

IN THE HIGH COURT FOR THE STATE OF TELANAGANA
AT HYDERABAD

W.P. No. OF 2022

Between

Modi Realty Pocharam LLP, formally known as Nilgiri Heights
Rep. by its Authorised Signatory, Soham Modi,
S/o. Late Satish Modi, R/o.5-4-187/3&4,
Soham Mansion, M.G. Road, Secunderabad-500003.

...Petitioner.

AND

1. State of Telangana rep by
Principal Secretary, Revenue Department,
Secretariat Hyderabad.
2. The Commissioner,
Stamps and Registration Department,
Hyderabad.
3. The Registrar,
Medchal-Malkajgiri District.
4. The Sub-Registrar,
Narapally,
Medchal-Malkajgiri District.

...Respondents

AFFIDAVIT

I, Soham Modi, S/o. Late Satish Modi, aged 50 Years, Occ: Business,
R/o.5-4-187/3&4, Soham Mansion, M.G. Road, Secunderabad-500 003, do
hereby solemnly affirm and state on oath as follows:

For Modi Realty Pocharam LLP
Nilgiri Heights

Authorised Signatory

1. I am the Authorised Signatory of the Petitioner Firm and as such well acquainted with the facts of the case.
2. I submit that I am filing the present Writ Petition questioning Memo No.262/2022 dated 12.10.2022 issued by the 4th Respondent herein refusing to delete land admeasuring AC.1-28 guntas & Ac.0-30½ guntas in Sy. No.27-Part of Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District from the list of 'Prohibited Properties' as arbitrary, illegal and unsustainable.
3. The Petitioner submits that the Petitioner Firm has entered into Joint Development Agreement-Cum-General Power of Attorney bearing Doct. Nos. 13206 of 2019 dated 21.12.2019 and 13207 of 2019 dated 17.09.2019 executed by the owners of the land property Sriramoju Sambeshwar Rao & Others. It is submitted that subsequently the Petitioner herein has also entered into a Supplementary Agreement dated 15.07.2021 with the land owners. It is submitted that pursuant thereto the Petitioners herein have made application to HMDA for construction permission and the same is sanctioned vide Permit No.12159/P4/Plg/Hmda/2008 dated 17.03.2021 and processed the file to Pocharam Municipality for release.

For Modi Realty Pocharam LLP
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In-turn Pocharam Municipality have collected their fees and released the sanction plans vide file No.G1/BP/874/2021 dated.23.04.2021.

4. The Petitioner submits that, while things stood thus the Petitioner Firm had approached the 4th Respondent for registration of certain conveyance Deeds in respect of the Apartments which are proposed to be sold to the various purchasers which are being constructed pursuant to the Development Agreement-Cum-GPA executed by the land owners. It is submitted that at this point of time the Petitioner Firm came to know that Sy. No.27 of Pocharam Village, Ghatkesar Mandal, is kept in the list of 'Prohibited Properties' maintained by the Registrar's Office pursuant to an order passed in Arbitration O.P. No.1611 of 2015 on the file of the 3rd Addl. Chief Judge, City Civil Court, Hyderabad.

5. It is submitted that Arbitration O.P. No.1611 of 2015 is filed by third parties i.e. (1) Gayatri, (2) Balaji Sukumar Bhattaram, (3) Ravindra Prabhakar Choudhary, (4) Majiri Ravindra Choudhary, (5) Syed Maqdoom Ali Mushtaq Syed, (6) M.V. Ramanarsasiah, (7) Vismay Buche and (8) Tejashree Buche against M/s. Gharonda Builders & Developers. The said application was filed U/s. 9 of the Arbitration and Conciliation Act, 1996

