

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

W.P. NO. 15838 OF 2021

BETWEEN:

MODI REALTY VIKARABAD LLP

A Limited Liability Firm, Rep. by its Designated Partner,
Palle Balaram Reddy, S/o. Sanjeev Reddy,
Aged about 34 Year, Having its Office at 5-4-187/3 & 4,
2nd Floor, Soham Mansion, M.G. Road,
Secunderabad.

...Petitioner

AND

1. State of Telangana,
Rep. by its Principal Secretary
Municipal Administration and Urban Development
Department, Secretariat, Hyderabad.
2. Vikarabad Municipality,
Rep. by its Commissioner, Vikarabad,
At Vikarabad District.
3. Town Planning Officer,
Vikarabad Municipality
At Vikarabad District.

....Respondents

AFFIDAVIT

I, Palle Balaram Reddy, S/o. Sanjeev Reddy, aged about 34
Years, Occupation: Designated Partner at M/s. Modi Realty
Vikarabad LLP, office at 5-4-187/3 & 4, Second Floor, Soham
Mansion, M.G. Road Secunderabad, Telangana State, do hereby
solemnly affirm and state on oath as follows.

MODI REALTY VIKARABAD LLP
For MODI REALTY VIKARABAD LLP
Balaram
Partner

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

2. The Petitioner is filing the present writ petition questioning the shortfall notice dated 01.10.2020 in File No.3042/W14/2020/1727 issued by the Respondent No.3 requiring the petitioner to obtain No Objection Certificate (NOC) from the Railway Authorities for the purpose of issuing construction permission for constructing residential apartments though there is no such requirement as per law as arbitrary and illegal.

3. The petitioner submits that it is the absolute owner and possessor of land admeasuring 0-39 Guntas (4719 Sq.. Yards) in Survey No.83, Gangaram Village, Vikarabad Mandal, Vikarabad District having purchased the same under Registered Sale Deed bearing Doct. No.7080 of 2018 dated 13.08.2018 from the owners of the property. Subsequently the petitioner also obtained the Deed of Rectification dated 27.07.2020 bearing Doct. No.3552 of 2020 when there was a typographical error in the document. Thus, under both the documents the petitioner is the absolute owner and possessor of the land mentioned above. It is submitted that the petitioner had made an application dated 20.06.2020 in B.A.No.3042/W14/2020/1727 seeking permission to construct

For MODI REALTY VIKARABAD LLP
Balram
Partner

residential apartments consisting of stilt (parking), Five Upper floors in the said Plot. It is submitted that there is a Railway property whose boundary is falling at a distance of 8.10 meters from the outer edge of the property of the petitioner. It is submitted that G.O.Ms.No.168, dated 07.04.2012 governs the building applications in the State of Telangana. It is submitted that the said G.O., is amended by way of G.O.Ms.No.7, dated 05.01.2016 to enable ease of doing business and to encourage building construction sector. By virtue of this amendment, Rule 3(b) of 2012 Rules were amended and Rule 3(b) as on today reads as follows:

Rule 3(b): *In case a site abutting Railway Properties, No Objection Certificate (NOC) from Railway Authorities could not be insisted. Further it is the responsibility of the Applicant to follow Rules as prescribed by the Railway Authorities in their Rules.*

4. Thus, as on today there is no requirement of the petitioner to obtain an NOC from the Railway Authorities. In spite of all this rule position the Respondent No.3 has issued a shortfall notice stating that as the distance between the Railway property boundary and edge of the building is 30 meters hence required NOC from the authorities. It is submitted that the short fall notice issued by the 2nd and 3rd Respondents is on the basis of the un-amended Rule 3(b) in G.O. No.168. However, pursuant to the amendment there is no such requirement of

For MODI REALTY VIKARABAD LLP
Baklam
Partner

NOC. It is submitted that the shortfall notice of the Respondent Municipality is clearly arbitrary and illegal and contrary to the rule position and as such the petitioner is constrained to file the present writ petition for appropriate relief.

5. The petitioner has no other equally efficacious alternative remedy except to approach this Hon'ble Court invoking the extra ordinary original jurisdiction vested in this Hon'ble Court under Article 226 of The Constitution of India.

6. The petitioner has not filed any other Writ Petition or proceeding for the same relief which is claimed in the present Writ Petition and no other proceedings are pending before any other forum with respect to the same subject matter.

7. It is necessary that the Hon'ble Court may be pleased to direct the Respondents 2 and 3 to grant construction permission to the petitioner as per Building Application bearing B.A.No.3042/W14/2020/1727, dated 20.06.2020 without insisting on the NOC from the Railway Authorities pending disposal of the writ petition.

8. 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 declaring the shortfall notice issued by the Respondents 2 & 3 in File No.3042/W14/2020/1727, dated 01.10.2020 to the extent it requires the petitioner to

For MODI REALTY VIKARABAD LLP

Balaram
Partner

obtain NOC from Railway Authorities as arbitrary, illegal and contrary to Rule 3(b) of the Telangana Building Rules, 2012 (G.O.Ms.No.168, dated 07.4.2012) as amended by G.O.Ms.No.7, dated 05.01.2016 and set aside the shortfall notice to the said extent and consequently direct the Respondents 2 and 3 to consider and grant construction permission to the petitioner in respect of Building Application B.A. No. 3042/W14/2020/1727, dated 20.06.2020 for constructing residential apartments in land admeasuring Ac.0-39 Guntas in Survey No.83, Gangaram Village, Vikarabad Mandal, Vikarabad District and pass such other order or orders in the interest of justice.

For MODI REALTY VIKARABAD LLP
Baham
Partner

Sworn and signed before me on
this the ___ day of July, 2021
at Hyderabad.

Deponent

Advocate/Hyderabad

VERIFICATION

I, Balaram Reddy, S/o. Sanjeev Reddy, Aged about 34 Year, Occupation: Designated Partner at M/s. Modi Realty Vikarabad LLP, office at 5-4-187/3 & 4, Second Floor, Soham Mansion, M.G. Road Secunderabad Telangana State, being the deponent herein do hereby verify and declare that the above paragraphs are true and correct to the best of my knowledge, information and belief and as per legal advice.

Verified on this the ____ day of July 2021 at Hyderabad.

For MODI REALTY VIKARABAD LLP
Balaram
Partner

Counsel for the Petitioner

Deponent

