

IN THE HIGH COURT FOR THE STATE OF TELANAGANA
AT HYDERABAD

IA NO OF 2024

IN

W.P. NO. 33401OF 2023

Between:

1. Sunkaraneni Vijaya Laxmi
W/o. G Mallikarjun , aged 45 years
Occ: Housewife, R/o. 6-2/32 (Villa No. 32)
Bloomdale Community
Shamirpet, Medchal Malkajgiri District
2. G. Mallikarjun,
S/o. Chennaiah
Aged 52 years
Occ: Business
R/o. 6-2/32 (Villa No. 32)
Bloomdale Community
Shamirpet, Medchal Malkajgiri District

...Petitioners

AND

1. The State of Telangana,
Rep. by its Principal Secretary,
Department of Panchayat Raj,
Dr. B.R. Ambedkar Bhavan, Secretariat,
Hyderabad.
2. The District Panchayat Officer,
Medchal Malkajgiri District
3. The Panchayat Secretary,
Shamirpet Grampanchayat,
Shamirpet Mandal,
Medchal Malkajgiri District.

...Respondents

FOR KADAKIA AND MEDAL HOUSING

Partner

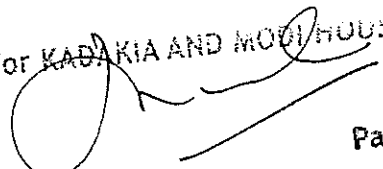
4. M/s. Kadakia & Modi Housing
Rep by its Managing Partner, Soham Modi
S/o. late Satish Modi, aged 55 years
Occ : Business
R/o. Survey No 1139,
Shamirpet Mandal,
Medchal Malkajgiri District

... Respondent / Proposed Respondent No 4.

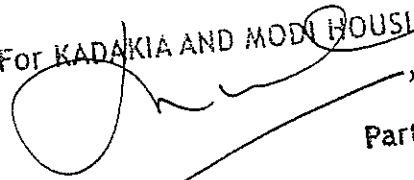
AFFIDAVIT

I, Soham Modi, S/o. S/o. late Satish Modi, Aged 55 Years, Occ: Business, R/o. Survey No 1139, Shamirpet Mandal, Medchal Malkajgiri District, Telangana State do hereby solemnly affirm and state on oath as follows:

1. I am the Managing Partner of the petitioner herein and proposed 4th Respondent in the writ petition and as such well acquainted with the facts of the case.
2. I submit that I am now filing the present application praying the Honourable Court to implead the petitioner as 4th respondent in the writ petition and the interlocutory application therein and further pray the Honourable Court to consider the counter affidavit filed on behalf of the proposed 4th respondent and dismiss the writ petition with costs in view of

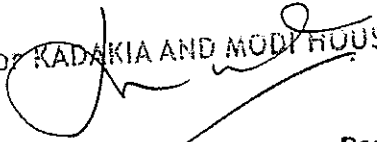
For KADAKIA AND MODI HOUSING

Partner

the facts of the case mentioned therein. It is submitted that the petitioner herein is a reputed builder and had obtained construction permission of gated community housing scheme under survey no. 1139 of Shamirpet Village, Shamirpet Mandal, Medchal Malkajgiri District for an extent of 21,112 Sq Mts equivalent to Ac 5-86 Guntas having obtained the construction permission under letter no. 660/MP@/PLG/H/2007 dated 12.05.2008 from HMDA. It is submitted that pursuant to the construction permission, our firm had completed the construction of individual villas in the said project and sold to several persons. It is submitted that the writ petitioners are purchasers of one such villa i.e. villa no. 32 from the petitioner under agreement of sale dated 30.06.2017 and thereafter obtained registered sale deed dated 10.12.2018. The agreement of sale, sale deed and the byelaws of the society formed for maintenance of the gated community contains conditions to which the writ petitioners have to abide themselves. The project is constructed as a gated community and no one can tamper with the buildings constructed by the petitioner and there cannot be any change in the structure raised by the petitioner and purchasers shall not cut or damage to any part of the structure or for any part of the villa or making any alterations to the villa without permission of the vendors or the association formed for the maintenance of the project. Further the purchaser also shall not be allowed to alter any portion of the

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villa that may change the external part of the villa without due permission of the vendor or the association / society formed for the purpose of the maintaining the project.

3. The writ petitioners have agreed to the said conditions and purchased the villa. It is submitted that after construction of the gated community, the petitioner had applied for occupancy certificate in the year 2011 and the same is pending before Gram Panchayat. While things stood thus, the writ petitioners have demolished a portion of the building and started making additional floors and structures and completely changed the face of the villa, apart from making additional construction. The petitioner issued a complaint to HMDA and Gram Panchayat addressing them about the situation and requested for taking steps in this regard, as illegal constructions were being raised by the writ petitioners resulting in a situation where occupancy certificate to be issued by the HMDA in respect of the entire project would be jeopardised. At that point of time having considered all the aspects and facts including that the writ petitioners had obtained construction permission without mentioning all the facts and by suppressing the facts issued order dated 07.12.2023 cancelling the permission granted for additional construction vide Notice No GPS/5/2023. It is submitted that though the construction permission

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granted of the writ petitioners is cancelled, the Gram Panchayat has not taken any action for demolishing, the petitioner had filed WP No. 1806 of 2024 in this Honourable Court. During the course of hearing, Counsel for the Gram Panchayat had informed that writ petitioners had already filed writ petition no. 33401 of 2023 and obtained interim orders from this Honourable Court. Immediately we had obtained papers of the writ petition and noted that writ petitioners have filed writ petition with totally incorrect averments and suppressing the facts before this Honourable Court. It is further submitted writ petition no. 1806/2024 is adjourned by this Hon'ble Court so as to enable this petitioner to file appropriate application in this writ petition for impleadment and appropriate orders before this Hon'ble Court. As such the petitioner is now filing the present application for impleading the petitioner as the 4th respondent in the writ petition and for appropriate orders.

4 The petitioner is filing a separate counter affidavit in the writ petition for the Hon'ble Court to consider the same while impleading the petitioner and for granting appropriate orders in the writ petition. The petitioner is a necessary and proper party to the writ petition as the additional construction permission granted in favour of the writ petitioner is cancelled by the Gram Panchayat at the instance of the petitioner and as such the petitioner is necessary and appropriate party to the writ petition. In spite

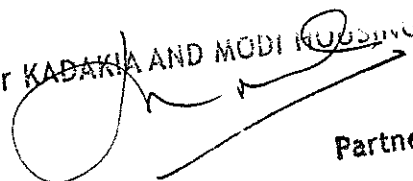
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of being aware of the facts, deliberately the writ petitioners failed to implead the petitioner as party to the writ petition and obtained orders from this Hon'ble Court by mis representation and suppression. The said orders are liable to be vacated.

It is therefore prayed that the Hon'ble Court may be pleased to implead the petitioner herein as respondent no 4 in writ petition no. 33401 of 2023 and in the Interlocutory application therein and pass such other order or orders in the interest of the justice.

Sworn and signed before me on this
the 10th day of February, 2024 at
Hyderabad.

For KADAKIA AND MODI HOODING

Partner
DEPONENT.

ADVOCATE :: HYDERABAD