder, are deemed to be denied. The suit filed by the plaintiff is neither tenable in law nor on the alleged facts and thus the suit is liable to be dismissed. The plaintiff herein has no legal entitlement to institute the above suit and thus the suit are liable to be dismissed.
4. That the contents of the cause title are descriptive of the plaintiff and defendants and do not call for any specific reply. However the plaintiff is put to strict proof of the same.

5. These defendants reserved their rights to file additional written statement if any required as the plaintiff failed to serve the list of documents whereas the defendants copies of list of documents not placed neither the original suit bundle in the Hon'ble Court nor served the same to these defendants as stipulated by the C.P.C. For that extent these defendants filed memo before this Hon'ble Court in the same day when the vakalat has been filed. This itself is shows that the defendant attitude and mentality in disobeying the procedure stipulated by the rules and act as well as C.P.C.

6. That the allegations in Para No.a are correct and need not to reply by these defendants.

7. That the allegations in Para No.b, it is true that the said project consists of independent villas, the defendants approached the plaintiff for purchase of a villa No.46 in the said venture for a total consideration of Rs.39.00 lakhs. It is not true that the plaintiff informed the defendants that the villa chosen is on advanced stage for construction and if dues are paid within 4 months, they would be able to complete and handover the possession of the villa. In fact, the admitted time is 9 months but suppressing the same, the plaintiff with malafied intention inserted the period of 4 months in the written agreement instead of 9 months accepted by the plaintiff, at the time of agreement. The same was noticed by the head of the family member of this defendants ie. A. Bhaskar Rao and send an e-mail on 09-05-2013 immediately after noticing that the agreement contained 4 months. The e-mail copy is filed herein as document No.1 for kind perusal. The plaintiff until received the amount of Rs.7.25 lakhs no terms & conditions were disclosed to these defendants which was reflects through the e-mail send to the plaintiff by the defendant's family head. For the promotion of the business of the plaintiff the representative of the plaintiff Mr. Venkat Reddy acknowledged the letter dt. 9-5-2014 given by the defendants and accepted to fulfill the shortfalls of amount Rs.9.75 lakhs as hand loan to honour the revised of 4 months though in last week of May 2013 has considerably delayed and released the said amount by the plaintiff in 4 installments. In fact the plaintiff accorded amount Rs.2,43,750/- as a hand loan in favour of A. Bhaskar Rao, Head of the family of the defendant and it was recycled as shown below:

Amount	Date of credit to A.Bhaskar's account by M/s Modi	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A Bhaskar	Date of debit to M/s Modi account from Mahesh Kumar A/C
243750	17-Sep-13	21-Sep-13	21-Sep-13	24-Sep-13
243750	28-Sep-13	10-Oct-13	10-Oct-13	17-Oct-13
243750	21-Oct-13	25-Oct-13	25-Oct-13	31-Oct-13
243750	08-Nov-13	13-Nov-13	13-Nov-13	18-Nov-13

975000

8. It is true that the plaintiff was executed a sale deed bearing No.28452 of 2013 for the land admeasuring 125 Sq.yards on 16-11-2013. The entire payment was made by these defendants as like:

a. 2 <sup>nd</sup> Feb 2013 Booking amount	Rs.25000/-
b. 18 <sup>th</sup> Feb 2013 payment amount	Rs.200000/-
c. 26 <sup>th</sup> June 2013 payment amount	Rs.500000/-
d. 24 <sup>th</sup> Sep 2013 payment amount	Rs.243750/-
e. 17 <sup>th</sup> Oct 2013 payment amount	Rs.243750/-
f. 31 <sup>st</sup> Oct 2013 Payment amount	Rs.243750/-
g. 18 <sup>th</sup> Nov 2013 payment amount	Rs.243750/-
h. 27 <sup>th</sup> Nov 2013 payment by the (LIC) financier	Rs.1248000/-
i. 27 <sup>th</sup> Nov 2013 Payment by the (LIC) financier	Rs.622000/-
<b>Total payments</b>	<b>Rs.3570000/-</b>
<b>Balance (Rs.3900000-3570000)</b>	<b>Rs.330000/-</b>

9. It is submitted that the plaintiff intentionally suppressed the amounts which were paid by the defendant No.2 which was encashed by the plaintiff on 24-09-2013; 17-09-2013;31-10-2013; 18-11-2013 Rs.9.75 lakhs and even the e-mail transactions and legal notices occurred between the plaintiffs and defendants suppressed by the plaintiff and the legal notice dated 28-04-2014 was not accorded to the defendant and even it was not received. In fact prior to that notice there are several notices and reply notices were also placed but the alleged noticed dt. 28-04-2014 was not received by this defendant and these defendants handicapped to answer that notice till today the said copy was not served to these defendants. Hence, the notice is frivolous and fabricated which is not sustained under law.

10. It is submitted that the plaintiff did not file any statement how he was arrived such much of huge amount Rs.20,48,497/- instead of Rs.3,30,000/-. The balance amount also sanctioned by the LIC Housing Loan long back but the plaintiff failed to give physical occupation of the said villa No.46 to the defendants and occupation certificate. The lapse is with the plaintiff only for encashing the said amounts which were retained by the financier. Thus, there is no any lapse on part of these defendants and the e-mail transactions between the plaintiff and defendants and the legal notice *vis-a-versa* clearly shows that the defendants agreed to pay service tax which was paid by the plaintiff. But till today, the plaintiff did not pay and not shown the said payment receipt to these defendants. Hence, the claim of the service tax without paying to the government authorities the plaintiff has no locus standi to claim from these defendants.

11. It is submitted that regarding interest part, the plaintiff has to handover the said Villa to these defendants on or before 01-09-2013 but so far, the said Villa was not completed and till date the plaintiff did not handover the same to these defendants. Because to their mental agony by this plaintiff for want of not handing over the same these defendants constrained to file C.C.No.137 of 2014 on the file of District Consumer Forum on 31-05-2014. For outcome of the said case as counter blast; this plaintiff filed the present suit to trouble these defendants. Because of the attitude of the plaintiff as the plaintiff is habit of misusing cheques housing loan was delayed though it was sanctioned. After filing of the suit the transaction between the Sri Bhaskar Rao and the plaintiff, the plaintiff got amounts Rs.9,75,000/- through banker's cheque dated 09-06-2014. Therefore, the plaintiff is not entitled any interest as well as any legal expenditure in view of delay occurred because of the plaintiff attitude only.

12. These defendants entitled Rs.25,000/- p.m. as Rent from the date of 01-09-2013 till the handing over the said Villa, if the plaintiff claims interest. The occurred delay of handing over the villa nearly One year and thus an amount of Rs.3.00 lakhs has to pay by the plaintiff and the said matter is pending adjudication before the proper District Consumer Forum. As such, the plaintiff did not entitle to claim for any interest in his financial assistance. It is only their motto of business promotion and the offer to these defendants as the registration charges attended by the plaintiff as the plaintiff agreed their business promotion.

13. It is submitted that actual dues amount of Rs.3.30,000/- is readily available with the financier and awaiting for physical handing over of the said Villa by the plaintiff. Thus the plaintiff is entitled Rs.3,30,000/- lakhs after issuing occupation certification to these defendants but not more as claimed by the plaintiff in the suit. The suppression of transactions and tactics was not accorded any legal notice copy which was not served to these defendants amounts to uncleaned hands on the part of plaintiff. Whoever approached the Hon'ble Court with uncleaned hands did not entitle any relief. Otherwise the present suit is liable to be dismissed for non-disclosing the facts. The prayers of the suit are misconceived. The present suit is filed with the sole intention of causing loss to the bonafide purchasers without handing over the physical occupation. As such the suit is liable to be dismissed with exorbitant costs.

14. The allegations in the plaint, which are not categorically denied nor admitted in this written statement by the defendant, are deemed to be denied. It is, therefore, prayed that this Hon'ble court may be pleased to dismiss the suit

with costs and direct the plaintiff to pay exemplary costs to the defendant as provided under section 35-A of C.P.C in the interest of justice.

Place: HYDERABAD  
Date: 07-10-2014

Defendants 1&2.

**VERIFICATION**

I, A. Vijaya Laxmi & A.Mahesh Kumar, do hereby declare and state that the pleadings in the above paras of this written statement are true and correct, to the best of our knowledge, belief, information and legal advise. Hence verified the same to be true and correct on this 07-10-2014 at HYDERABAD.

Defendants

**LIST OF DOCUMENTS**

<u>S.No.</u>	<u>Date</u>	<u>Parties to the document</u>	<u>Description</u>
1	20-02-2013	Plaintiff and Defendants	Cash receipt Rs.25,000/- issued by the O.p.
2	16-02-2013	-do-	Cash receipt Rs.2,00,000/- issued by the O.p.
3	20-02-2013 /26-06-2013	-do-	Cash receipt Rs.5,00,000/- issued by the O.p.
4	25-02-2013	-do-	Agreement of sale by the O.P.
5	09-05-2013	-do-	Letter given to the O.P. for seeking 9 months time
6	14-12-2013	-do-	e-mail correspondence
7	28-12-2013	-do-	Reply by/op
8	29-12-2013	-do-	e-mail correspondence
9	02-01-2014	-do-	Reply / op
10	10-01-2014	-do-	e-mail correspondence
11	15-01-2014	-do-	Reply by op
12	05-02-2014	-do-	e-mail correspondence
13	08-02-2014	-do-	Reply / o.p.
14	09-02-2014	-do-	e-mail correspondence
15	12-03-2014	Notice to the plaintiff	O/c Legal notice to the plaintiff by the def. counsel
16	10-04-2014	Plaintiff's counsel reply	Reply notice by the plaintiff's counsel to the defendant's counsel
17	21-04-2014	2 <sup>nd</sup> notice to defendants	O/c Legal notice to the defedant by the def. counsel
18	31-05-2014	Defendant and plaintiff	O/c of plaintiff C.C.No.137 of 2014




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ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

AY 933059

S.No. 17559 Dt.30-10-2012 Rs.100/-  
Sold to : Sri. Ramesh S/o Narasing Rao, R/o Hyd.  
For Whom: Modi & Modi Construction, Hyd

  
K. GIRIBABU  
LICENCED STAMP VENDOR  
LIC.No. 16-02-30/1998  
REN. No, 16-02-08/2010  
Sub-Bapunagar, Amberpet, Hyd-13  
CELL No. 9989259839

AGREEMENT OF SALE

This Agreement of Sale is made and executed on this the 25<sup>th</sup> day of February 2013 at Secunderabad by and between:

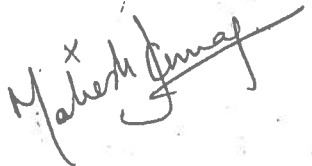
M/S. MODI & MODI CONSTRUCTIONS a registered partnership firm having its office at 5-4-187/3&4, II Floor, Soham Mansion, M.G. Road, Secunderabad - 500 003 represented by its Managing Partner Mr. Soham Modi, S/o. Sri Satish Modi, aged about 43 years, hereinafter referred to as the Vendor (which term shall mean and include its successors in office, administrators, executors / nominees / assignees, etc.)

AND

Mr. Angadi Vijaya Lakshmi, wife of Mr. Angadi Bhaskar aged about 56 years, Mr. Angadi Mahesh Kumar, son of Mr. Angadi Bhaskar aged about 31 years, residing at H. No. 1-24-253/1, Plot No. 32, Sri Sai Nagar Colony, Lothkunta, Alwal, Tirmalgiri Post, Secunderabad - 500 015, hereinafter referred to as the Vendee (which term shall mean and include his/her heirs, legal representatives, administrators, executors, successor in interest, assignees, etc).

For MODI & MODI CONSTRUCTIONS

  
Partner

  
Mahesh Kumar

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**WHEREAS:**

A) The Vendor is the absolute owner and possessor of the land admeasuring about Ac. 6-28 Gts. forming part of Sy. No. 128, 129, 132-136 situated at Rampally Village, Keesara Mandal, Ranga Reddy District by virtue of various registered sale deeds as given hereunder and hereinafter referred to as the Schedule Land.

Sl. No.	Sale Deed Doc. No.	Dated	Sy. No.	Extent of Land (in Acres)
1.	6095/2005	20.09.2005	134, 135, 136	Ac. 2-08 Gt.
2.	7972/2004	10.08.2004	128, 129, 132, 133, 136	Ac. 2-10 Gt.
3.	8657/2004	21.09.2004	128, 129, 133, 136	Ac. 2-10 Gt.
<b>Total Extent of Land</b>				<b>Ac. 6-28 Gts.</b>

All the above Sale Deeds are registered at the office of Sub-Registrar, Shamirpet, R.R. District and are executed by the following owners:

- a. Shri M. Hanumath Rao, S/o. Late Shri Chinna Rama Chary
- b. Shri M. Kashinatham, S/o. Late Shri Chinna Rama Chary
- c. Shri M. Venunadham, S/o. Late Shri Chinna Rama Chary
- d. Shri M. Srinivasa Chary, S/o. Late Shri Chinna Rama Chary
- e. Shri M. Narayana, S/o. Late Shri Chinna Rama Chary
- f. Shri M. Pranavanadham, S/o. Hanumath Rao
- g. Shri M. Pravarakya, S/o. Shri Kashinatham

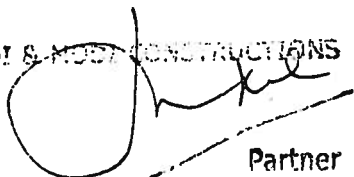
The above executants of the Sale Deeds are hereinafter collectively referred to as Former Owners.