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Nilgiri Heights

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by the Petitioners therein praying the Hon'ble Court to attach the petition schedule properties therein i.e. Part-I of Schedule-A property area approx. Ac.1-28gts or 8228 Sq. yards in Sy. No.27(Part) and Part-II of Schedule-A Property covering an area approx. Ac.0-31½ gts or 3811 Sq. yards in Sy. No.27(Part) both situated at Pocharam Village, Ghatkesar Mandal, Ranga Reddy District as per the boundaries shown, pending disposal of the Arbitration Proceedings between the Petitioners therein and the Respondents therein i.e. M/s. Gharonda Builders and Developers and its Managing Partner Sunil Sachdev. It is submitted that the said Arbitration O.P. was filed by the customers of M/s. Gharonda Builders and Developers and initially an order of "Status Quo" was passed by the court of the III Addl. Chief Judge, City Civil Court, Hyderabad on 21.08.2015. However, subsequently by order dated 13.10.2017 it was recorded that the petition filed U/s. 9 has become infructuous and as such the same is dismissed. However, incidentally in the said order the following observation is made:

"ORDER:

Memo filed by respondent counsel Section 34 Arbitration Act in O.P. No.1583/2016, O.P. No.1593/2016 and O.P.No.1594/2016 are pending on the file of Hon'ble Chief Judge, City Civil Court, Hyderabad. Hence this petition became infructuous. Petition dismissed. No costs."

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6. It is submitted that 3 OPs are referred in the said order i.e. O.P. No.1583/2016, O.P. No.1593/2016 and O.P. No.1594/2016 on the file of the Chief Judge, City Civil Court, Hyderabad. It is submitted that these applications are supposed to have been filed U/s. 34 of the Arbitration and Conciliation Act. It is submitted that Arbitration O.P. No.1583.2016 which is referred to in the Docket Order passed in Arbitration O.P. No.1611 of 2015 is not between the parties and the number is recorded by mistake. The same is between totally strangers to the litigation i.e. M.Durga Prasad Vs. (1) Mohd. Khaleel, (2) Reliance General Insurance Company and (3) K. Ramulu and it is a Motor Vehicle O.P. U/s. 156 of the M.V. Act, 1989. As such the said case has no connection with the present litigation.

7. O.P. No.1593 of 2016 is an application filed by M/s. Gharonda Builders and Developers U/s. 34 of the Arbitration and Conciliation Act seeking to set aside the award passed by the Sole Arbitrator dated 25.06.2016. The said O.P. was dismissed by order dated 26.12.2018.

8. Similarly, Arbitration O.P.No.1594 of 2016 is also filed by M/s. Gharonda Builders and Developers against Vismai Bucha and Tejasvi

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Bucha praying to set aside the Arbitration Award passed on 25.06.2016. The said O.P. was also dismissed.

9. However, it is relevant to state here that in both the matters the award passed by the Hon'ble Arbitrator is for payment of money to the Claimant by the Respondent therein i.e. the Builder and there is no property involved in either of the OPs or award much less the property in Sy. No.27 of Pocharam Village, Ghatkesar Mandal.

10. It is relevant to submit here that earlier M/s. Gharonda Builders and Developers had Joint Development Agreement with the owners of the property Sriramoju Sambeshwar Rao and Others vide Agreement No's.21762 of 2006 & No.6751 of 2007 dated 02.12.2007 and 18.06.2007 respectively. However, as the said Builder could not develop the property and faced troubles he had executed Deeds of Re-conveyance of Development Agreement vide Deed No.2688 of 2015 & 300 of 2016 dated 05.08.2015 and 18.01.2016. Thus the Development Agreements in favour of M/s. Gharonda Builders & Developers stood cancelled under the Deed of Revocation and there is no encumbrance over the property and thereafter the Petitioner Firm had entered Joint Development Agreements—Cum -GPA as referred above with the land owners.

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11. Thus, it can be seen that the Joint Development Agreements executed in favour of M/s. Gharonda Builders & Developers were cancelled and the property remained free of all encumbrances. The so called Status Quo order passed in Arbitration O.P. No.1611 of 2015 filed by the customers of Gharonda Builders & Developers U/s. 9 of the Arbitration and Conciliation Act was dismissed as infructuous. The Arbitration Proceedings conducted by some of the customers resulted in award for money being passed against M/s.Gharonda Builders and Developers and the same has become final. However, the award is only for recovery of money and it has to be executed against M/s.Gharonda Builders & Developers and there is no encumbrance over the property in Sy. No.27 at all.

