

IN THE HON'BLE HIGH COURT OF JUDICATURE AT HYDERABAD

W.P.No: OF 2007

Between:

P. Varalaxmi W/o P. Ravinder Reddy,
Aged 42 years, Occ: household R/o I-402,
May Flower Park, Mallapur, Rangareddy Dt. ... Petitioner

A N D

1. The Commissioner & Special Officer,
Greater Hyderabad Municipal Corporation,
Tank Bund, Hyderabad.
2. The Deputy Commissioner, Kapra Circle,
Greater Hyderabad Municipal Corporation,
At Kushaiguda, Rangareddy Dt.
3. M/s Modi Properties & Investments Pvt. Ltd.,
5-4-187/3,4, IIIrd Floor, MG Road, Secunderabad.
500 003.
4. M/s Reliance Communications Ltd.,
Lake Shore Towers, 6-3-1090/B/1,
Raj Bhavan Road, Somajiguda, Hyderabad. ... Respondents

A F F I D A V I T

I, P. Varalaxmi W/o P. Ravinder Reddy, aged 42 years, Occ: household, R/o I-402, May Flower Park, Mallapur, Rangareddy Dt., hereby state on oath as under:

1. That I am the petitioner herein & one of the flat owners, among hundreds others in May Flower Park apartments; as such I am fully aware of the facts being interested in the lives, safety and welfare of these apartments' residents; hence filing this Public Interest Litigation. I am a post graduate housewife engaged in social service and public causes to my level best.

2. That we reside in May Flower Park apartments in Mallapur, RR Dt., having purchased from M/s Modi Properties and Investments Pvt. Ltd., who constructed and sold out all the flats. On 5th floor of I-Block, Reliance Communications Ltd., erected a signal tower, without a consent of building

flats owners, in collusion with the builder. We noticed a wide crack and cut of our sub-block from main I-block, from ground to fifth floors, completely from south to north, bending of our sub-block towards eastern side. A play ground and children park is also adjacent to our sub-block. Experts opined it a great hazard and danger to lives and safety of flats' residents, people in the vicinity and the general public, making responsible only the high tower with its connected heavy load of equipments and machinery over the terrace of 5th floor. There are no such cracks, cuts and bending in any of other 8 blocks.

3. That at the request of others, on 17-08-07 I lodged its complaint Dtd:15-08-07 before the Dy. Commissioner, GHMC, Kapra Circle & copies to the Commissioner, GHMC and Chief City Planner, GHMC. The staff of different branches of GHMC, including Town Planning, Engineering, Soil Testing, etc., thoroughly inspected and examined the site, keenly looked into the problem and submitted their reports to the Dy. Commissioner, Kapra.

4. The Dy. Commissioner, Kapra Circle, GHMC, issued a Notice No: G2/884/2007 Dated 20-09-07 to M/s Modi Ltd., say that they erected a telecommunication signal tower (Reliance) without taking prior permission from the competent authorities; the flat owners lodged a complaint, during inspection it was observed that some cracks are developed in all floors of the block at the tower erected location; and directed to remove the tower erected illegally within ten days failing which necessary action would be initiated by GHMC as per the provisions of HMC Act 1955, for consequences of which M/s Modi Pvt.Ltd., would be held liable for any untoward incident. Copies of this notice were given to M/s Reliance Communications Ltd., the SHO PS Nacharam and the President of Residents' Welfare Association.

5. That Despite the said notice of GHMC Dtd:20-09-07 to remove the illegally erected signals tower within 10 days, the respondents 3 & 4 did not comply with its directions. Ultimately, I gave reminder Dtd:04-10-07 to Respondents 1 and 2, requesting urgent necessary action to save public lives. If removal of that tower and heavy loaded machinery is delayed, the cracks, cuts & bending of building will continue increasing; will be more dangerous, dilapidated and cause a great hazard/danger to its and surrounding inmates and the public passing through the road/lane and on its front/sides.

6. Angry and enraged upon my said complaint to GHMC in public interest to save public lives, M/s Modi restrained me from entering my own flat, purchased from them on 08-12-06 by Regd. Sale deed, in their another venture: Gul Mohar Gardens, locked it in retaliation and refused to allow me till I withdraw my complaint from GHMC. I complained of this cognizable offence to police on 04-10-07, who did not initiate any legal action under the influence of M/s Modi. Only after my complaint to DCP, the ACP talked to them and arranged my entry into my owned flat, without any action of IPC.

7. M/s Modi Pvt.Ltd. & M/s Reliance Communications Ltd. have very high official, political and financial influence, influenced Respondents 1 and 2 and silenced them. As such I gave another reminder Dtd:15-10-07 to Respondents 1, 2 and Chief City Planner, GHMC, but for no use. Contrarily the respondents 1 & 2 are aiding and advising respondents 3 & 4 to obtain a stability certificate of our building from some other source, so as to overlook and ignore GHMC officials' reports against M/s Reliance signals' tower and to drop further follow up legal action upon their notice dated 20-09-07. M/s Modi unlawfully earns heavy rents from M/s Reliance for that tower without ownership of our building or any flat therein, at the cost of public lives.