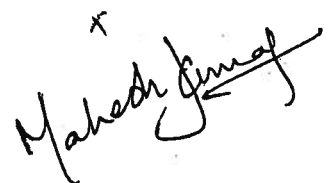
B) The Former Owners are the sons and grand sons of Late Shri M. China Rama Chary the original pattedar of the land. By way of partition deed dated 05.09.2002 duly registered with S.R.O. Shamirpet, Ranga Reddy District vide document no. 4838/2002, the Former Owner at serial no. 'a to e' above became the owners of the Schedule Land. Former Owner at serial no. 'f' is the son of Former Owner at serial no. 'a'. Former Owner, at serial no. 'g' is the son of Former Owner at serial no. 'b'. Vide proceeding of the Mandal Revenue Officer bearing no. B/1321/2004 dated 15.06.2004 the names of the former Owners at serial nos. a to e were mutated in the revenue records and patta passbooks/title books were issued to them. All the Former Owners have joined together for the execution of above referred sale deeds so as to assure and ensure a perfect legal marketable title free from any claims whatsoever in favour of the Vendor herein.

C) The Vendor is desirous of developing the Scheduled Land by constructing row / independent bungalow thereon and have obtained a tentative layout from HUDA vide Permit No. 6092/MP2/Plg/HUDA/07 dated 16/11/2007. The proposed project of development is styled as 'NILGIRI HOMES'.

D) The Vendor proposes to develop the Scheduled Land by constructing about 95 row houses / independent houses of similar size, similar elevation, same colour scheme, etc. along with certain amenities for the common enjoyment like a club house, CC roads, street lighting, landscaped gardens, etc. The proposed houses will be constructed strictly as per the design proposed by the Vendor and the Vendee shall not be entitled for making changes in elevation, external appearance, colour scheme, etc.

For MODI & MODI CONSTRUCTIONS

  
Partner



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- E) The Vendor in the scheme of the development of Nilgiri Homes has planned that the prospective buyers shall eventually become the absolute owners of the identifiable land (i.e., plot of land) together with row houses / independent house constructed thereon. For this purpose the Vendor and the Vendee are required to enter into three separate agreements, one with respect to the sale of land, second with respect to development charges on land and the third with respect to the construction of the house. These agreements will be interdependent, mutually co-existing and inseparable though in the scheme of the project the Vendor may execute a Sale Deed in favour of the Vendee before commencing construction of the house.
- F) The Vendee has inspected all the documents of the title of the Vendor in respect of the Scheduled Land and the plot of land bearing plot no. 46 and also about the capacity, competence and ability of the Vendor to construct the houses thereon and providing certain amenities and facilities which are attached to and/or are common to the entire project of Nilgiri Homes.
- G) The Vendee is desirous of purchasing a plot of land together with a house to be constructed thereon as detailed below in the project Nilgiri Homes and the Vendor is desirous of selling the same:

Plot.No.	Extent of land	Type of Bungalow	Built-up Area	Portico Area	Terrace Area	Total Area
46	125 Sq. yds.	Deluxe	1461 sft	142 sft	56 sft	1659 sft

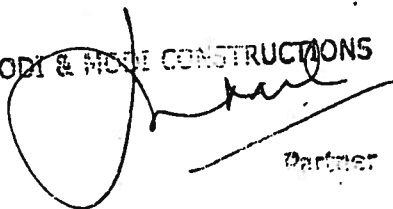
- H) The Vendee has made a provisional booking vide booking form No. 1466 dated 20.02.2013 for the above referred house and has paid a booking amount of Rs. 25,000/- to the Vendor.
- I) The parties hereto after discussions and negotiations have agreed to certain terms and conditions of sale and are desirous of recording the same into writing.

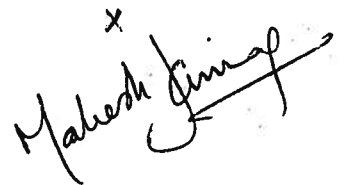
NOW THEREFORE THIS AGREEMENT OF SALE WITNESSETH AS FOLLOWS:

1. That in pursuance of this agreement of sale the Vendor agrees to transfer or caused to be transferred in favour of the Vendee and the Vendee hereby agrees to purchase from the Vendor plot of land admeasuring about 125 sq. yds. bearing plot no. 46 in NILGIRI HOMES situated at Sy. No. 128, 129, 132-136 situated at Rampally Village, Keesara Mandal, Ranga Reddy District together with a Row / Semi detached / Detached house to be constructed thereon as per the specifications and other terms and conditions contained herein and which is more-fully described in the schedule given under and in the plan annexed hereto (the said plot of land and the house to be constructed is herein after referred to as the Scheduled Property) for a total consideration of Rs. 39,00,000/- (Rupees Thirty Nine Lakhs Only). The breakup of the total consideration is as under:

Sl. No.	Description	Amount
A.	Towards sale of land	Rs. 15,60,000/-
B.	Towards cost of construction, water & electricity connection and for other amenities.	Rs. 23,40,000/-
C.	Total sale consideration (A+B)	Rs. 39,00,000/-

For MODI & MODI CONSTRUCTIONS

  
Partner

  
Mahesh Kumar

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2. That the Vendee in pursuance of this agreement has paid the following amounts towards sale consideration to the Vendor which is hereby admitted and acknowledged by the Vendor.

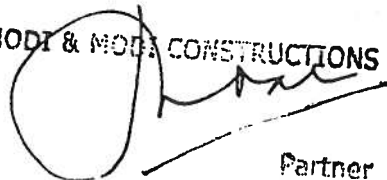
Date	Mode of Payment	Amount
20.02.2013	Cheque No. 315818	25,000/-

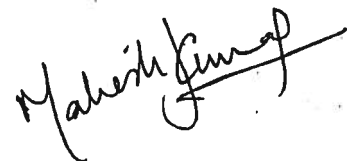
3. That the Vendee in pursuance of this agreement shall pay the balance consideration of Rs. 38,75,000/- to the Vendor as under:

Installment	Amount	Due date for payment
I	Rs. 2,00,000/-	05.03.2013
II	Rs. 14,75,000/-	05.04.2013
III	Rs. 15,00,000/-	20.04.2013
V	Rs. 5,00,000/-	Balance amount of HL to be released on completion of flooring, windows, bathroom tiles & 1st coat of paint.
VI	Rs. 2,00,000/-	On Completion

4. That the Vendee shall be liable to pay simple interest calculated @ 1.5% per month on all delayed payments of installments. Under no circumstances the Vendee shall delay the payment of installments for more than 3 months from the due date.
5. In case the Scheduled House is completed before the scheduled date of completion / delivery mentioned below, the entire balance outstanding as on such date of completion shall become due and payable, notwithstanding the installments and due dates mentioned in above. The Vendee shall be liable to pay the balance outstanding within 15 days of receiving an intimation from the Vendor as to completion of the Scheduled House, notwithstanding the installments and due dates mentioned above.
6. That the Vendee at his discretion and cost may avail housing loan from Bank / Financial Institutions. The Vendee shall endeavour to obtain necessary loan sanctioned within 30 days from the date of provisional booking. The Vendor shall under no circumstances be held responsible for non-sanction of the loan to the Vendee for what so ever reason. The payment of installments to the Vendor by the Vendee shall not be linked with housing loan availed / to be availed by the Vendee.
7. That in case of delay in the payment of installments for more than 1 month from the due this agreement shall stand cancelled and the Vendor shall be entitled to forfeit the following amounts towards cancellation charges:
- In case of failure of the Vendee to obtain housing loan within 7 days of this agreement, the cancellation charges will be NIL provided necessary intimation to this effect is given to the Vendor in writing along with necessary proof of non-sanction of the loan. In case of such non intimation, the cancellation charges shall be Rs. 25,000/-
  - In case of request for cancellation in writing within 30 days of this agreement, the cancellation charges shall be Rs. 50,000/-.
  - In all other cases of cancellation either of booking or agreement, the cancellation charges shall be 10% of the agreed total sale consideration.

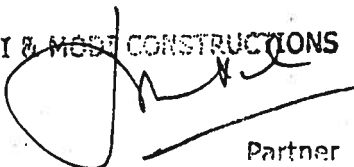
For MODI & MODI CONSTRUCTIONS

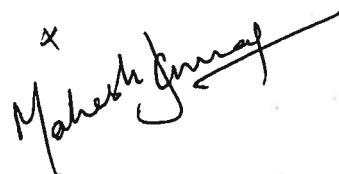
  
Partner



8. That the Vendor covenants with the Vendee that the Scheduled Property is free from all encumbrances of any nature such as prior sales, exchanges, mortgages attachments etc. and they are the absolute owners of the same and have a perfect title to it and there is no legal impediment for sale. The Vendor assures the Vendee that if there is any defect in the title to the Scheduled Property on account of which the Vendee has to incur damage/costs, the Vendor shall indemnify the Vendee fully and properly of such damage / costs.
9. That the Vendor will execute and register sale deed in favour of the Vendee only after receipt of the I, II and III installments aggregating to Rs. 31,75,000/-.
10. The stamp duty, registration charges and other expenses related to the execution and registration of the sale deed and any other related documents shall be borne by the Vendee only and such costs do not form part of the agreed sale consideration. The Vendee shall pay stamp duty and/or registration charges as required for execution of this agreement; sale deed, agreement for construction, agreement for development charges, etc. within a period of 90 days from this agreement. In case the Vendee fails to pay such stamp duty and/or registration charges, the Vendor shall be entitled to pay the same for and on behalf of the Vendee and shall be recoverable as dues from the Vendee.
11. It is hereby agreed and understood explicitly between the parties hereto the Vendee shall be solely responsible for payment of any sales taxes, VAT, service tax or any other similar levy that may become leviable with respect to the construction of the house under this agreement, or the sale deed, or the agreement for development charges, and/or the agreement of construction.
12. That the possession of the plot of land shall be delivered by the Vendor to the Vendee only upon registration of the Sale Deed. The Vendee immediately thereafter shall handover the possession of the plot of land back to the Vendor for the purposes of carrying out construction of the house thereon and for providing other amenities which are part and parcel of the Nilgiri Homes Project. The Vendor shall re-deliver the possession of the completed house together with the plot of land to the Vendee only upon payment of entire sale consideration and other dues by the Vendee to the Vendor.
13. That the Vendor agrees to deliver the Scheduled Property completed in all respects to the Vendee on or before 01.09.2013 with a further grace period of 6 months.
14. That the Vendee shall enter into a separate agreement with the Vendor for construction of the house as per the specifications and other terms and conditions agreed upon. The Vendee shall also enter into a separate agreement with the Vendor for payment of development charges on land.
15. That it is specifically understood and agreed by the Vendee that the Sale Deed executed in favour of the Vendee, the Agreement for Construction and Agreement for Development charges entered into between the parties hereto in pursuance of this agreement are interdependent, mutually co-existing and / or inseparable. The Vendee therefore shall not be entitled to alienate in any manner the plot of land registered in his favour and / or enter into an Agreement for Construction in respect of the house with any other third parties. However, the Vendee with the prior consent in writing of the Vendor shall be entitled to offer the Scheduled Plot as a security for obtaining housing loan for the purposes of purchase and construction of the proposed house in the Scheduled Plot.
16. That the name of the project which is styled by the Vendor as 'NILGIRI HOMES' shall always be called as such and shall not be changed.

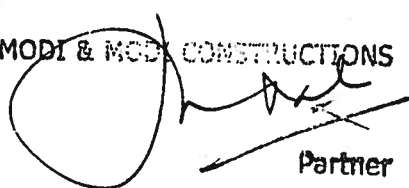
For MODI & MOSE CONSTRUCTIONS

  
Partner

  
Mahesh Jumar

17. That the Vendee shall not be allowed to alter any portion of the house that may change its external appearance without due authorization from the Vendor and / or Association / Society in-charge of maintenance for an initial period ending upto 2020 and all the houses in the project of Nilgiri Homes shall have a similar elevation, color scheme, compound wall, landscaping, trees etc. for which the Vendee shall not raise any obstructions / objections. The Vendee shall not be permitted to install grills collapsible gats, shutters that may change the external appearance of the house. The Vendee shall not be permitted to install any temporary structures in the terrace or balconies that may alter external appearance of the house.
18. That the Vendee has examined the title deeds and other documents in respect of the Scheduled Land / Scheduled Property and is fully satisfied with regard to the title of the Vendor and the Vendee shall not hereafter raise any objection on this account.
19. That the Vendee agrees that under no circumstances including that of any disputes or misunderstandings, the Vendee shall not seek or cause the stoppage or stay of construction or related activity in the Nilgiri Homes project or cause any inconvenience or obstructions whatsoever. However, the claim of the Vendee against the Vendor shall be restricted to a monetary claim, which shall not exceed 10% of the consideration as damages in case of any breach or violation of obligations by the Vendor. This understanding is specifically reached amongst the parties for the overall interest of the other Buyers in the project and for the smooth uninterrupted execution of the works for the project as a whole.
20. That the Vendee shall not cause any obstructions or hindrance and shall give reasonable assess, permission, assistance etc. to the Vendor or to his nominated contractors or their agents, nominees etc. to construct, repair, examine, survey, make such additions alterations to the structures etc., that may be necessary for execution of the Nilgiri Homes project and in respect to the Scheduled Property and also the adjoining areas.
21. That the draft of the Sale Deed, Agreement for Development charges, Agreement for Construction to be executed and registered, in pursuance of this agreement is annexed hereto as Annexure IV, Annexure V and Annexure VI respectively and is duly approved by the Vendee.
22. That the Vendee shall not cut, maim, injure, tamper or damage any part of the structure of any part of the house nor shall the Vendee make any additions or alterations in the house without the written permission of the Vendor and / or any other body that may be formed for the purposes of maintenance of the Nilgiri Homes Project.
23. That the Vendee shall become a member of the association / society which shall be formed to look after the maintenance of the Nilgiri Homes Project and shall abide by its rules. Until the society / association is formed the Vendee shall pay to the Vendor such proportionate cost of outgoings such as common water charges, common lights, repairs, salaries of clerk, watchman, sweepers etc., as may be determined by the Vendor. If the Vendee ever fails to pay maintenance charges for his/her house, the association shall be entitled to disconnect and stop providing all or any services to the scheduled house including water, electricity, etc. The Vendee shall pay a sum of Rs. 40,000/- & 60,000/- for row houses & independent houses respectively, by way of deposit in favour of the Association / Society towards the corpus fund at the time of taking possession of the completed apartments

For MODI & MODI CONSTRUCTIONS



Partner

x  
Mahesh J...