12. In spite of this clear position the 4th Respondent herein had issued a communication to the representative of the Petitioner Firm in April, 2022 requiring the petitioner to comply with the following requirements:

“(a) Modified order in ARB OP No.1611 of 2015 in respect of OP No.1583 of 2016 which was said to be erroneously furnished in the Honourable Court orders.

(b) Certified copies of the all orders or Awards issued by the Honourable Court in this issue.

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(c) *Copies of the receipts for the acknowledgement of the amounts to be paid by the respondents as passed by the sole Arbitrator in AA No.87 of 2015 and 67 of 2015 even after confirming the orders of the said Award in ARB Appeal No.1594 of 2016 and 1593 of 2016.*

(d) *There is no such information is available that the details of Awards or other orders of the Hon'ble Court – passed in favour of remaining petitioners/Claimants in this issue as filed in ARB OP No.1611/2015.”*

It is submitted that, to this letter the Petitioner Firm had issued a legal reply notice dated 30.09.2022 clearly mentioning all these facts stating that there is no requirement of complying with said conditions and question of producing acknowledgement / receipts of the amounts be paid by M/s. Gharonda Builders & Developers to its customers does not arise and not necessary.

13. It is submitted that thereafter by way of response the impugned Memo No.262 of 2022, dated 12.10.2022 is issued by the 4th Respondent requiring the Petitioner to submit and comply with the following:

“(a) Modified orders in ARB OP No.1611 of 2015 in respect of OP No.1583 of 2016 which was said to be erroneously furnished in the Honourable Court orders.

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Nilgiri Heights


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(b) *Certified copies of the all orders or Awards issued by the Honourable Court in this issue.*

(c) *Copies of the receipts for the acknowledgement of the amounts to be paid by the respondents as passed by the sole Arbitrator in AA No.87 of 2015 even after confirming the orders of the said Award in ARB Appeal No.1594 of 2016 and no information is available in respect of ARB Appeal No.1593 of 2016 filed against orders of AA No.67 of 2015.*

(d) *There is no such information is available that the details of Awards or other orders of the Hon'ble Court – passed in favour of remaining petitioners/Claimants in this issue as filed in ARB OP No.1611/2015.*

(e) *After verification of all orders of Awards and further Appeals filed by the Respondents it is noticed that the entire issue is related to Survey No.27 admeasuring Ac.1-29 Gts of Pocharam village only. Further appeals filed by the Respondents are dismissed and no such information is available that the orders of Awards were implemented by refunding the certain amounts to the Petitioners as per the Awards.*

(f) *The under signed has no such Jurisdiction to delete a property which was kept in prohibition properties list on the grounds that a suit or case is pending before the competent Court of Law without producing the final orders of such Court of Law."*

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14. It is submitted that the requirements of the 4th Respondent are totally illogical and illegal. The Petitioner is required to obtain modified orders in Arbitration O.P. No.1611 of 2015 though it is not a party to the said O.P. and as such the question of complying with the same does not arise as it is not possible.

15. The certified copies of all the orders were already furnished to the 4th Respondent but again the same is reiterated.

16. The amounts payable under the Arbitration Award to be paid and the receipts to be obtained from the customers is totally illegal and illogical requirement as the Award is passed by the Arbitrator against third party M/s. Gharonda Builders & Developers and it is for the claimants therein to recover the amounts from M/s. Gharonda Builders & Developers and the same is not connected with the issue in the present case as the amounts under the Arbitration are totally different and the schedule property is totally unconnected with the Arbitration Award as there is no attachment of the property in the said awards. Thus all the requirements of the 4th Respondent to delete Sy.No.27, Pocharam Village, Ghatkesar Mandal from the list of 'Prohibited Properties' are totally illegal, arbitrary, high

For Modi Realty Pocharam Ltd.
Nilgiri Heights


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handed, without any jurisdiction and the impugned memo is liable to be set aside.

17. It is submitted that the "Status Quo" order is in Arbitration OP No.1611 of 2015 and the same is dismissed as infructuous. The 4th Respondent is not entitled to look beyond the order in the said O.P. and require the Petitioner to comply with various other requirements with which it is totally unconcerned. The impugned Memo passed by the 4th Respondent and the attitude of the 4th Respondent is resulting in severe hardship to the Petitioner as it is unable to deal with the property inspite of having spent huge amounts for the purpose of Development Agreement and issue of construction permission and making construction at a huge cost. Thus the Petitioner is constrained to file the present Writ Petition.

