

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION 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 and 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

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High 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 and 3 in File No.3042/W14/2020/1727, dated 01.10.2020 to the extent it requires the petitioner to 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

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High 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.

Counsel for the Petitioner : SRI PRABHAKAR PERI

Counsel for the Respondent No.1 : GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT

**Counsel for the Respondent Nos.2 & 3 : SRI N.PRAVEEN KUMAR
S.C. FOR MUNICIPALITIES**

The Court at the stage of admission made the following: ORDER

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No. 15838 of 2021

ORDER:

Heard the learned counsel for the petitioner, the learned Government Pleader for Municipal Administration and Urban Development for respondent No. 1 and Sri N. Praveen Kumar, the learned Standing Counsel for respondent Nos. 2 and 3. With their consent, the Writ Petition is disposed of at the stage of admission itself.

In this writ petition, the petitioner challenges the action of the respondent Nos. 2 and 3 in issuing the shortfall notice, dated 01.10.2020 requiring the petitioner to obtain NOC from Railway authorities as arbitrary and illegal.

A perusal of the impugned notice discloses that besides other shortfalls pointed out, the official respondents have taken a stand that the petitioner has to obtain NOC from the Railway Department as the site in question falls within 30 meters from the boundary of the Railways.

A perusal of the G.O.Ms. No. 7, dated 05.01.2016 reveals that the Government has issued orders dispensing with the filing of NOC from the Railway authorities.

In that view of the matter, the writ petition is disposed of directing the petitioner to make a representation before the respondents within two weeks from today bringing to their notice the G.O.Ms. No. 7, dated 05.01.2016 issued by the Government exempting the need to submit NOC from the Railway authorities. The official respondents are also directed to process the building permission application of the petitioner, dated 20.06.2020 for construction of residential apartments in the subject land,

without insisting for NOC from the Railways Department subject to the petitioner complying with the other shortfalls pointed out in the impugned notice and pass necessary orders thereon, as expeditiously as possible, preferably within a period of four weeks thereafter. A copy of the order that may be passed by the official respondents shall be communicated to the petitioner.

The miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.

//TRUE COPY//

SD/- T.KRISHNA KUMAR
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The Principal Secretary Municipal Administration and Urban Development Department, Secretariat, State of Telangana, Hyderabad.
2. The Commissioner, Vikarabad Municipality, Vikarabad, At Vikarabad District.
3. Town Planning Officer, Vikarabad Municipality At Vikarabad District.
4. One CC to Sri Prabhakar Peri, Advocate [OPUC]
5. Two CCs to GP for Municipal Administration and Urban Development, High Court for the State of Telangana at Hyderabad [OUT]
6. One CC to Sri N.Praveen Kumar, SC for Municipalities (OPUC)
7. Two CD Copies
8. One Spare Copy

Kj.

2/1/14

HIGH COURT

DATED:14/07/2021



ORDER

WP.No.15838 of 2021

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS.**

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27/7/21
HVL