

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

W.P.NO. OF 2022

BETWEEN:

M/s. Kadakia & Modi Housing
Rep. by its Managing Partner Sohan Modi,
R/o.H. No.5-4-187/3 & 4, 2nd Floor, soham Mansion,
M.G. Road, Secunderabad, Telangana State – 500003.

...Petitioner

AND

Hyderabad Metropolitan Development Authority,
Represented by its Secretary,
Swarna Jayanthi Commercial Complex,
Ameerpet, Hyderabad-500038.

....Respondent.

AFFIDAVIT

I, Soham Modi, S/o Late Satish Modi, Aged 50 years, Occupation:
Business, R/o.H. No.5-4-187/3 & 4, 2nd Floor, Soham Mansion, M.G.
Road, Secunderabad, Telangana State, do hereby solemnly affirm and state
on oath as follows.

1. I am the Managing Partner of the Petitioner Firm and as such I am
well acquainted with the facts of the Case.

For KADAKIA & MODI HOUSING

Partner

2. I submit that the petitioner has made an application to the erstwhile HUDA for Building Permission for construction of 72 Villas, Amenities Block + Commercial Block. I submit that the erstwhile HUDA had accepted the application of the petitioner for development of residential layout in the land in Survey No.1139 of Shamirpet Village and Mandal, Ranga Reddy District to an extent of 21112.00 Sq. Meters equivalent to Ac.5-8.6 Gts., and the approval was granted on 12.05.2008 and the petitioner was to complete the development within a period of 3(three) years from the said date. However, as the petitioner could not complete the same due to poor Real Estate Conditions, upon application and payment of requisite fees the said Group Housing Scheme earlier was revalidated for a further period of three years from 11.05.2011 to 11.05.2014. It is further submitted that thereafter by a letter dated 29.10.2015 the Petitioners have made an application for extension of time and also for revision of the type of design of some of the unsold units and there after the Respondent had extended the time U/s. 21 of HMDA Act, 2008 from 12.05.2014 to 11.05.2017 on payment of Rs. R.3,79,558/- towards the revalidation charges. The petitioners have made the said payment.

For KADAKIA & MODI HOUSING

Partner

3. It is further submitted that by a letter dated 27.04.2017 the petitioners have requested for further extension of time from 12.05.2017 to 11.05.2020 and expressed their willingness to pay necessary fees. It is further submitted that the said application was accepted and time was granted up to 11.05.2020 for completion of the project by letter dated 29.06.2017.

4. I submit that thereafter due to the Covid-19 guidelines the Government has extended the time granted for completion of the building up to 31.03.2021. I submit that the Petitioner has completed the project in all respects and by letter dated 06.03.2021 requested the Respondent for issuing "Final Layout and Occupancy Certificate". It is further submitted that the petitioner has thereafter issued another letter dated 24.03.2021 clearly informing that the entire work is completed in respect of the layout giving details of completion as required under law and also requested the Respondent to inspect the site and release the "Final Layout" and "Occupancy Certificate" at the earliest. The Petitioner had also requested for release of the four mortgaged Villas i.e. Villa No.23, 24, 25 & 26 forthwith. It is submitted that inspite of this clear letter instead of conducting inspection, the Respondent had remained silent on this aspect.

For KADAKIA & MODI HOUSING
Partner

5. It is further submitted that certain purchasers of the Villas have made a false complaint to the Respondent stating that certain works are pending and they have also filed W.P. No.14594 of 2020 in this Hon'ble Court seeking a direction to the Respondent. It is submitted that this Hon'ble disposed off the said writ petition at the admission state itself without notice to the petitioner directing consideration of the representation filed by the said persons.

6. It is submitted that the enquiry into the said representation is not at all connected to issuance of Final Layout and Occupancy Certificate and it is the responsibility of the Respondent to conduct inspection and issue "Final Layout" and "Occupancy Certificate" and they are duty bound to conduct inspection and issue final layout and Occupancy Certificate. The so called grievances of handful of purchasers who are enemically disposed towards the petitioner and trying to espouse their personal cause and blackmail the petitioner cannot be a ground for not inspecting the site or not issuing Occupancy Certificate.