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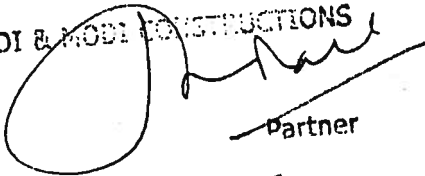
24. That the Vendee or any person through him shall keep and maintain the house in a decent and civilized manner. The Vendee shall further endeavor and assist in good up-keeping and maintaining the amenities / facilities / areas which are for the common enjoyment of the occupiers / buyers of the Nilgiri Homes. To achieve this objective the Vendee, inter-alia shall not (a) throw dirt, rubbish etc. in any open place, compounds roads etc. not meant for the same. (b) Use the house for any illegal, immoral, commercial & business purposes. (c) Use the house in such a manner which may cause nuisance, disturbance or difficulty to other occupiers / buyers of Nilgiri Homes. (d) Store any explosives, combustible materials or any other materials prohibited under any law.

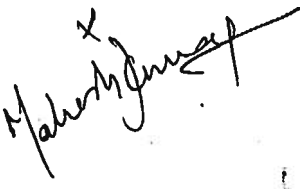
25. That it is mutually agreed upon by the parties hereto that all the terms and conditions contained in the booking form as amended from time to time shall be deemed to be the part of this agreement and also the Agreement for Construction unless otherwise specifically waived and /or differently agreed upon in writing.

26. That in case of any dispute between the parties, the matter shall be resolved by arbitration under the provisions of Arbitration and Conciliation Act, 1996. The place of arbitration shall be at Secunderabad and the proceedings shall be in English. The place of legal jurisdiction shall be at Secunderabad.

27. Wherever the Vendee is a female, the expressions 'He, Him, Himself, His' occurring in this agreement in relation to the Vendee shall be read and construed as 'She, Her, Herself' These expressions shall also be modified and read suitably wherever the Vendor is a Firm, Joint Stock Company or any Corporate Body.

28. In the event of any changes in the terms and conditions contained herein, the same shall be reduced to writing and shall be signed by all the parties.

For MODI & MODI CONSTRUCTIONS  
  
Partner



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**SCHEDULED PROPERTY**

- a) ALL THAT PIECE AND PARCEL OF LAND bearing Plot No. 46 admeasuring about 125 sq. yds. forming part of Sy. No. 128, 129, 132-136 situated at Rampally Village, Keesara Mandal, Ranga Reddy District, marked in red in the plan annexed hereto (as Annexure I), bounded on:

North	Plot No. 47
South	Plot No. 45
East	30' wide road
West	Neighbour's land

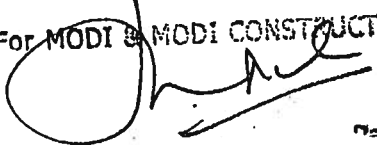
AND

- b) ALL THAT ROW HOUSE admeasuring 1659 sft. of built-up area to be constructed on the above said plot no. 46 as per the agreed specifications given in detail in Annexure II and as per the plan enclosed as Annexure III.

IN WITNESSES WHEREOF this Agreement of Sale is made and executed on date mentioned above by the parties hereto in presence of the witnesses mentioned below:

WITNESS:

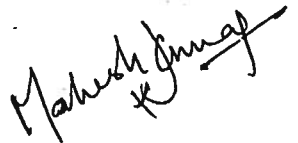
1.

For MODI & MODI CONSTRUCTIONS  


Partner

(Soham Modi)  
VENDOR

2.

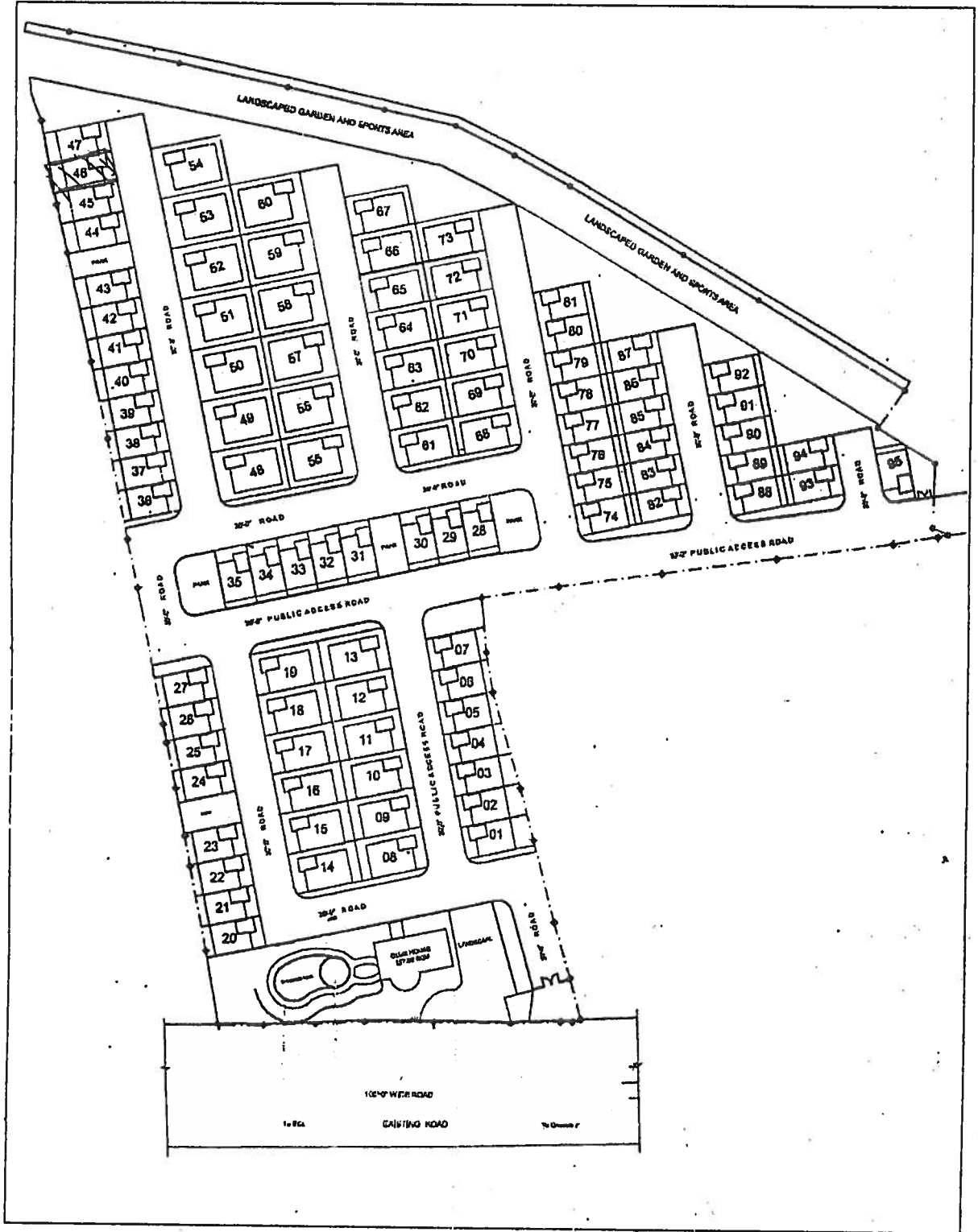


VENDEE  
Mahesh Kumar A.V.



ANNEXURE-I

PLAN SHOWING PLOT BEARING NO. 46 ADMEASURING ABOUT 125 SQ.YDS. (MARKED IN RED) IN NILGIRI HOMES, FORMING A PART OF SURVEY NO. SY. NO. 128, 129, 132-136 SITUATED AT RAMPALLY VILLAGE, KEESARA MANDAL, RANGA REDDY DISTRICT.



For MODI & MORE CONSULTANTS

Partner

(SOHAM MODI)  
VENDOR

VENDEE

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ANNEXURE - II

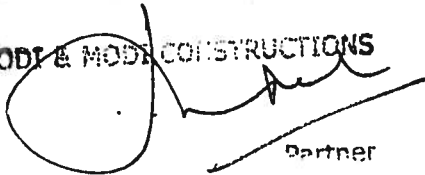
SPECIFICATIONS :

Item	Semi-Deluxe Villa	Deluxe Villa
Structure	RCC	RCC
Walls	4"/6" solid cement blocks	4"/6" solid cement blocks
External painting	Exterior emulsion	Exterior emulsion
Internal painting	Smooth finish with OBD	Smooth finish with OBD
Flooring	Ceramic Tiles	Marble slabs in all rooms
Door frames	Sal wood	Teak wood
Doors	Main door -Panel and Other doors - Flush doors	Panel doors with branded. hardware
Electrical	Copper wiring with modular switches	Copper wiring with modular switches
Windows	Powder coated aluminum or UPVC open-able / sliding windows with grills	Powder coated aluminum or UPVC open-able windows with grills
Sanitary	Raasi / Johnson Pedder or similar make	Parryware / Hindware or similar make
C P fittings	Branded C P fittings	Branded ceramic disk quarter turn
Staircase railing	MS railing within MS banister	MS railing within wooden banister
Kitchen platform	Granite slab, 2 ft dado & SS sink	Granite slab, 2 ft dado & SS sink
Plumbing	GI & PVC pipes	GI & PVC pipes
Bathrooms	7' dado	7' dado with designer tiles
Water supply	24 hr water supply through community tank with 2,000 lts individual overhead tank in each villa. Separate drinking water connection in kitchen.	24 hr water supply through community tank with 2,000 lts individual overhead tank in each bungalow. Separate drinking water connection in kitchen.

Note:

1. Choice of 2 colours for interiors, 2 combinations of bathroom tiles & sanitary fittings shall be provided.
2. Changes to external appearance and colors shall not be permitted.
3. Fixing of grills to the main door or balconies shall not be permitted.
4. Change of doors or door frames shall not be permitted
5. Changes in walls, door positions or other structural changes shall not be permitted.
6. Only select alterations shall be permitted at extra cost.
7. Specifications / plans subject to change without prior notice.

