

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

W.P.No.

OF 2005

Between:-

1. Soham Modi, S/o Satish Modi, aged about 35 years,
2. Sourabh Modi, S/o Satish Modi, aged about 34 years.

(Both are R/o 5-4-183/3 & 4, 3rd Floor, Soham Mansion,
M.G. Road, Secunderabad.)

...Petitioners

And

1. Municipal Corporation of Hyderabad, rep. by its
Commissioner, Tank Bund, Hyderabad.
2. Chief City Planner (Town Planning Section), Municipal
Corporation of Hyderabad, Tank Bund, Hyderabad.
3. Government of Andhra Pradesh, rep. by Secretary, Revenue
(Land Acquisition) Department, Secretariat, Hyderabad.

... Respondents

AFFIDAVIT FILED BY THE 1ST PETITIONER

I, Soham Modi, S/o Satish Modi, aged about 35 years, R/o 5-4-183/3
& 4, 3rd Floor, Soham Mansion, M.G. Road, Secunderabad, do hereby
solemnly affirm and sincerely state on oath as follows :-

1. I am the 1st petitioner herein and as such I am well acquainted with
the facts of the case. I am deposing to this affidavit on behalf of the 2nd
petitioner also, who is my brother.
2. We are the absolute owners of an extent of 1895 Sq. Ft. in the
ground floor of a commercial building complex by name "Modi House"
bearing Premises No. 1-10-72/2/3, Begumpet Main Road, Hyderabad. In
fact we have constructed the said commercial building complex and sold
the built up area to several others. We are owners of an extent of 1895 Sq.
Ft. in the ground floor of the said commercial building, which consist of
ground plus two upper floors.

3. I submit that the 2nd respondent has issued a Notice dated 14-06-2005 purportedly u/S 146 and 147 of the Hyderabad Municipal Corporation Act, 1955, hereinafter called the Act, without correct description of the person name to whom the said notice is supposed to be served but stating that the premises bearing No. 1-10-72/2/3 is getting affected under road widening of S.P. Road and, therefore, consent for taking advance possession of the affected area may be given. Since the said notice was addressed to M/s. White House, we have submitted a representation dated 04-07-2005 explaining that we are owners of the ground floor portion of the said commercial building complex and we have claimed total market value of Rs. 285.60 lakhs as the compensation amount since the entire building complex is getting affected in the road widening. We have also requested the 1st respondent to intimate us about the compensation which the Corporation is willing to pay to us as per Section 146 of the Act. In response to the said letter, the 1st respondent vide letter dated 04-08-2005 has called upon us to furnish ownership documents for issue of fresh notices to different owners of the said building complex. However, it has appeared in various newspapers including the Times of India, Hyderabad edition dated 29-06-2005 that the S.P. Road widening is taking place and the existing 100' wide road is going to be widened to 150' in two months. There upon, we have addressed letter dated 08-08-2005 reiterating that we are owners of the "Modi House" bearing Premises NO. 1-10-72/2/3, Begumpet Main Road, Hyderabad and that we require 15 days time for producing ownership documents from all the purchasers of the said building complex. We have also stated that no steps are taken for acquiring the said property as contemplated by Section 146 of the Act since we came to know that the Standing Committee of the Corporation has not approved any prescribed rates for properties, which are situated in the territorial area of the Municipal Corporation of Hyderabad and that there is a scare in the market that the Corporation may resort to coercive action of demolition of the complex at any time and, therefore, we have requested that the proposed demolition may be kept in abeyance and Standing Committee may be formed for recommending rates and negotiations may be called for, for

acquiring our property u/S 146 of the Act. It is relevant to submit here that under the covering letter dated 23-08-2005 addressed to the 1st respondent, we have furnished all the ownership documents relating to the building complex. After the said correspondence, the 2nd respondent, vide letter dated 14/15-09-2005 has informed us that it is not possible to pay compensation as per market value and that land acquisition proposals are filed for the case u/S 147 of the Act. Thus, it is clear that the Corporation is not proceeding u/S 146 of the Act and that they have decided to adopt the procedure of acquisition contemplated by Section 147 of the Act, which requires them to follow the provisions of the Land Acquisition Act, 1894.

4 I submit that the respondent Corporation has been resorting to coercive action of demolition of various buildings and building complexes in the recent past and there is a genuine apprehension in our mind that the Corporation may demolish the building complex by using heavy equipment of demolition, in which event, it would not be possible to evaluate the market value of the building complex. Though we have laid our claim before the Corporation as regards the market value of the building complex, it remained unilateral since the Corporation did not respond on that so far. If the procedure u/S 147 of the Act is followed, it is incumbent on the Government to issue notification u/S 4(1) of the Land Acquisition Act and thereafter follow the provisions of the said law and pay market value as compensation amount with all the statutory benefits to us. Thus, even if the acquisition is taken up under the provisions of the Land Acquisition Act, possession cannot be taken till an award is passed or till 80% of the compensation amount is paid where the enquiry u/S 5-A of the Act is dispensed with. Thus, in any view of the matter, it is not permissible to the Corporation to resort to highhanded and coercive action of demolition against our building complex. It is relevant to submit here that according to the road widening alignment, our entire building is getting affected. Since we are apprehensive that the Corporation may demolish the building complex without following the procedure of law and since it is well settled that the Corporation cannot take possession or demolish the property

unless the property is acquired (AIR 2001 AP 345), we are constrained to seek indulgence of this Honourable Court. We are filing the present writ petition for the benefit of the other purchasers also since we hold the moral responsibility as vendors of the built up area to them.