7. It is submitted that due to the Respondent not inspecting the project and issuing the Final Layout and Occupancy Certificate and also not

For KADAKIA & MODHOUSING

Partner

declaring the inaction of the Respondent in issuing “Final Layout” and “Occupancy Certificate” in favour of the petitioner in respect of the gated community in land admeasuring 21112.00 Sq. Meters Or Ac5-8.6 Gts., in Survey No.1139 of Shamirpet Village and Mandal, Ranga Reddy District as arbitrary, illegal and consequently direct the Respondent to issue “Final Layout” and “Occupancy Certificate” to the Petitioner of the project in land admeasuring 21112.00 Sq. Meters Or Ac5-8.6 Gts., in Survey No.1139 of Shamirpet Village and Mandal, Ranga Reddy District and pass such other order or orders in the interest of justice.

Sworn and signed before me on this
the 17th day of April, 2022 at Hyderabad.

For KADAKIA & MODI HOUSING
Partner

DEPONENT

Advocate, Hyderabad

releasing the mortgaged Villas the Petitioner is suffering severe hardship and loss as it is unable to sell mortgaged Villas upon release. Thus the petitioner is constrained to file present writ petition.

8. The petitioner has got no other equally efficacious alternative remedy except involving the extra-ordinary original jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.

9. The petitioner has not filed any other Writ Petition or proceedings for the same relief which is claimed in the present Writ Petition.

10. It is necessary that the Hon'ble Court may be pleased to direct the Respondent to consider the letters of the Petitioner dated 06.03.2021 and 24.03.2021 and issue final layout and Occupancy Certificate in favour of the petitioner in respect of the project of the petitioner in land admeasuring 21112.00 Sq. Meters Or Ac5-8.6 Gts., in Survey No.1139 of Shamirpet Village and Mandal, Ranga Reddy District pending disposal of the writ petition.

11 It is therefore prayed that the Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction

For KADAKIA & MODI HOUSING

Partner

VERIFICATION

I, Soham Modi, S/o Late Satish Modi, Aged 50 years, Occupation: Business, R/o.H.No.5-4-187/3 & 4, 2nd Floor, Soham Mansion, M.G. Road, Secunderabad, Telangana State, do hereby truly and sincerely declare that that the contents of the paragraphs 1 to 9 are true and correct to the best of my knowledge, information and belief and the contents of paragraphs 10 & 11 are believed to be true as per legal advice and hence verified on this the 17th day of April, 2022 at Hyderabad.

For KADAKIA & MODI HOUSING
Partner
DEPONENT

COUNSEL FOR PETITIONER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
APPELLATE SIDE

No. OF 2021
AGAINST

No. OF 2021
On the file of the Court of

Appellant/
Petitioner

V E R S U S

Respondent

I/We

Appellant/Respondent in the above application do hereby
appoint and retain

PERI PRABHAKAR (6390)
ADVOCATE

Advocate/s of the High Court to appear for ME/US in the
above APPEAL/PETITION and to conduct and prosecute (or defend)
the same and all proceedings that may be taken in respect of any
application connected with the same or any decree or order passed
therein including all applications for return of documents or the receipt of any
money that may be payable to ME/US in the said Appeal/ Petition and also to
appear in all applications under Clause XV of the Letters patent and in all
applications for review and for leave to the Supreme Court of India and in all
applications for review of Judgment.

For KADAKIA & MODI HOUSING
Partner

I certify that the contents of this Vakalat were read out and explained in
(.....) in my presence to the executants of executants who
appeared perfectly to understand the same and made his /her/their signatures
or mark in my presence.

Executed before me thisday of2021

Advocate, Hyderabad

S.R. No.

_____ District

**IN THE HIGH COURT FOR THE STATE
TELANGANA AT HYDERABAD**

APPELLATE SIDE

No. _____ of 2021

AGAINST

No. _____ of 2021

VAKALAT

ACCEPTED

Appellant
Counsel for Petitioner
Respondent

**PERI PRABHAKAR (6390)
ADVOCATE**

Appellant
Advocate for Petitioner
Respondent

Address for Service: Ph:23210956

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6-3-1089 & 1089/A, GULMOHAR
AVENUE, VILLA MARIE COLLEGE
LANE, RAJ BHAVAN ROAD,
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