For MODI & MODI CONSTRUCTIONS

  
Partner

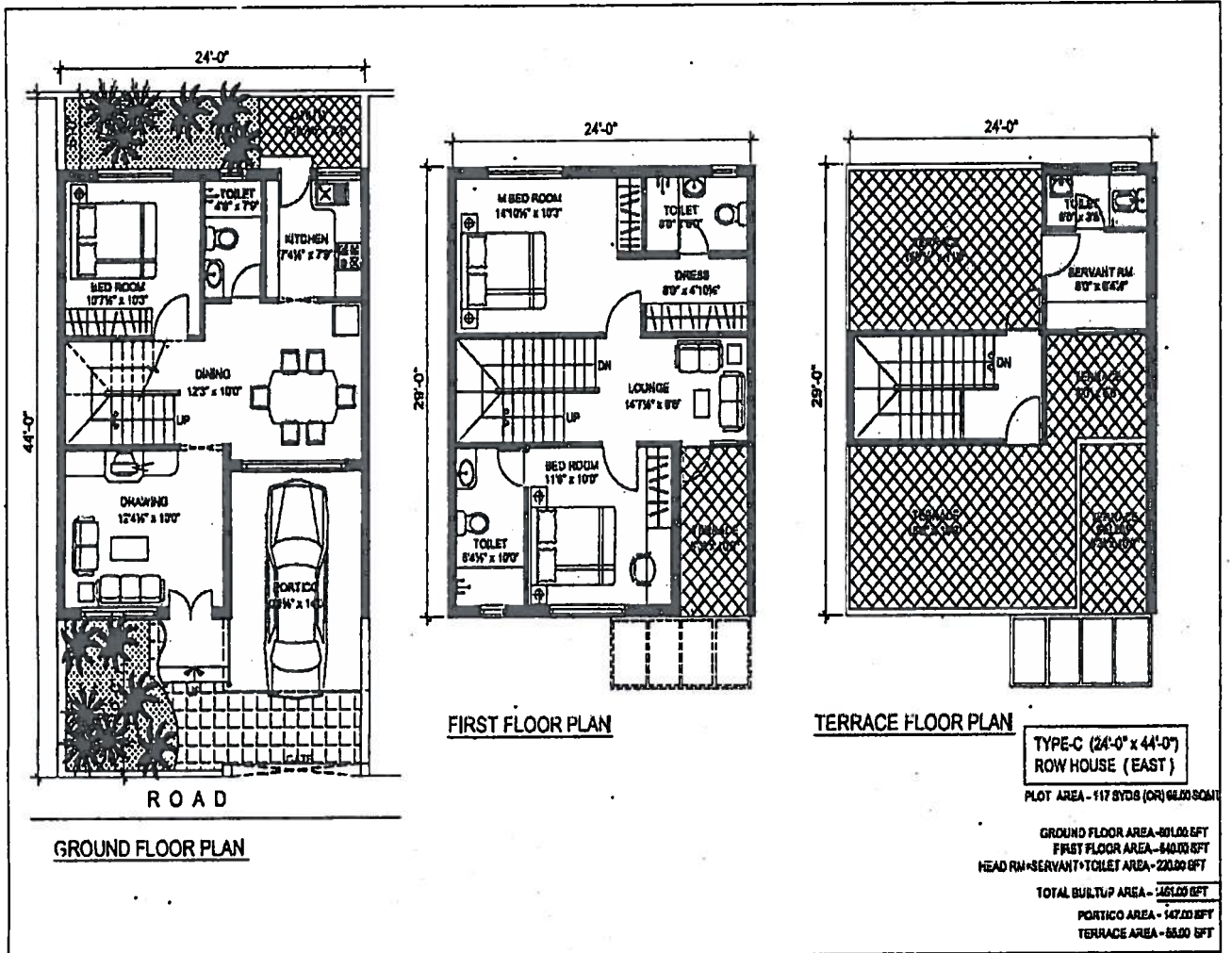
(SOHAM MODI)  
VENDOR

  
VENDEE

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ANNEXURE - III

PLAN FOR CONSTRUCTION OF BUNGALOW ON PLOT NO. 46 ADMEASURING 1659 SFT. OF BUILT-UP AREA.



(SOHAM MODI)  
VENDOR

*Shah*  
*Mahesh Kumar*  
x  
VENDEE  
*Mahesh Kumar AV*

### Nilgiri Homes

**Site Office**

y. No. 128,129, 132-136.  
Rampally, Keesara Mandal,  
Hyderabad.

### Modi & Modi Constructions

**Head Office :**

5-4-187/3 & 4,  
II floor, M. G. Road,  
Secunderabad - 500 003.  
Phone : +91-40-66335551

(1)

## RECEIPT

No. 1738

Date: 20/02/13

Received with thanks from Angadi Mahesh Kumar

a sum of Rs. 25,000/- (Rupees Twenty five thousand only)

by Cash /  Cheque\* DD No. 315819 dated 20/02/13 name of the bank SBI

towards Booking amt for flat no - A-46  
for **Modi & Modi Constructions**

Rs. 25,000/-

[Signature]  
Authorised Signatory  
Name in full: [Signature]

\* Receipt issued subject to realization of Cheque.

### Nilgiri Homes

**Site Office**

y. No. 128,129, 132-136.  
Rampally, Keesara Mandal,  
Hyderabad.

### Modi & Modi Constructions

**Head Office :**

5-4-187/3 & 4,  
II floor, M. G. Road,  
Secunderabad - 500 003.  
Phone : +91-40-66335551

(2)

## RECEIPT

No. 1830

Date: 16/2/13

Received with thanks from Mr Angadi Bhasker

a sum of Rs. 2,00,000/- (Rupees Two lakhs only only)

by Cash /  Cheque\* / DD No. 315822 dated 15/2/13 name of the bank SBI

towards Payment for Bw. No. 46  
for **Modi & Modi Constructions**

Rs. 2,00,000/-

[Signature]  
Authorised Signatory  
Name in full: Rajalaxmi

\* Receipt issued subject to realization of Cheque

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# Nilgiri Homes

Site Office  
No. 128, 129, 132-136,  
Rampally, Keesara Mandal,  
Hyderabad.

# Modi & Modi Constructions

Head Office :  
5-A-187/3 & 4,  
II floor, M. G. Road,  
Secunderabad - 500 003.  
Phone : +91-40-66335551

(3)

## RECEIPT

No. 1880


Date : 26/6/13

Received with thanks from Mr. Angadi Mahesh Kumar  
a sum of Rs. 5,00,000/- (Rupees Five lakhs only)

by Cash /  Cheque\* / DD No. 024420 dated 26/6/13 name of the bank Axis Bank  
towards Payment for B.W. No. 46

for **Modi & Modi Constructions**

Rs. 5,00,000/-

  
Authorized Signatory  
Name in full: Rajalekshmi

\* Receipt issued subject to realization of Cheque.

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From  
A.Bhaskar  
H.No.1-24-253/1,  
Sri Sal Nagar Colony,  
Lothukunta, Alwal,  
Secunderabad - 500 015.  
Date: 9<sup>th</sup> May 2013.



To  
Managing Director  
M/s MODI Properties & Investments Pvt Ltd.  
5-4-187/3&4, 2<sup>nd</sup> Floor, MG Road,  
Secunderabad.

Sub: BUNGLOW BOOKING AT NILGIRI HOMES.

Sir,

That I have booked an independent house at Nilgiri Homes Venture under special offer - free registration scheme vide booking no.1463 date 31<sup>st</sup> January 2013.

With this regard I am to submit that duly opted for 9 months plan from the date of booking through Mr. Nagi Reddy, released a sum of Rs.200000/- towards the first installment on 15<sup>th</sup> February 2013.

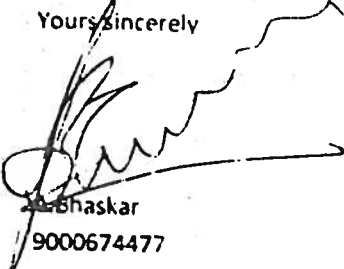
Later while the agreement found prepared for short term duration fixing the EMIs, discussed the issue in personnel at there end office with accounts department person i.e. Mr.Krishna Kanth and Mr.Venkat Reddy hope so during last week of the February 2013 to stick on the commitment the plan I opted (i.e. 9 months) to review the agreement.

Since then there has been no interaction till yesterday except for insisting the release of EMIs. Pending in abeyance of the agreement review. Finally while asked to commit the tentative dates of payment I herewith propose the payments as under irrespective of there end terms and conditions:-

a. Booking Amount	Rs.25000/-	(already paid)
b. 1 <sup>st</sup> Installment	-	Rs.200000/- (already paid on 15 <sup>th</sup> Feb 2013)
c. 2 <sup>nd</sup> Installment	-	Rs.500000/- (Immediately on approval)
d. 3 <sup>rd</sup> Installment	-	Rs.900000/- (End of September/Early October 2013)
e. 4 <sup>th</sup> Installment	-	Rs.2200000/- (Though housing loan)
f. 5 <sup>th</sup> Installment	-	Rs.750000/- (At the time of registration)

Hence keeping in view the opted period of 9 months duration, relaxing the agreement payment terms and conditions and sticking on to the given offer for free registration etc privileges. Remain grateful of giving the approval.

Yours sincerely



A. Bhaskar  
9000674477

Handwritten note: 9/5/13

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----- Original Message -----

**From:** Mahesh Kumar A V

**To:** cr@modiproperties.com

**Cc:** jshyd

**Sent:** 14 December, 2013 8:01 PM

**Subject:** Additions/Alterations - Banglow No 46, Nilgiri Homes, Rampally

Dear Mr. Krishna Prasad,

As advised we have visited the site around 1430 hrs today.

Regret to say that finding the entry into the bathroom direct from the dining hall which we feel utmost uncomfortable.

We remain greatfull of the said entry from the bedroom instead of the existing direction.

This is for your kind information that we have already suggested this modification right at the beginning before entering into the commitment for purchase.

Request for kindly making the necessary alterations.

Regards

- Mahesh

- 71 -

7

On Sat, Dec 28, 2013 at 3:50 PM, Krishna Prasad <kprasad@modiproperties.com> wrote:  
Dear Sir,

After due discussions with our management this is to intimate that the master bathroom tiles has already laid as such your request of door directon from bedroom is not possible. Herewith we are providing an un auditing a/c balance statement of your bungalow for your perusa:

Particulars		
Amount(Rs)		
Sale consideration	39,00,000	NIL
Add: Registration charges		1,15,690
Add: Service Tax		NIL
Add: Vat charges		40,15,690
Total		25,95,000
Less: Paid as on date		14,20,690
Balance		

Note : 1) Corpus fund Rs.40,000/- & Maintenance charges @ Rs.1200/-p.m are payable in favor of " Nilgiri Homes Owners Association "

2) Interest on delayed payment of installments has not been reflected in the above statement and has to be paid separately

3) Charges of extra specifications not included in the above statement and has to be paid separately.(if any).

With Regards,

K Krishna Prasad  
 Manager Customer Relations | +91 99896 99536 | [kprasad@modiproperties.com](mailto:kprasad@modiproperties.com)  
**Don't just buy a flat / villa! Buy a great lifestyle!**  
**Affordable flats / villas in gated communities.**  
**Modi Properties & Investments Pvt. Ltd. | [www.modiproperties.com](http://www.modiproperties.com)**  
 5-4-187/3 & 4, M G Road, Sec'bad -03 | Ph: +91 40 6633 5551



----- Original Message -----

From: Mahesh Kumar A V

To: Krishna Prasad

Cc: ibhyd

Sent: 29 December, 2013 9:02 PM

Subject: Re: Fw: Additions/Alterations - Banglow No 46, Nilgiri Homes, Rampally

Dear Sir,

Kind reference is drawn to trailing email:

We have visited the site today (29/12/2013), having noticed the design problem, herewith compromise for the existing direction of the bathroom floor.

As far as the balance statement is concerned, adding service tax to the customer end is rather confusing. You will appreciate that in general, service tax (ST) to be the part of registration privileges. While entered into detail, not found discussed about the ST in the offer letter served to me on 20-Feb-2013. Apart from this in the booking form found saying that the ST applicable is rather diplomatic. Had it been clarified making either end responsibility (at the very beginning), such doubt would have had not arisen at this stage. It may also be seen that in the flat history document you have mentioned '0' payment against ST. Request elucidate.

Further as far as corpus fund & maintenance charges are concerned would you please come out with the facts under which circumstances are we bound to incur unless the position of the villa is taken over.

Incurring the interest & delayed payment is exclusively not agreed to for the below mentioned reasons:

1. It is well aware that I have opted for 9 months & not for 4 months in terms of the old agreement.
2. In response to my representation while there end proposed for fulfillment of shortfall margin money, agreed to sticking on to repay it in end of Sep/early Oct 2013 during May-2013.
3. It is very unfortunate that, for the best of the reasons know to there end, the fulfillment of shortfall margin money has considerably delayed till Nov-2013 leading to cheque bounce in one of the transactions and expiry of loan approval validity. In view of expiry of loan approval validity constraint for afresh one incurring additional expenses & becoming defaulter in one of the cheques bounce incidence.
4. Therefore, I herewith pass-on the ball to your court to review the issue once again in detail (from the beginning) to arrive at the correct conclusion.
5. If need, detailed one-to-one discussion is most welcome at the appropriate level at the earliest for both end convenience for further course of activities/transactions.

Regards

- Mahesh

23

9

On Thu, Jan 2, 2014 at 1:17 PM, Krishna Prasad <[kprasad@modiproperties.com](mailto:kprasad@modiproperties.com)> wrote:

Dear Sir,

With reference to your mail this is to bring to your kind notice that service tax, registration charges, vat, stamp duties etc., are always payable by the buyer across the globe. However in your particular case we have given an offer of payment of stamp duty, registration charges and vat by us and confirmed through a letter dated 20<sup>th</sup> of Feb 2013. Accordingly these taxes have been paid to the respective authorities and ensured the registration in your name. As such payment of service tax falls to your share and service tax department made it clear and entrusted the duty of collection of service tax to the builder as the builder is the facilitator. A brief visit to the service tax department at Basheerbagh confirms the above fact. A clear mention of service tax applicability has been mentioned in the booking form delivered to you on 31<sup>st</sup> of Jan 2013.

Corpus fund and maintenance charges are payable at the time of settling the account as such right now only an information has been given. You have requested for a relaxation of payment schedules several times but those self made requests have not been honoured at all. The margin money arrangements have been made by us as a last resort to make the things move.

We sincerely request you to give a positive note for the entire episode and you are welcome to meet us at head office, Ranigunj for more clarifications.

With Regards,

K Krishna Prasad  
Manager Customer Relations | +91 99896 99536 | [kprasad@modiproperties.com](mailto:kprasad@modiproperties.com)  
**Don't just buy a flat / villa! Buy a great lifestyle!**  
**Affordable flats / villas in gated communities.**  
**Modi Properties & Investments Pvt. Ltd. | [www.modiproperties.com](http://www.modiproperties.com)**  
5-4-187/3 & 4, M G Road, Sec'bad -03 | Ph: +91 40 6633 5551

FW

10

----- Original Message -----

**From:** Mahesh Kumar A V

**To:** Krishna P asad

**Cc:** jbhyd

**Sent:** 10 January, 2014 10:52 AM

**Subject:** Re: Fw: payment remainder for Banglow No 46, Nilgiri Homes, Rampally

Dear Sir,

It is for kind information that we have chosen one of the most popular, trusted M/s Modi Builders for acquisition of immovable property and not for infructuous correspondence and each other criticize.