5. We have no other alternate remedy except to approach this Honourable Court under Article 226 of the Constitution of India. We have not approached any other court or tribunal for the relief sought for in the writ petition.

6. It is necessary that this Honourable Court may be pleased to direct the respondents not to demolish any part of the building complex by name "Modi House" bearing Premises No. 1-10-72/2/3, Begumpet Main Road, Hyderabad, pending disposal of the writ petition.

7. It is, therefore, prayed that this Honourable Court may be pleased to issue a Writ of Mandamus or any other appropriate writ directing the respondents to forbear from demolishing or consuming the property of the petitioners known as "Modi House" bearing Premises No. 1-10-72/2/3, Begumpet Main Road, Hyderabad without acquiring the said property as per Section 147 of the Hyderabad Municipal Corporation Act r/w the provisions contained in Land Acquisition Act, 1894 and without payment of compensation amount at market value with all statutory benefits to the petitioners and other owners of the built up area in the said building complex and grant such other relief as it deems fit in the circumstances of the case.

Sworn and signed before me on this the
3rd day of October, 2005, at Hyderabad.

Deponent

Advocate, Hyderabad.

Verification Statement

I, Soham Modi, S/o Satish Modi, aged about 35 years, R/o 5-4-183/K & 4, 3rd Floor, Soham Mansion, M.G. Road, Secunderabad, being the 1st petitioner herein, do hereby state that the facts mentioned in paragraphs 1 to 4 are true and correct to the best of my knowledge and belief and the facts mentioned in paragraphs 5 to 7 are true legal advice obtained from my counsel and I believe the same to be true and correct. Hence, verified to be true and correct on this the 3rd day of October, 2005 at Hyderabad.

Advocate

Deponent

MEMORANDUM OF WRIT PETITION
(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA)
IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH, HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

W.P.No. _____ of 2005

Between:-

1 Soham Modi, S/o Satish Modi, aged about 35 years,

2 Sourabh Modi, S/o Satish Modi, aged about 34 years,

(Both are R/o 5-4-183/3 & 4, 3rd Floor, Soham Mansion,
M G Road, Secunderabad.)

... Petitioners

And

1 Municipal Corporation of Hyderabad, rep. by its
Commissioner, Tank Bund, Hyderabad.

2 Chief City Planner (Town Planning Section), Municipal
Corporation of Hyderabad, Tank Bund, Hyderabad.

3 Government of Andhra Pradesh, rep. by Secretary, Revenue
(Land Acquisition) Department, Secretariat, Hyderabad.

... Respondents

The address for service of all notices and other processes on the
above named petitioner is that of his counsel M/s Vedula Venkata Ramana
and Vedula Srinivas, 62/2RT Saidabad Colony Hyderabad - 500 059.

For the reasons stated in the accompanying affidavit, the petitioner
herein prays that this Honourable Court may be pleased to issue a Writ of
Mandamus or any other appropriate writ directing the respondents to
forbear from demolishing or consuming the property of the petitioners
known as "Modi House" bearing Premises No. 1-10-72/2/3, Begumpet Main
Road, Hyderabad without acquiring the said property as per Section 147 of
the Hyderabad Municipal Corporation Act r/w the provisions contained in
Land Acquisition Act, 1894 and without payment of compensation amount at
market value with all statutory benefits to the petitioners and other owners
of the built up area in the said building complex and grant such other relief
as it deems fit in the circumstances of the case

Hyderabad,
Dt. 04-10-2005

Counsel for the Petitioners

HYDERABAD : DISTRICT

HIGH COURT : HYDERABAD

W. P.NO. 21741 OF 2005

MEMO. OF WRIT PETITION

M/S. VEDULAVENKATARAMANA(1141)
PERI PRABHAKAR

COUNSEL FOR THE PETITIONERS

MEMORANDUM OF WRIT PETITION, MISC. PETITION
(UNDER SECTION 151 OF C.P.C.)
IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT: HYDERABAD

W.P.M.P.No. of 2005

In

W.P.No. of 2005

Between:-

1 Soham Modi, S/o Satish Modi, aged about 35 years,

2 Sourabh Modi, S/o Satish Modi, aged about 34 years,

(Both are R/o 5-4-183/3 & 4, 3rd Floor, Soham Mansion,
M.G Road, Secunderabad.)

...Petitioners/Petitioners

And

1 Municipal Corporation of Hyderabad, rep. by its
Commissioner, Tank Bund, Hyderabad.

2 Chief City Planner (Town Planning Section), Municipal
Corporation of Hyderabad, Tank Bund, Hyderabad.

3 Government of Andhra Pradesh, rep. by Secretary, Revenue
(Land Acquisition) Department, Secretariat, Hyderabad.

... Respondents/Respondents

For the reasons stated in the affidavit filed in support of the main
Writ Petition, it is prayed that this Honourable Court may be pleased to
direct the respondents not to demolish any part of the building complex by
name "Modi House" bearing Premises No. 1-10-72/2/3, Begumpet Ma n
Road, Hyderabad, pending disposal of the writ petition and grant such other
relief as it deems fit in the circumstances of the case

Hyderabad
DI 4 -10-2005

Counsel for the Petitioners

o/c

DISTRICT : HYDERABAD

HIGH COURT : HYDERABAD

W.P.M.P. No. OF 2005

In

W.P. No. 21741 OF 2005

DIRECTION PETITION

M/s. VEDULA VENKATARAMANA(1141)
PERI PRABHKAR
COUNSEL FOR THE PETITIONERS