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

19. The petitioner has not filed any other writ petition or proceeding for the same relief claimed in the present writ petition.

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Nilgiri Heights
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20. It is necessary that this Hon'ble court may be pleased to direct the Respondent No.2 to 4 to receive, register and release conveyance deeds executed by the Petitioner Firm in favour of its customers in respect of Apartments and Units in land admeasuring Ac.1-28 gts and Ac.0-30½ Gts., in Survey No.27(Part), Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District, pending disposal of the Writ Petition.

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

(a) declaring the action of the Respondents 2 to 4 in issuing Memo No.262 of 2022 dated 12.10.2022 as arbitrary, illegal and unsustainable and set aside the same and,

(b) consequently direct the Respondents to delete the land admeasuring Ac.1-28 gts and Ac.0-30½ Gts., in Survey No.27(Part), Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District, from the list of Prohibited Properties maintained U/s. 22A of the Registration Act and

(c) consequently direct the 3rd & 4th Respondents to receive, register and release the conveyance deeds presented by the Petitioner Firm in favour of its customers in respect of Apartments and Units in land admeasuring

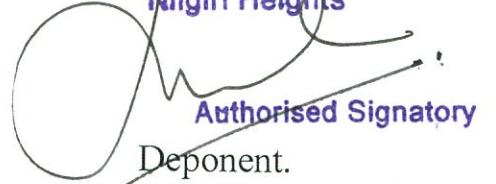
For Modi Realty Pocharam LLP
Nilgiri Heights

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Ac.1-28 gts and Ac.0-30½ Gts., in Survey No.27(Part), Pocharam Village,
Ghatkesar Mandal, Medchal-Malkajgiri District, and pass such other order
or orders in the interest of justice.

Sworn and signed before me on this
the th day of December 2022 at
Hyderabad.

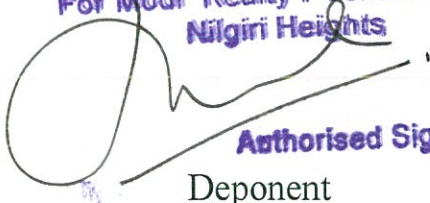
For Modi Realty Pocharam LLP
Nilgiri Heights


Authorised Signatory
Deponent.

Advocate, Hyderabad

VERIFICATION

I, Soham Modi, S/o. Late Satish Modi, Aged 50 Years, Occ: Business, R/o.5-4-187/3&4, Soham Mansion, M.G. Road, Secunderabad-500 003, being the Managing Partner of the petitioner firm herein do hereby declare that the contents of the above paragraphs are true and correct to the best of knowledge, information and belief and hence verified on this the 20th day of December, 2022 at Hyderabad.

For Modi Realty Pocharam LLP
Nilgiri Heights

Authorised Signatory
Deponent

Counsel for petitioner

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

WP.No. _____ OF 2022

AGAINST
No. _____ OF 2022

On the file of the Court of _____
Modi Realty Pocharam LLP,
Rep. by its Managing Partner, Soham Modi,

...Appellant/
Petitioner

V E R S U S
The State of Telangana & 3 Other's

...Respondent

I/We Modi Realty Pocharam LLP, Rep. by its Managing Partner
Soham Modi, R/o. H. No.5-4-187/3 & 4, 2nd Floor, Soham Mansion,
M.G. Road, Secunderabad, Telangana. 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 Modi Realty Pocharam LLP
Nilgiri Heights

X
Authorized Signatory

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

Executed before me thisday of2022

Advocate, Hyderabad

S.R. No.

_____ District

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

AT: HYDERABAD

APPELLATE SIDE

No. _____ of 2022

AGAINST

No. _____ of 2022

VAKALAT

ACCEPTED

Modi Realty Pocharam LLP,

..Appellant

And

The State of Telangana & 3 Other's

..Respondent

**PERI PRABHAKAR (6390)
ADVOCATE**

Advocate for Appellant Petitioner

Address for Services: Ph :23210956

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