As a professional you might be well aware of the procedures but not customer. Further it is one of the basic requirement of there end staff to explain/educate the customer accordingly and not with such a laid down mails.

In our particular case duly prepared to invest on the immoveable property to the tune of Rs.3900000/- chosen villa no.46 Nilgiri Homes. Based on our financial inflow/resources, we have opted for 9 months plan.

Till a sum of Rs.725000/- collected from us no terms and conditions were escalated and surprised to find the agreement for 4 months duration at later.

While executed our unwillingness for fulfillment of margin money in terms of the agreement conditions, it were encouraged to fulfill the same from there end temporarily, exclusively on commercial interest i.e., to retain the customer and to get released the sanctioned loan amount only and not as a last resort to make the things move as said. If so could you please come out with the facts under which circumstances you have splitted the assured amount into 4 installments availing the transaction period 4-5 months.

Now we once again request you to review the episode in detail for the so left transactions / fulfillments and come forward for the amicable conclusion.

There is hardly any necessity to hide/escape from the self made request in this particular issue.

Nextly as for as service tax is concerned we are of the view that service tax also is part of the registration offer which is still under confusion. To enable us to revert/commit may I request you for the payment details for onward interaction.

As for as corpus fund and maintenance charges are concerned we are one among the others and do stick on accordingly.

Regards

- Mahesh

75-



On Wed, Jan 15, 2014 at 5:44 PM, Krishna Prasad <[kprasad@modiproperties.com](mailto:kprasad@modiproperties.com)> wrote:

Dear Sir,

Excepting Tuesday and Thursday in a week, all other days our management member (decision taker) is available at Head office, as such an instant approval can be expected at our Ranigunj office.

We sincerely request you again to reach us (at Head office, Ranigunj) at your convenience for your suggested amicable solution. Prior to reaching us kindly reconfirm our availability.

With Regards,

K Krishna Prasad

Manager Customer Relations | +91 99896 99536 | [kprasad@modiproperties.com](mailto:kprasad@modiproperties.com)

Modi Properties & Investments Pvt. Ltd. | [www.modiproperties.com](http://www.modiproperties.com)

5-4-187/3 & 4, M G Road, Secunderabad - 03 | +91 40 66335551 |

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We build affordable flats & villas in gated communities.

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12

----- Original Message -----

**From:** Mahesh Kumar A V

**To:** Kr.shna Prasad

**Cc:** jbhyd

**Sent:** 05 February, 2014 4:44 PM

**Subject:** Re: Fw: payment remainder for Banglow No 46, Nilgiri Homes, Rampally

Sir,

It will be pleasure of your deputing a rep with amicable solutions for the below mentioned for collecting the outstandings:-

- a. Payment details for ST if need to be borne by me.
- b. Clearance to the note no 2 to the mail dated 28.12.2013 (reg interest on delayed payment of EMIs) in view of my clarification.
- c. Probable date of handing over villa to me.

Regards

- Mahesh

7A

13

On Sat, Feb 8, 2014 at 5:41 PM, Krishna Prasad <[kprasad@modiproperties.com](mailto:kprasad@modiproperties.com)> wrote:

Dear Sir,

With reference to your mail, it is to confirm once again that we have extended offer for stamp duty, registration charges and vat. Only service tax (i.e. Rs.1,15,690/-). shall be paid by you and the service tax ratio is 4.944% on agreement of construction value.

The interest for delayed payments are applicable as per the terms and conditions of agreement of sale and shall be payable at the time of possession.

We have completed maximum works in your bungalow and after receiving the final disbursements from you as well as from your banker, within one month the bungalow shall be delivered.

We are anxious to deliver the possession as such please ensure you are responding in a positive manner.

With Regards,

K Krishna Prasad

Manager Customer Relations | +91 99896 99536 | [kprasad@modiproperties.com](mailto:kprasad@modiproperties.com)  
Modi Properties & Investments Pvt. Ltd. | [www.modiproperties.com](http://www.modiproperties.com)  
5-4-187/3 & 4, M G Road, Secunderabad - 03 | +91 40 66335551 |  
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We build affordable flats & villas in gated communities.

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14

**From:** Mahesh Kumar A V [mailto:a.mahesh100@gmail.com]

**Sent:** Sunday, February 09, 2014 9:17 PM

**To:** Krishna Prasad

**Cc:** jbhyd

**Subject:** Re: Fw: payment remainder for Banglow No 46, Nilgiri Homes, Rampally

Dear Sir,

1. Regarding Service Tax - May I request your kind attention to my emails dated 02-Jan & 10-Jan 2014, where-in I have requested authenticated payment proofs (i.e., copy of receipts/challans etc.). Please fulfil the requirement for onward making the payment.

2. Regarding interest for delayed payment - Hope it is not one side judgement. If not, I am equally very much eligible for compensation for the intervening period of handing over the building.

Please confirm whether or not it is acceptable to you in enabling me to clear the outstanding forthwith.

Regards

- Mahesh

**G.L.NARSIMHA RAO**  
Advocate

H.No.3-4-778, BARKATPURA,  
HYDERABAD -500 027.  
Cell:9848994240

15

BY REGD. POST WITH ACK. DUE  
UNDER CERTIFICATE OF POSTING

Date: 12-03-2014

To

Modi & Modi Constructions Rep. by its Partner Soham Modi  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500007

Under the instructions of my clients 1) Mrs. Angadi Vijaya Laxmi, V/o Bhaskara Rao, Age 56 years, Occ:House Wife, 2) Angadi Mahesh, S/o Bhaskara Rao, Both are R/o 1-24-253//1, Flat No.32, Sri Sainagar, Lotugunta Alwal, Secunderabad-500015, do hereby issue this notice upon the following brief facts.

1. My clients states that you are as a Builder/Developer offered them to purchase a Villa No 46 in Sy.No. 134, 135 & 136, with free registration situated at Rampally village of Keesar Mandal and with the conversation of your people my clients were booked above said fully developed / constructed Villa for an amount of Rs.39 lakhs on 20-02-2013. In fact, you have offered my clients to pay entire amount in span of 9 months from Feb.2013 onwards as per the conversation of with Mr. Rambabu. Later on, you and your office people mis-represented with your affo dable nature by saying that it is only for formalities and put in pen for 4 months. In fact, it is impossible to my clients and they had expressed their inability to pay such huge amount in short span instead of 9 months. For that, you have convinced as stated above. You had entered agreement with my clients with the terms and conditions therein. Anyhow, you had received an amount of Rs. 25,95,000/- and executed sale deed for the incomplete Villa vide registration document No. 8452/13 dated 16-11-2013 and on the same day, you had also obtained an agreement of construction with my clients which as per the clause No.13, you should be completed on or before 01-09-2013. In case, grace period of 6 months also, even after completion of admitted time as well as grace period, you did not handed over the Building / Villa by completing with all amenities which was agreed by you.

2. It is also stated my clients that they had obtained loan from LIC housing loan at the time of sale deed and you have taken an amount of Rs.18.70 Lakhs and in fact, entire house loan was sanctioned which was very much available in the said Branch ready to pay to you after giving possession certification to my clients. But as on today, there is no progress in the development aspect as per the agreement for construction.

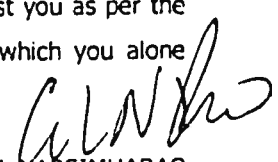


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3. It is also stated my clients that your people offered them to assist in finance even though they have paid an amount of Rs.2.75 lakhs and you your-self had made payments by taking so much time span of 6 months from May 2013 to 18<sup>th</sup> November 2013 by splitting this amount by 4 Installments / parts which was more inconveniently paid by you under guise of financial assistance.

4. It is stated by my clients even though you are inserted a clause if any delayed payments will be charged interest @ 1.5% p.m. but at the same time, the completion of entire building is your bounded duty and you should be handed over to my clients within the time. But you are always trying to harass my clients by demanding in oral huge amounts under the guise of penal interest, service tax etc., even there was no completion of the construction. Even my clients visited on 14<sup>th</sup> Dec 2013 and 15<sup>th</sup> Feb 2014 but there is no progress in this venture. For that, if you are going to impose any interest for delayed payment, at the same time you are liable to compensate to my clients for delayed for completion and handed over the said building/villa. Even my clients stated several times through their E-mails through which the same were shows their borified in this regard, but you are utterly failed to complete the villa. For that my clients are facing mental agony, damages and entitled for compensation for an amount of Rs. 5 lakhs excluding the rents from the date of agreed time for handed over the villa whereas my clients were paying rents at their occupied rented portion for an amount of Rs.15,000/ p.m. at their present residence address.

Therefore, you are, hereby called upon by this notice to complete the entire building as per the agreement of construction and hand over the Building / Villa within a period of 15 days hereafter, otherwise, my clients will take appropriate legal steps against you as per the law by initiating prosecution and other appropriate legal proceedings for which you alone shall be held responsible for the costs and consequences.

  
G.L. NARASIMHARAO  
Advocate

**C. BALAGOPAL**  
**AMEERONISA BEGUM**  
**K. VIJAYA SARADHI**  
**C.V. CHANDRA MOULI**  
**P. VIKRAM KOMAR**  
**ADVOCATES**



81  
16

Door No. 10-2-278, Flat No. 103,  
Suresh Harivillu Apartments,  
Road No. 11, West Marredpally,  
Secunderabad - 500 026.  
Ph : 64570512,  
Cell : 9441782451, 9246172988

Date: 10.04.2014

To  
G.L.Narasimha Rao,  
Advocate  
H.No.3-4-778, Barakathpura  
HYDERABAD-500 027

REPLY

This has reference to your notices dtd. 12.3.2014 addressed to our client M/s.Modi and Modi constructions represented by its partner Mr.Soham Modi. The notices have been placed in our hand with instructions to reply as below:

With regard to para No.1, it is true to the extent regarding the purchase of Villa at Rampally village, Keesara Mandal. for an amount of Rs.29 lakhs. The averment regarding the payment of the entire amount within nine months by your client and the alleged misrepresentation by our client's officials is vague and hence denied. Further it is true that our client has received an amount of Rs.25,95,000/- and also the execution of sale deed and construction agreement. It appears that your client has not properly instructed you regarding the agreement of construction because you are stressing on clause No.13 only which no doubt speaks about the completion of construction. The clause No.3 in the same agreement clearly speaks about the time frame for payment of balance dues and also clause No.4 regarding the interest on late payments, all the above three clauses are interlinked. It is not true to say that the construction is in a skeleton stage. Infact the construction is completed but for final coat of paint and bathroom fittings which is done just before the handing over the possession after settling all the dues by your client. It is not true to say that our client does not consider minor changes as per the requirement of a customer.

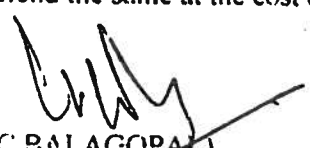
With regard to para No.2 the LIC loan was obtained only in November'2013 and the first tranche of housing loan was released on 27.11.2013 which was more than seven months behind schedule. The amount of 9.75 lakhs which was paid by our client was infact a refund to the customer's father to square off a loan your client had taken from his father. This amount is debited to your client's account.

With regard to para No.4 it is not true to say that our client is harassing your client for payment of huge amounts. It is not true to say that there is no progress in the venture even on 15.2.2014. There is no delay in the completion of the villa and as already mentioned that villa is completed in all aspects but for certain minor works which can be done in a week's time after all the dues are cleared by your client.

Further our client has to receive an amount of Rs.20,48,497/- from your client towards full and final settlement towards the cost of the Villa (including Service Tax, Corpus Fund and interest upto 5<sup>th</sup> April'2014 etc/.,) purchased by your client. Your client is hereby directed to pay the amount and take possession of the Villa after completing all the necessary formalities.

Our client further instructs that in February'2013 when your client booked the villa it was in an advanced stage of construction. Our client was ready to complete the construction and handover the possession by May'2013 positively, provided your client is able to clear all the dues in FOUR installments. Your client was unable to keep up the payment schedule and was able to get the Housing Loan only in November'2013. Our client did not wait for the payments but was continuing the construction of the villa and now the villa is ready but for certain minor works has already mentioned above.

Kindly inform your client to settle all the dues and take possession of the villa and not to initiate unnecessary legal action, if he does so, our client will defend the same at the cost of your client.

  
(C.BALAGOPAL)

ADVOCATE

**G.L.NARSIMHA RAO**  
Advocate



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12

H.No.3-4-778, BARKATPURA,  
HYDERABAD -500 027.  
Cell:9848994240.