8. That prevention is always better than cure. Wealthy people are exploiting the ignorance and innocence of general public and filling pockets at the cost of others' lives. Respondents 1 and 2 are duty bound to protect & safeguard the public lives. They should never permit and allow to exist such signal towers upon high rise buildings that too without an express consent of the building owners and adjoining neighbours. Unfortunately they ignored, neglected and forgot their lawful duties and are now acting under directions of highly influential and very rich respondents 3 and 4. They will never act lawfully, unless directed by this Hon'ble Court.

9. That there is no alternate effective remedy except approaching this Hon'ble Court under Article 226 of Constitution of India for a Writ. No such petition is ever filed or pending in any other court for the relief herein claimed for.

10. Hence prayed that this Hon'ble Court may be pleased to issue an Order, Direction or Writ, particularly a mandamus, declaring the inaction, delay and negligence of the respondents 1 and 2 in taking a follow up action under HMC Act 1955 upon notice No:G2/884/07 Dtd:20-09-07, as arbitrary, collusive, illegal and in violation of fundamental/human rights & principles of natural justice; and the non removal of said tower by respondents 3 and 4 as illegal; and consequently to direct them all to remove the illegally erected M/s Reliance Communication's tower from terrace of the 5th floor, I-Block, May Flower Park, Mallapur, GHMC Kapra Circle, as per the said notice; and to pass such orders as are necessary in the interest of justice.

11. It is also just, proper and necessary to direct the respondents 1 and 2 to take the follow up action under HMC Act 1955 upon notice No:C2/884/07 Dtd: 20-09-07 and to proceed further in removing illegally erected M/s Reliance Communications' tower from the terrace of 5th floor, I-Block, May Flower Park, Mallapur, Kapra Circle, GHMC, till the disposal of this Writ Petition.

HYDERABAD
Date: 30-10-07.

DEPONENT

VERIFICATION

I, P. Varalaxmi W/o P. Ravinder Reddy, aged 42 years, Occ: household, R/A I-402, May Flower Park, Mallapur, Rangareddy Dt., hereby affirm and state on oath that the contents of paras 1 to 11 of this affidavit are true and correct to the best of my knowledge and belief. Hence verified at Hyderabad on this the 30th day of October, 2007.

DEPONENT

Sworn and signed before me at Hyderabad on 30-10-07.
Identified by: K. Shyam Kumar, Advocate, Hyd-80.

Advocate, Hyd.

Counsel for petitioner

Memorandum of Writ Petition under Article 226 Constitution of India
IN THE HON'BLE HIGH COURT OF JUDICATURE AT HYDERABAD

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1. The Special Officer & Commissioner,
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Lake Shore Towers, 6-3-1090/B/1,
Raj Bhavan Road, Somajiguda, Hyderabad. ... Respondents

The petitioner's address for service of process is that of the counsel:
Mohammed Zafarullah & K. Shyam Kumar, Advocates, 20-7-106, Qazipura,
Hyderabad-65, Ph: 9247173741, 9246283363.

For the reasons stated in the affidavit annexed, the petitioner prays this Hon'ble Court to be pleased to issue an Order, Direction or Writ, particularly a mandamus, declaring the inaction, delay and negligence of the respondents 1 & 2 in taking the follow up action upon notice No: G2/884/ 07 Dtd:20-09-07 under HMC Act 1955, as arbitrary, collusive, illegal, in violation of fundamental/human rights and principles of natural justice; and the non removal of said tower by respondents 3 & 4 as illegal; and consequently direct them to remove the illegally erected M/s Reliance Communication's tower from the terrace of of 5th floor, I-Block, May Flower Park, Mallapur, GHMC Kapra Circle, as per the said notice; and to pass such orders as are necessary in the interest of justice.

HYDERABAD
Date: 30-10-07.


Counsel for Petitioner

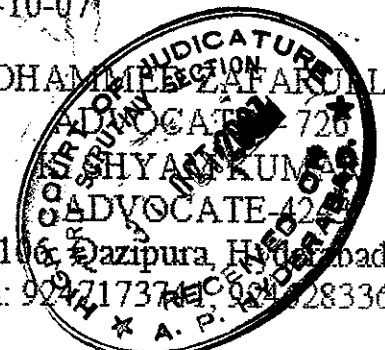
RANGAREDDY DISTRICT
HIGH COURT OF ANDHRA PRADESH

W.P.No: OF 2007

WRIT PETITION

3/2/11
Filed on: 30-10-07

Filed by: MOHAMMED ZAFARUJALAH



20-7-106, Dazipura, Hyderabad-65.

Ph: 9247173741, 9247283363

Counsel for Petitioner

By Spl. Messenger