

IN THE HIGH COURT FOR THE STATE OF TELANAGANA  
AT HYDERABAD

W.P. No.                      OF 2024

Between

Mehta & Modi Realty (Thimmapur) LLP,  
Rep. by its Managing Partner, Soham Modi,  
S/o. Late Satish Modi, R/o.5-4-187/3&4,  
Soham Mansion, M.G. Road, Secunderabad-500003.

...Petitioner.

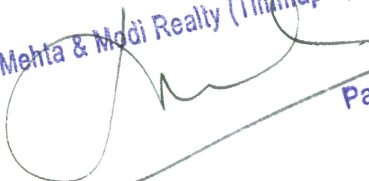
AND

1. State of Telangana rep by  
Principal Secretary, Municipal Administration and  
Urban Development Department,  
Secretariat Hyderabad.
2. Hyderabad Metropolitan Development Authority,  
Rep. by its Metropolitan Commissioner,  
Swarna Jayanthi Complex, Ameerpet,  
Hyderabad.

...Respondents

**AFFIDAVIT**

I, Soham Modi, S/o. Late Satish Modi, aged about 52 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 Mehta & Modi Realty (Thimmapur) LLP  
  
Partner

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

2. I submit that the Petitioner is filing the present Writ Petition questioning the TS-bPASS shortfall letter in File No.012136/BP/HMDA/2692/SMD/2023, dated 15.11.2023 whereby the application filed by the Petitioner Firm in File No. No.012136/BP/HMDA/2692/SMD/2023, dated 01.11.2023, made for permission to construct a Cellar + Ground + 6 Upper Floors in land situated at Survey No.199/P, Timmapur Village, Kothur Mandal, Ranga Reddy District in a plot area of 14467.88 Sq. Meters proposing to construct a built up area of 36349.19 Sq. Meters and the HMDA is issuing shortfalls on totally unsustainable grounds as arbitrary, illegal and in violation of the existing rules and norms.

3. I submit that the Petitioner Firm is the owner of the land admeasuring Ac.3-24 guntas forming part of Survey No.199/P, Timmapur Village, Kothur Mandal and Grampanchayath, Ranga Reddy District having purchased the same from its earlier owners under registered sale deed bearing doct.no.9507 of 2021, dated 17.12.2021 registered at the Sub-

For Mehta & Modi Realty (Timmapur) LLP  
Partner

Registrar office, Shadnagar. It is further submitted that the Petitioner Firm has made an application dated 26.03.2022 for construction a residential building / apartment complex in a plot area as per drawing on 14417.88 Sq. Meters and with a built up area of 25,503.68 Sq. Meters with one Cellar + Ground + 6 Upper Floors.

4. It is submitted that the 2<sup>nd</sup> Respondent herein vide TS-bPASS shortfall letter dated 04.04.2022 observed certain shortfalls as follows:

- i. To submit the documentary evidence from Kothur municipality regarding the proposed 60 ft road and confirmation letter from Kothur Municipality.
- ii. To submit the nala conversion certificate from RDO for the balance land, since earlier approval is accorded for Ac.2-38, now the proposal is submitted for Ac.3-23 Gts.
- iii. The applicant shall clarify that, in earlier approved plan the approach is shown at south west corner of site, now the entrance is showing through south east side.
- iv. To submit the revenue sketch duly showing the site u/r issued by concerned revenue authority.
- v. To submit the environmental clearance from SEIAA department.

For Mehka & Moh Realty (Tummapur) LLP  
Partner

vi. To submit the revised drawing in accordance with SEIAA NOC, nala conversion, previous approved plan and confirmation letter from Kothur municipality regarding road.

5. It is submitted that, to this shortfall letter the Petitioner had submitted an explanation dated 15.06.2022 answering all the queries.

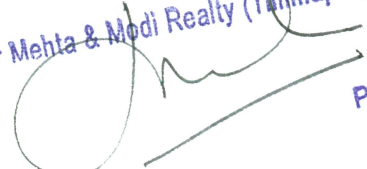
6. I submit that thereafter the 2<sup>nd</sup> Respondent has issued the impugned TS-bPASS Rejection letter in File No.003213/BP/HMDA/0583/SMD/2022 dated 12.07.2022 whereby the construction application was rejected on the ground that the Petitioner has not responded to the shortfall letter issued by the 2<sup>nd</sup> Respondent. It is submitted that the Petitioner has in fact issued an explanation letter dated 15.06.2022 which was not taken into consideration and orders were passed in a totally illegal manner. However, the Petitioner submits that the major objection regarding the application made by the Petitioner apart from the other objections is shortfall no.1(6). The other objections are already complied as stated in the letter of explanation or will be complied in due course but in so far as objection of NOC from SEIAA is concerned it is submitted that the procedure for grant of Environmental Clearance (“EC”) for construction of new projects or expansion or modernization of existing projects is governed by the **Environmental Impact Assessment Notification, 2006 (“EIA Notification, 2006”)**

For Mehta & Modi Realty (Timmapur) LLP

Partner

issued by the Ministry of Environment and Forests, Government of India (“**MoEF**”) under Section 23 of the Environment Protection Act, 1986 by way of S.O. No.1533 E dated 14<sup>th</sup> September, 2006.