BY REGD. POST WITH ACK. DUE  
UNDER CERTIFICATE OF POSTING

Date: 21-04-2014

To

Sri C. Balu Gopal,  
Door No. 10-2-278, Flat No.103,  
Suresh Harivillu Apartments,  
Road No.11, West Marredpally,  
Secunderabad - 500 026.  
Advocate,

Ref: 1) My notice dated 12-03-2014.  
2) Your reply dated 10-04-2014

\*\*\*

With reference to your reply dated 10-04-2014, it is to inform you that plan option for 9 months is a fact one as per my client's letter dated 19<sup>th</sup> May 2013 and the same was acknowledged by your representative Mr. Venkat Reddy. It is clear evidence to support the clearance of payment in 9 months instead of 4 months as per agreement. In case of non-genuineness of the representation, your client should be condemned it and should be in written. But your client neither condemned the representation nor replied properly. Thus proves your client's officials tactfully managed my client in signing on the agreement mentioning 4 months of time period for payment of amounts, in the agreement. You have also agreed the clause No.13 of agreement and its genuineness. But raised about clause No.3 pertains to payment of balance dues and interest which are said to have been interlined. All these interlinked points are not having genuineness because of your client's officials tactfully committed my client to sign on the agreement which supports the clear evidence vide his representation dt. 19-05-2013. Further, still you have accepted that the construction is not yet completed 100% and final coat of paint and bathroom fittings works are pending. In fact, on my clients physical verification, 30 % of work is pending still today. Further, it is his bounded to duty to change minor construction work as per my client's will and wish. The same was incorporated by my client vide his representation addressed to your client dt. 19-05-2013.

Contd.2.

su

-2-

Further, it is to inform you that because of your client's officials actions only, the sanction of LIC loan was once cancelled and again on the sincere attempts of my client, it was sanctioned again and released and paid immediately to your client. Thus the time gap 7 months was occurred. As such, there is no fault on my client side for payment of LIC loan. Further, you had stated that Rs.9.75 lakhs was paid by your client was a refund to my client's father to square off a loan as my client had taken from his father and the same is debited to my client's account. In this regard, it is to inform you that debiting Rs.9.75 lakhs directly to my client's account is illegal action and not belongs in anyway either to the said agreement or in any transactions done. Legally, an amount of Rs.3.30 lakhs is only due from my client after deducting the LIC loan of Rs.9.75 lakhs amount which is also kept ready for appearance of your client's officials.

Without considering the above said facts, your client and his officials constantly harassing my client is true and correct. If the same is not correct, your client's representative should collect the balance amount only but not other interest amount which was illegally imposed upon my client even through there is no lapse on his part and handover the said villa to my client. But your client failed to do so and insisting for more amounts towards interest and unnecessary taxes etc., which is not correct and illegal as per law.

Further, you have stated that in Feb.2013 my client booked his villa whereas the same was in advance stage of construction is also not correct. If it was true, the construction has to be completed 100% even at this time.

However, as per my client's instructions, it is to inform you that my client is ready to pay balance amount of Rs.3.30 lakhs only which is already with the Financier i.e. LIC. If you are giving the occupation certificate the LIC will release the funds straightaway to you after filed verification without any delay.

As such, you are requested to inform your client to advise and to give occupation certificate after completion of entire works as on today which is pending. Immediately on the same day, the Financier/LIC/ Mortgagee will come for field verification and they will release your balance amount Rs.3.30 lakhs towards full and final settlement as per agreement for

Contd.3.

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-3-

possession of the villa. The payment schedule which was made by my client is furnishing below for your ready reference and clarity which will prove my client's bonafied. Otherwise, my client will proceed further as per law.

The outstanding amount is Rs.330000,- only and not Rs.2048497/- as stated. Furnished below are the payment details:-

a. 2 <sup>nd</sup> Feb 2013 Booking amount	Rs.25000/-
b. 18 <sup>th</sup> Feb 2013 payment amount	Rs.200000,-
c. 26 <sup>th</sup> June 2013 payment amount	Rs.500000/-
d. 24 <sup>th</sup> Sep 2013 payment amount	Rs.243750/-
e. 17 <sup>th</sup> Oct 2013 payment amount	Rs.243750/-
f. 31 <sup>st</sup> Oct 2013 Payment amount	Rs.243750/-
g. 18 <sup>th</sup> Nov 2013 payment amount	Rs.243750/-
h. 27 <sup>th</sup> Nov 2013 payment by the (LIC) financier	Rs.1248000/-
i. 27 <sup>th</sup> Nov 2013 Payment by the (LIC) financier	Rs.622000/-
<b>Total payments</b>	<b>Rs.3570000/-</b>
<b>Balance (Rs.390000-3570000)</b>	<b>Rs.330000/-</b>

The aforesaid outstanding amount could only be cleared by the financier only that to after physical handing over and clearance letter from the applicant.

**G.L.NARSIMHARAO**  
Advocate

Copt to:

Modi & Modi Constructions Rep. by its Partner Soham Modi,  
H.No.5-4-167/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003

**G.L.NARSIMHA RAO**  
Advocate



H.No.3-4-778, BARKATPURA,  
HYDERABAD -500 027.  
Cell:9848994240 .

-86-

**BY REGD. POST WITH ACK. DUE**  
**UNDER CERTIFICATE OF POSTING**

Date: 21-04-2014

To

Sri C. Bala Gopal, *Advocate*  
Door No.10-2-278, Flat No.103,  
Suresh Harivillu Apartments,  
Road No.11, West Marredpally,  
Secunderabad -- 500 026.  
Advocate,

Ref: 1) My notice dated 12-03-2014.  
2) Your reply dated 10-04-2014

\*\*\*

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Further, it is to inform you that because of your client's officials actions only, the sanction of LIC loan was once cancelled and again on the sincere attempts of my client, it was sanctioned again and released and paid immediately to your client. Thus the time gap 7 months was occurred. As such, there is no fault on my client side for payment of LIC loan. Further, you had stated that Rs.9.75 lakhs was paid by your client was a refund to my client's father to square off a loan as my client had taken from his father and the same is debited to my client's account. In this regard, it is to inform you that debiting Rs.9.75 lakhs directly to my client's account is illegal action and not belongs in anyway either to the said agreement or in any transactions done. Legally, an amount of Rs.3.30 lakhs is only due from my client after deducting the LIC loan of Rs.9.75 lakhs amount which is also kept ready for appearance of your client's officials.

*Advocate*

Contd.2.

o/c

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Without considering the above said facts, your client and his officials constantly harassing my client is true and correct. If the same is not correct, your client's representative should collect the balance amount only but not other interest amount which was illegally imposed upon my client even through there is no lapse on his part and handover the said villa to my client. But your client failed to do so and insisting for more amounts towards interest and unnecessary taxes etc., which is not correct and illegal as per law.

Further, you have stated that in Feb.2013 my client booked his villa whereas the same was in advance stage of construction is also not correct. If it was true, the construction has to be completed 100% even at this time.

However, as per my client's instructions, it is to inform you that my client is ready to pay balance amount of Rs.3.30 lakhs only which is already with the Financer i.e. LIC. If you are giving the occupation certificate the LIC will release the funds straightaway to you after filed verification without any delay.

As such, you are requested to inform your client to advise and to give occupation certificate after completion of entire works as on today which is pending. Immediately on the same day, the Financier/LIC/ Mortgagee will come for field verification and they will release your balance amount Rs.3.30 lakhs towards full and final settlement as per agreement for possession of the villa. The payment schedule which was made by my client is furnishing below for your ready reference and clarity which will prove my client's bonafied. Otherwise, my client will proceed further as per law for his mental agony and damages for not handing over the building. You are only the responsible for costs and consequences thereon.

The outstanding amount is Rs.330000/- only and not Rs.2048497/- as stated. Furnished below are the payment details:-

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<b>Total payments</b>	<b>Rs.3570000/-</b>
<b>Balance (Rs.3900000-3570000)</b>	<b>Rs.330000/-</b>

The aforesaid outstanding amount could only be cleared by the financier only that to after physical handing over and clearance letter from the applicant.

  
**G.L.NARSIMHARAO**  
Advocate

Copt to:  
Modi & Modi Constructions Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor, MG Road, Secunderabad-500003



88

Dec. 18

Monday Holiday-

09-06-2014

PAY TO M/s Modi & Modi constructions

को या धारक को OR BEARER

रुपये RUPEES Nine lakhs and seventy-five thousand only

अदा करें

₹. 9,75,000/-

खा. सं. A/C. NO.	2291	ब.प. L.F.	को.ड. INTL.
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दि. आ.प्र. वर्धमान (महिला) को-आपरेटिव अर्बन बैंक लिमिटेड  
The A. P. Vardhaman (Mahila)  
Co-operative Urban Bank Ltd.  
लोथकुन्टा शाखा, सिकन्दरावाद  
Lothkunta Branch, Secunderabad (A.P.)

*[Handwritten Signature]*

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**G.L.NARASIMHA RAO**  
Advocate



H.No.3-4-778, BARKATPURA,  
HYDERABAD -500 027.  
Cell:9848994240 .

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Doc No 19

BY REGD. POST WITH ACK. DUE

To

Date: 09-06-2014

Modi & Modi Constructions Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor, MG Road, Secunderabad-500003.

- Ref: 1. Your counsel legal notice dated 15-05-2014.  
2. Reply notice dt. 26-05-2014.

\*\*\*

Under the instructions of my client Mr. A. Bhaskar, S/o Ramappa, R/o 1-24-253/1, Plot No.32, Sri Sainagar Colony, Lothugunta, Alwal, Secunderabad, Hyderabad issuing the present letter along with valid cheque dated 09-06-2014.

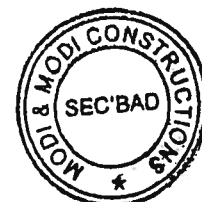
It is represented that my client's son and wife are purchasers of villa No.46 which was developed by you. In that transactions you have financially assisted them through my client Rs.9,75,000/- in the rotating manner. You have issued a legal notice through your counsel whereas his cheque was retained with you for a security purpose but without informing him you have deposited in your account and send a legal notice u/s 138 NI ACT.

In this regard, my client answered to your legal notice vide reference no.2, anyhow, my client to prove his bonafied he is ready to pay such amounts mentioned vide reference No.1 and issuing present cheque No.064939, dt. 09-06-2014 of AP Vardhaman (Mahila) Cooperative Urban Bank Limited, Lothukunta Branch. He is having amounts more than Rs.9,75,000/- as such, this cheque may be substituted with the earlier cheque, <sup>as invoice vide ref No 1</sup> for the same amounts and honour this cheque and drop your any further action in this regard by accepting and acknowledge this letter.

Encl: Original cheque 064939 dt.09-06-2014  
For Rs.9,75,000/-  
Drawn on the A.P.Vardhaman(Mahila)  
Coopertive Urban Bank, Lothugunta Branch  
Secunderabad.

**G.L.NARASIMHARAO**  
Advocate

*As this cheque is issued subject to realization, without prejudice to our rights in the notice already issued and case filed u/s. 138 NI Act.*  
11/6/14



- 90 -

IN THE COURT OF THE I ADDL. CHIEF JUDGE, CCC,  
AT SECUNDERABAD

O.S. No: 98 OF 2014

Between:

Modi & Modi Constructions,

... Plaintiff

And

Smt. A. Vijaya Lakshmi & another

... Defendants

CHIEF AFFIDAVIT OF PW1

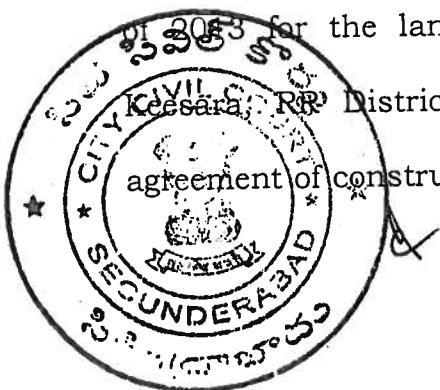
I, L.Ramacharyulu S/o. Sri L.Raghavender Rao aged 54 years r/o. M.G. Road, Secunderabad, do here by solemnly affirm and state on oath as follows:

I am the Legal Officer of the Plaintiff firm and as such well aware of the facts deposed hereunder.

I submit that the Plaintiff is a Builder and Developer and they have developed one such project under the name and style of "Nilgiri Homes" situated at Sy.No.128,129,132 and 136, Rampally Village, Keesar Mandal RR dist. The said project consists of Independent Villas.

I submit that the Defendant went to the site and chose to purchase Villa No. 46 in the said venture for a total sale consideration of Rs.39 lakhs. The plaintiff informed the defendant that the villa chosen by them is in an advanced stage of construction and if the dues are paid within four months they would be able to handover the possession of the villa. The Defendants were satisfied about the progress of the project at that point of time and agreed to all the terms and conditions as specified by the plaintiff. On such agreement having been reached the plaintiff executed a Regd. Sale deed bearing No. 8452

for the land admeasuring 125 Sq yrds. On 16.11.2013 at SRO, Keesara, RR District. On the same day the defendant also executed an agreement of construction in favour of the plaintiff which clearly spells out the



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*[Handwritten signature]*



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terms of payment, period of completion and interest on late payments besides the other terms and conditions the Defendants have abnormally delayed the payment of installments. The plaintiff has received an amount of Rs.25,95,000/- till date. The defendants have to further pay an amount of Rs.20,48,497/- to the plaintiff towards full and final settlement of the cost of the villa. The above amount includes Service Tax, Corpus Funds and interest on late payments.

I submit that the villa is ready in all aspects and the Plaintiff is in a position to handover the possession to the defendants after the clear all the dues.

I submit that the Plaintiff got issued a notice dtd. 18.4.2014 to its counsel to the defendants calling upon the defendants to make the payment of Rs.20,48,497/- within seven days from the date of the receipt of this notice and take possession of the Villa. The Defendants did not reply for the notice.

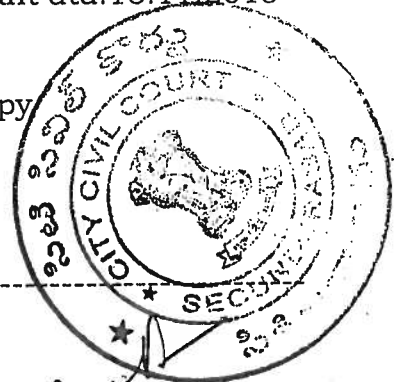
It is therefore prayed that the suit may be decreed as prayed for. The plaintiff is relying on the following documents in support of its case.

**LIST OF DOCUMENTS**

- 
- 1 copy of the Registration of Plaintiff firm -- Xerox copy
  2. Booking Form executed by Plaintiff in favour of Defendant dtd. 16.11.2013 -- Xerox copy
  3. Agreement of Construction dtd. 16.11.2013 -- Xerox copy
  4. O/c of the Notice issued by Plaintiff's counsel to Defs.
  5. Statement of Accounts
- 

Secunderabad  
Date:13.10.2015

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Deponent

  
Advocate, Secunderabad

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16/11



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IN THE COURT OF THE I ADDL. CHIEF JUDGE: CITY CIVIL COURT AT SECUNDERABAD

O.S.NO. 98 OF 2014

Between:

M/s.Modi & Modi Constructions ... Plaintiff

And

Smt.A.Vijaya Lakshmi & another ... Defendants

OSN/0039/15  
12/10/15

CHIEF AFFIDAVIT OF PW1

U.A received  
16/11/15

13/10

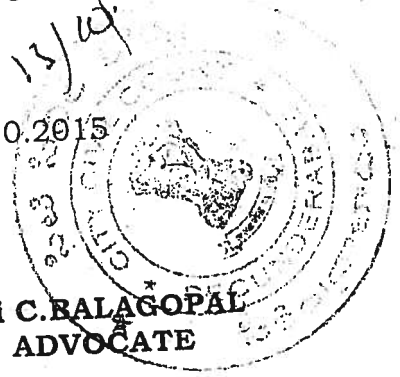
IN THE COURT OF THE I ADDL. CHIEF JUDGE: C.C.C. SEC'BAD CENTRAL PHOTO COPY SECTION

PCA.No..... 6395/16  
Presented on..... 26/9/16  
C.F. Called on..... 11/10/16  
Charges Deposited on 3.10.16 Rs. 146/-  
Receipt No.....  
Made Ready on..... 18/10/16  
Copy Delivered on.....

Filed on: 13.10.2015

Filed by:

Sri C. BALAGOPAL  
ADVOCATE



Flat No.103, Suresh Harivillu Apts  
Road No.11, West Marredpally  
Secunderabad - 26.  
Ph: 64570512

COUNSEL FOR PLAINTIFF

*A. Satyanarayana*  
P.C. Superintendent

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CERTIFIED TO BE TRUE PHOTO COPY

*S. S. S.*  
P.C. SUPERINTENDENT

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**O.S.No.98/2014**

**PW1**

**Date: 27-1-2016**

Name: L.Ramacharyulu

S/W/o: L.Raghavendra Rao

Age: 54 yrs

Occ:

r/o. Hyd.

PW1 present solemnly affirmed on oath by Sri D.Vishnu Prasada Reddy, I Additional Chief Judge in accordance with the provisions of Act 44,1969.

**Chief examination:**

I confirmed the contents and my signature on the affidavit filed in lieu of my further chief examination.

Ex.A1 is the office copy of booking form dt.16-11-2013.

Ex.A2 is the legal notice.

Ex.A3 is the authorization.

Ex.A4 is certified copy of firm registration.

Ex.A5 is certified copy of sale deed.

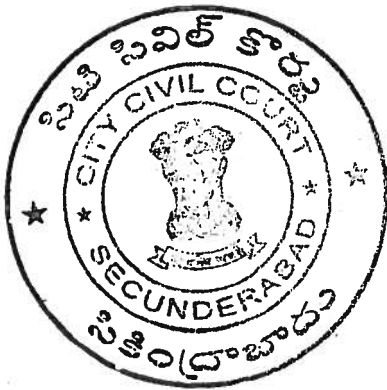
CROSS EXAMINATION: DEFERRED.

*[Handwritten signature]*  
27/1

Typed to my dictation in open court read over and explained to the witness in Telugu/Urdu/Hindi and admitted to be correct.

*[Handwritten signature]*

I Addl. Chief Judge  
MACAI/CCC, Secunderabad.



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**O.S.No.98/2014**

**PW1**

**Date: 16-2-2016**

PW1 present solemnly affirmed on oath by Sri D.Vishnu Prasada Reddy, I Additional Chief Judge in accordance with the provisions of Act 44,1969.

**Cross examination:**

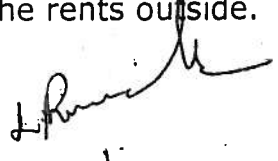
I am working with plaintiff company since 2008. I have no idea when the defendants approached to purchase the suit property from the plaintiff. Ex.B1 is the copy of agreement sale dt.25-2-2013 executed by the plaintiff in favour of defendant in respect of the suit property. As per clause 4 of Ex.B1 the late payment by the defendants are chargeable with 1.5% per month interest. At para 13 of Ex.B1 stipulates 1-9-13 for the date of delivery villa. Witness adds that such delivery is subject to other terms and conditions of payment in Ex.B1. I am not aware that all the defendants paid a sum of Rs.5,70,000/- as referred at para 8 of written statement. It is true that we did not file rejoinder to plaintiff denying the above referred payment at para 8 of written statement. We received the original Ex.B2 letter dt.9-5-13. It is true we did not send any reply to Ex.B2. It is true that on 29-12-2013 D2 sent mail to the plaintiff's officer and Ex.B3 is copy of the same with a request for alternations and nine months time instead of 4 months time for payments. On 9-2-14 D2 sent another mail to furnish the details of service tax against our demand for payment of service tax. I have no idea whether reply is sent for the said mails or not. Ex.B4 is the copy of notice dt.12-3-14 and Ex.B5 is reply thereon dt.10-4-14. Ex.B6 is rejoinder dt.21-4-14. IN ex.B6 is clarified that Rs.35,70,000/- was already paid and balance amount of Rs.3,30,000/- is with the banker for production of occupancy certificate to be furnished by the plaintiff. It is true that



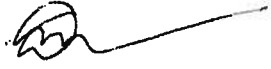
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Ex.B7 is certified copy of order in CC.No/.137/2014 on the file of consumer forum RR Dist. dt.24-7-2015 with a direction to delivery the villa to plaintiff. It is true that the directions in Ex,B7 are not complied with and no stay is obtained in appeal before state forum. Except minor works to be done on delivery date, the Villa is already made ready. I do not know that the defendants are demanding for delivery of villa stating that they are forced to pay the rents outside.

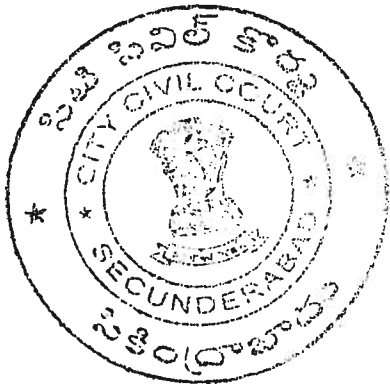
Deferred.



Typed in my dictation in open court read over and explained to the witnesses in Telugu/Urdu/Hindi and admitted to be correct



I Addl. Chief Justice  
MACAT/CCC, Secunderabad.



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O.S. 98 of 2014

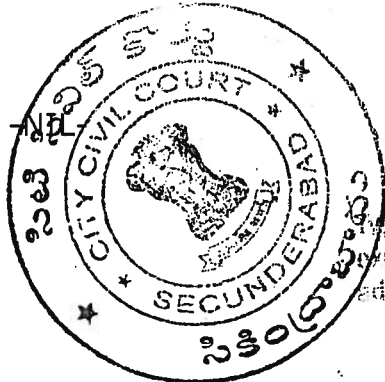
PW-1

21-3-2016

**PW-1 recalled and sworn for further cross examination :**

The defendant made all the payments as referred in the written statement and the plaintiff company received the same. Apart from the payments referred in the written statement a sum of Rs.9.75 laks was adjusted towards loan amount. We did not file any document to show that we paid service tax in respect of the transaction with the defendant. It is not true to say that as per terms of the agreement as the sale consideration was agreed for Rs.39 Lakhs the defendant already paid Rs.35,70,000/- thousand and he is ready to pay Rs.3,30,000/- subject to production of occupancy certificate by getting it released from bank loan. It is not true to say that the consumer forum that the plaintiff should not insist for payment of corpus fund which belongs to the association. It is not true to say that VAT and Service Tax are already included in the contract price of Rs.39 Lakhs. It is true that the minor finishing works referred in my affidavit are not yet completed by the date of handing over the minor works will be completed. It is not true to say that because we did not handover the possession which was due since 2013, I am not entitled to even claim interest for the balance or delayed payments. It is not true to say that the defendant is paying rents because of delay in handing and suffered in paying rents therefore we are not liable to pay any interest to the plaintiff. It is not true so that to cause mental agony to the defendant and to force him to accept the terms and I filed this false case and deposing falsely. It is true that Ex.B-1 is the proforma finalized by our Advocate.

**Re-Examination :**



*[Handwritten signature]*

Subscribed to my dictation in open court read over and explained to the witness in Urdu/Hindi and admitted to be correct.

*[Handwritten signature]*

1 Addl. Chief Justice  
MACAT/CCO, Secunderabad.

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**IN THE COURT OF THE HON'BLE I ADDL. CHIEF JUDGE::CITY CIVIL  
COURT AT SECUNDERABAD**

O.S.No. 98 OF 2014

BETWEEN:

Modi & Modi Constructions,

AND

.... PLAINTIFF

Smt. A. Vijaya Lakshmi and another

.....DEFENDANTS

**CHIEF AFFIDAVIT OF DEFENDANT AS DW-1.**

I, Mrs. Angadi Vijaya Laxmi, W/o Bhaskar, Age 56 years, Occ:House Wife.  
R/o 1-24-253/1, Flat No.32, Sri Sainagar, do hereby solemnly and sincerely affirm  
and sincerely state on oath as follows:

1. I am the Def No.1 in the main suit and as such I am well acquainted with the facts of the case.
1. I submitting that the allegations in the plaint under reply are absolutely false and baseless. The plaintiff filed the present suit against defendants and there is no cause of action for the suit. The plaintiff herein has filed this suit with malafide intention to have a wrongful gain and to deprive the legitimate rights of defendants. The plaintiff has suppressed the material facts that the E-mail communications and notices between the plaintiff and defendants, and have approached the Hon'ble court with un-clean hands and thus the suit on this single point is liable to be dismissed.
2. I submitting that the adverse allegations are denied except those, which are specifically admitted hereunder. The allegations, which are not specifically admitted hereunder, are deemed to be denied. The suit filed by the plaintiff is neither tenable in law nor on the alleged facts and thus the suit is liable to be dismissed. The plaintiff herein has no legal entitlement to institute the above suit and thus the suit are liable to be dismissed.
3. That the allegations in Para No.b, it is true that the said project consists of independent villas, the defendants approached the plaintiff for purchase of a villa No.46 in the said venture for a total consideration of Rs.39.00 lakhs. It is not true that the plaintiff informed the defendants that the villa chosen is on advanced stage for construction and if dues are paid within 4 months, they would be able to complete and handover the possession of the villa. In fact, the

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admitted time is 9 months but suppressing the same, the plaintiff with malafied intention inserted the period of 4 months in the written agreement instead of 9 months accepted by the plaintiff, at the time of agreement. The same was noticed by the head of the family member of this defendants ie. A. BhaskarRao and send an e-mail on 09-05-2013 immediately after noticing that the agreement contained 4 months. The e-mail copy is filed herein as document No.1 for kind perusal. The plaintiff until received the amount of Rs.7.25 lakhs no terms & conditions were disclosed to these defendants which was reflects through the e-mail send to the plaintiff by the defendant's family head. For the promotion of the business of the plaintiff the representative of the plaintiff Mr. Venkat Reddy acknowledged the letter dt. 9-5-2014 given by the deferidants and accepted to fulfill the shortfalls of amount Rs.9.75 lakhs as hand loan to honor the revised of 4 months though in last week of May 2013 has considerably delayed and released the said amount by the plaintiff in 4 installments. In fact the plaintiff accorded amount Rs.2,43,750/- as a hand loan in favour of A. BhaskarRao, Head of the family of the defendant and it was recycled as shown below:

Amount	Date of credit to A.Bhaskar's account by M/s Modi	Date of debit from Bhaskar account to AV Mahesh Kumar A/C	Date of Credit to AV Mahesh Kumar A/C from A Bhaskar	Date of debit to M/s Modi account from Mahesh Kumar A/C
243750	17-Sep-13	21-Sep-13	21-Sep-13	24-Sep-13
243750	28-Sep-13	10-Oct-13	10-Oct-13	17-Oct-13
243750	21-Oct-13	25-Oct-13	25-Oct-13	31-Oct-13
243750	08-Nov-13	13-Nov-13	13-Nov-13	18-Nov-13

9,75,000

It is true that the plaintiff was executed a sale deed bearing No.28452 of 2013 for the land admeasuring 125 Sq.yards on 16-11-2013. The entire payment was made by this defendants as like:

a. 2 <sup>nd</sup> Feb 2013 Booking amount	Rs.25,000/-
b. 18 <sup>th</sup> Feb 2013 payment amount	Rs.2,00,000/-
c. 26 <sup>th</sup> June 2013 payment amount	Rs.5,00,000/-
d. 24 <sup>th</sup> Sep 2013 payment amount	Rs.2,43,750/-
e. 17 <sup>th</sup> Oct 2013 payment amount	Rs.2,43,750/-
f. 31 <sup>st</sup> Oct 2013 Payment amount	Rs.2,43,750/-
g. 18 <sup>th</sup> Nov 2013 payment amount	Rs.2,43,750/-
h. 27 <sup>th</sup> Nov 2013 payment by the (LIC) financier	Rs.1248000/-
i. 27 <sup>th</sup> Nov 2013 Payment by the (LIC) financier	Rs.6,22,000/-
<b>Total payments</b>	<b>Rs.35,70,000/-</b>
<b>Balance (Rs.3900000-3570000)</b>	<b>Rs.3,30,000/-</b>

( Retained by the Financer fro want of occupancy certificate

5. I submitting that the plaintiff intentionally suppressed the amounts which were paid by the defendant No.2 which was encashed by the plaintiff on 24-09-2013; 17-09-2013; 31-10-2013; 18-11-2013 **Rs.9.75** lakhs and even the e-mail transactions and legal notices occurred between the plaintiff and defendants suppressed by the plaintiff and the legal notice dated 28-04-2014 was not accorded to the defendant and even it was not received. In fact prior to that notice there are several notices and reply notices were also placed but the alleged noticed dt. 28-04-2014 was not received by this defendant and these defendants handicapped to answer that notice till today the said copy was not served to these defendants. Hence, the notice is frivolous and fabricated which is not sustained under law.

6. I submitting that the plaintiff did not file any statement how he was arrived such much of huge amount Rs.20,48,497/- instead of Rs.3,30,000/-. The balance amount also sanctioned by the LIC Housing Loan long back but the plaintiff failed to give "**physical occupation**" of the said villa No.46 to the defendants and "**occupation certificate**". The lapse is with the plaintiff only for encashing the said amounts which were retained by the financier. Thus, there is no any lapse on part of me and the e-mail transactions between the plaintiff and defendants and the legal notice *vis-a-versa* clearly shows that the defendants agreed to pay service tax which was paid by the plaintiff to the Government authorities whereas the plaintiff failed to brought and submit the same before this Hon'ble Court also . But till today, the plaintiff did not pay and not shown the said payment receipt to these defendants. Hence, the claim of the service tax without paying to the government authorities the plaintiff has no locus standi to claim from these defendants.

7. I submitting that regarding interest part, the plaintiff has to handover the said Villa to these defendants on or before 01-09-2013 but so far, the said Villa was not completed and till date the plaintiff did not handover the same to these defendants. Because to their mental agony by this plaintiff for want of not handing over the same these defendants constrained to file C.C.No.137 of 2014 on the file of District Consumer Forum on 31-05-2014. For outcome of the said case as counter blast; this plaintiff filed the present suit to trouble these defendants. Because of the attitude of the plaintiff as the plaintiff is habit of misusing cheques housing loan was delayed though it was sanctioned. After filing of the suit the transaction between the Sri BhaskarRao and the plaintiff, the plaintiff got amounts Rs.9,75,000/- through banker's cheque dated 09-06-2014. Therefore, the plaintiff is not entitled any interest as well as any legal

expenditure in view of delay occurred because of the plaintiff attitude only, the plaintiff not made the necessary party hence the suit is liable to dismiss. .

18. I submitting that these defendants entitled Rs.25,000/- P.M. as Rent from the date of 01-09-2013 till the handing over the said Villa, if the plaintiff claims interest. The occurred delay of handing over the villa nearly One year and thus an amount of Rs.3.00 lakhs has to pay by the plaintiff and the said matter is pending adjudication before the proper District Consumer Forum. As such, the plaintiff did not entitle to claim for any interest in his financial assistance. It is only their motto of business promotion and the offer to these defendants as the registration charges attended by the plaintiff as the plaintiff agreed their business promotion.

19. I submitting that actual dues amounts of Rs.3.30,000/- is readily available with the financier and awaiting for physical handing over of the said Villa by the plaintiff. Thus the plaintiff is entitled Rs.3,30,000/- lakhs after issuing occupation certification to these defendants but not more as claimed by the plaintiff in the suit. The suppression of transactions and tactics was not accorded any legal notice copy which was not served to these defendants amounts to uncleaned hands on the part of plaintiff. Whoever approached the Hon'ble Court with uncleaned hands did not entitle any relief. Otherwise the present suit is liable to be dismissed for non-disclosing the facts. The prayers of the suit are misconceived. The suit is liable to dismiss as non joinder of proper party for his money in this suit, whereas he was paid to him, The present suit is filed with the sole intention of causing loss to the bonafide purchasers without handing over the physical occupation. As such the suit is liable to be dismissed with exorbitant costs.

20. I submitting that the documents filed by me may be marked as the B1 to B- 18 as B series .

**LIST OF DOCUMENTS**

<u>S.No.</u>	<u>Date</u>	<u>Parties to the document</u>	<u>Description</u>
Ex-B-1	20-02-2013	Plaintiff and Defendants	Cash receipt Rs.25,000/- issued by the O.p.
Ex-B 2	16-02-2013	-do-	Cash receipt Rs.2,00,000/- issued by the O.p.
Ex-B 3	20-02-2013 /26-06-2013	-do-	Cash receipt Rs.5,00,000/- issued by the O.p.
Ex-B 4	25-02-2013	-do-	Agreement of sale by the O.P.

B5

B9

B10

B1

B32	Ex-B 5	09-05-2013	-do-	Letter given to the O.P. for seeking 9 months time
B31	Ex-B 6	14-12-2013	-do-	e-mail correspondence
B32	Ex-B 7	28-12-2013	-do-	Reply by/op
B33	Ex-B 8	29-12-2013	-do-	e-mail correspondence
B34	Ex-B 9	02-01-2014	-do-	Reply / op
B35	Ex-B 10	10-01-2014	-do-	e-mail correspondence
B36	Ex-B 11	15-01-2014	-do-	Reply by op
B37	Ex-B 12	05-02-2014	-do-	e-mail correspondence
B38	Ex-B 13	08-02-2014	-do-	Reply / o.p.
B39	Ex-B 14	09-02-2014	-do-	e-mail correspondence
B40	Ex-B 15	12-03-2014	Notice to the plaintiff	O/c Legal notice to the plaintiff by the def. counsel
B41	Ex-B 16	10-04-2014	Plaintiff's counsel reply	Reply notice by the plaintiff's counsel to the defendant's counsel
B42	Ex-B 17	21-04-2014	2 <sup>nd</sup> notice to defendants	O/c Legal notice to the defedant by the def.counsel
B43	Ex-B 18	31-05-2014	Defendant and plaintiff	O/c of plaintiff C.C.No.137 of 2014

Judgment of CC 137/14

last page corrs.  
Solemnly and sincerely affirm this  
the day of 1-5-2016  
and signed his name in my presence.

Deponent

BEFORE ME

ADVOCATE :: Sec- Bad/Hyderabad

**NEAT COPY  
BEFORE THE NATIONAL CONSUMER DISPUTES REDRESS COMMISSION  
AT NEW DELHI**

**R.P . NO. 3377 OF 2016**

**IN THE MATTER OF :**

- 1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,  
Age 58 years, Occ:House Wife.
- 2) Angadi Mahesh Kumar, S/o Bhaskar, Age:35 years,  
rep by his GPA Holder Angadi Vijaya Laxmi

Both are R/o 1-24-253/1, Flat No.32, Sri Sainagar,  
Lotugunta, Alwal, Secunderabad-Telangana State 500015.

Versus

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003.

..Petitioners/Compl



**PAPER BOOK**

**(FOR INDEX PLEASE SEE INSIDE)**

Filed by:

**:G.L.Narasimha Rao, Samula Ram Reddy,B.C.S.Reddy &  
B-002, Prasad enclve, Barkatpura, Hyderabad. A.P. 500 027 .**

Local Address. C/o. L.Satyanrayana, Qt.No. 47, South East Employes Colony Gurudwara  
Mothi Bagh, New Delhi.

Cell:. 09848994240.

**NEAT COPY**  
**BEFORE THE NATIONAL CONSUMER DISPUTES REDRESSAL**  
**COMMISSION AT NEW DELHI**  
**R.P.NO. 3377 OF 2016**

**In the matter of:**

1) Mrs. Angadi Vijaya Laxmi, W/o Bhaskar,  
Age 58 years, Occ:House Wife.

2) Angadi Mahesh Kumar, S/o Bhaskar, Age:35 years,  
rep by his GPA Holder

Both are R/o 1-24-253/1, Flat No.32, Sri Sainagar,  
Lotugunta, Alwal, Secunderabad-Telangana State. 500015.

..Petitioners/Compl

Versus

Modi & Modi Constructions,  
Rep. by its Partner Soham Modi,  
H.No.5-4-187/3 & 4, 2nd Floor,  
MG Road, Secunderabad-500003.

.. Respondent/Respondent/O.P.

**REVISION PETITION IS FIELD UNDER SEC. 21 OF THE CONSUMER PROTECTION ACT**

Most respectfully showed:

That aggrieved by the judgment and Order dated 18-10-2016 passed the Hon'ble STATE CUNSUMER DISPUTES REDRESSAL COMMISSIN of TELANGANA STATE at Hyderabad in F.A. No. 152 OF 2015 the petitioner are filing the present revision petition on the following amongst other

**G R O U N D S**

- a. Whether the state forum can pass such orders without giving any rents which caused loss to the complaints to pay Rents Rs. 25,000/- P.M. admittedly the condition to handed over the villa No.46 in the month of October 2013. Even after getting entire hard earned amounts except Rs. 3,30,000/-retaining and awaiting for occupation letter by the Financer.
- b. Whether the Hon'ble state forum can came to the conclusion to dismiss the claim when the OP failed to complete the villa and handed over the same with in stipulated time. i.e. October 2013.
- c. whether the sufferings of the petitioner were justified with the impugned orders



- d. The main object of the petitioners to purchased the Own house by spending huge amounts Rs.39,00,000/-defeated. And attending Rs. 25,000/- P.M. as interest to the Financer and Rs.25,000/- P.M. as paying Rent to the his rented house.
- e. Whether the state forum with dismissal of the FA. meets the ends of justice where as the petitioners claim in his complaint to award his mental agony loss and damages .
- f. The State forum can pass orders without any loss or interest for the said huge amounts paid and the OP. Field suit O.S.No. 98 of 2014 for his amounts Claiming with interest therein. If the Hon'ble consumers Forums failed to protect the interest of the consumer by taking lenient view for non compliance of the clause in agreement if the OS. Filed by the OP may decreed , the huge loss will be caused to the petitioners.
- g. The both forums failed to asses the mental agony and monitory loss for consumer who wants to purchased the property but the OP did not completed the same handed over the same meantime filed the Suit for his late payments and other incidental charges .
- i. The Ld. State commission failed to appreciate the grounds raised by the petitioners in the memo of appeal filed before it.
- j. The O.P. even got entire amounts from hard earned amount of the petitioners and not completed the constructions and not at all handed over the petitioners will caused loss on part of the negligence of the O.P.
- K. The both Forums below failed to impose the compensation or interest to the amounts which the OP has already received Rs. 35,70,000/- out of Rs.39,00,000/- and remaining Rs. 3,30,000/- retained by Housing financier and petitioners constrained to pay interest to the Financers for entire sanctioned amounts of Rs.22,00,000/- and when the OP claiming interest on Rs. 3,30,000/-due because of his delay of made constructions physical handover, the Banker not give the same. And field suit vide O.S. No. 98 of 2014 . the Forum ought be awarded by following the judgment rendered by this Hon'ble Court in **Rajanpaul case dated. 5-7-2016.**

- k. Because the state forum of Telangana has erred in concluding by dismissing the FA without any FINE , LOSS , MENTAL AGONY, INTEREST ON LOAN, PAYING RENTS TO RESIDE BY THEM, caused due to the OP for delay of compensation of constructions, when the OP Filed suit for his amounts.
- l. Without appreciation of mind proper evidence on record and hearing the first appeal the State consumer Redressal forum passed present impugned orders which will not satisfied the mental agony of the complainants which is affected the petitioners which is contrary to the law, and settled by the rulings.
- m. For that the Petitioners have prima facie good case and in all likelihood will succeed before this Hon'ble Court.
- n. The balance of convenience is in favour of these petitioners.
- o. The other grounds that may urged at time of hearing of the revision petition with the permission of the Hon'ble commission.


#### **PRAYER**

A "It is most respectfully prayed that this Hon'ble Commission may be pleased to allow the Revision Petition by modified/ set-a-side the orders Dated 18-10-2016 made in F.A.No. 152 of 2015 of the Telangana State Commission , Hyderabad while granting the compensation and mental agony for Rs. 5,00,000/- and Rs. 25,000/- P.M. from October 2013 to until handed over the villa i.e November 2016 38 months X 25,000= 9,50,000/- as damages/rents and allow the Complaint as prayed for and

- b. pass any other or further orders as this Hon'ble Commission may be deemed fit and proper in the facts and circumstances of the case.

New Delhi

Date. 20-2-2017.

  
Counsel for the petitioner