7. I submit that as there was no requirement for obtaining any clearance from the SEIAA as per the existing norms the Petitioner has filed W.P. No.39654 of 2022 questioning the said Rejection Order and this Hon’ble Court has disposed of the said writ petition setting aside the impugned proceedings therein dated 12.07.2022 and further directed the Respondents to consider the Petitioner’s application in the light of Notification S.O. 5736(E) dated 15<sup>th</sup> November, 2018 in as far as the clearance from the Central Government is concerned and directed the Petitioner’s application to be disposed of subject to complying with the other shortfalls. It is submitted that inspite of the writ petition being allowed, the Respondent No.2 had not issued a fresh shortfall notice inspite of specific request and required the Petitioner to make a fresh application stating that there is no question of issuing a second shortfall notice as per TS-bPASS Act. It is submitted that to avoid unnecessary complications the Petitioner had filed second application in File No.004560/BP/HMDA/0949/SMD/2023 dated 23.04.2023 for construction

For Mehta & Modi Realty (Timmapur) LLP  
  
Partner

permission. It is submitted that again a shortfall notice was issued dated 11.05.2023 with the following shortfalls.

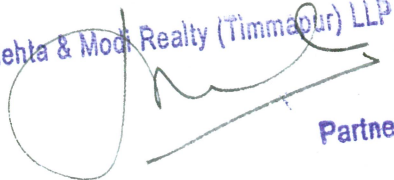
1. To submit NOC from the fire department for the proposed site U/r
2. To submit the revised drawing as per the NOC issued by Fire Service department.
3. On verification of the copies of documents submitted the application in sale deed copy vendors are Siddi Vegetable Oil Products a partnership firm and Meena Agarwal. In this regard the applicant may be informed to clarify whether the partnership firm is dissolved completely and have all the partners settled with their respective shares and no there are no future claims on the applied land. The applicant may also be informed to submit a copy of NALA procdgs issued by the RDO, copies of ROR/mutation procdgs issued by the tahsildar, details of court cases/mortgages on the applied land for further verification.

To this shortfall notice the Petitioner has written a letter dated 11.09.2023 complying with all the shortfalls and uploading of the necessary documents. However, the application was rejected by TS-bPASS Rejection letter in File No.004560/BP/HMDA/0949/SMD/2023, dated 10.10.2023 on the ground that the proposal is not in conformity with the Rules and Regulations and as there is no provision for second shortfall in TS-bPASS portal the Petitioner should make a fresh application. It is submitted that subsequently the Petitioner has again filed another application in File

For Mehta & Modi Realty (Timmapur) LLP  
Partner

No.012136/BP/HMDA/2692/SMD/2023 dated 20.10.2023 making a fresh application complying with all the requirements along with letter dated 28.10.2023. It is submitted that thereafter the 2<sup>nd</sup> Respondent herein has issued a shortfall letter dated 15.11.2023 with the following shortfalls:

1. To submit file – B shortfalls
2. To submit nala conversion certificate for the total land.
3. To submit the revised drawing
  - a. duly providing clear setbacks between block to block i.e. to replace greenery located between setbacks.
  - b. to replace the ramps which are located in the setbacks
  - c. to maintain travel distance of 22.5 mtrs
4. To submit the latest Risk Insurance policy for the construction period for all the floors for all blocks.
5. To submit a copy of dissolution of firm M/s. Siddi Vegetable oil products a partnership firm is not dissolved authorisation copy from M/s. Siddi vegetable oil products to Meena Agarwal for sale of land, details of any future claims on the applied land, details of correction in Dharani portal for Ac.0-24 gts in Sy.no.199/B. Further the applicant may also be informed to submit a copy of NALA payment procgds issued by the RDO, copies of ROD/mutation procgds issued by the tahsildar, details of ED/CBI/court cases/mortgages as mentioned in NOC copy of SBI on the applied land for further verification.

For Mehta & Modi Realty (Timmapur) LLP  
  
Partner

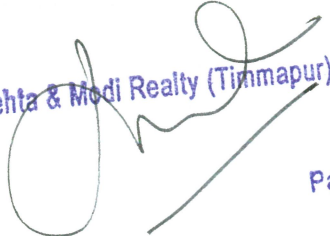
The Petitioner submits that in so far as Shortfall No.1: To submit file-B shortfalls, details of shortfalls in file-B have not been specified.

Shortfall No.2: To submit Nala conversion certificate for the total land. This point has been addressed in detail in point no.2 of Representation-1. In representation no.2 we have voluntarily provided 5% built-up area as additional mortgage. This is compliance with the order of HMDA dated 26.10.2015, wherein applicants are permitted to mortgage additional 5% of built-up area in lieu of obtaining Nala conversion certificate.

Shortfall No.3: To submit the revised drawing:

- a. Duly providing clear setbacks between block to block i.e. to replacle greenery located between setbacks.
- b. To replace the ramps which are located in the setbacks.
- c. To maintain travel distance of 22.5 meters: the pre-DCR software is designed to check the compliance's. Our plans are complied with the bye-laws/rules and no objections have been generated.

1. The 3 objections have been incorrectly raised.
2. We are fully complied with the rules. Clear setbacks have been provided between the blocks. There is no rule specifying that greenery/tot-lot cannot be placed between blocks. Approved plans dated \_\_\_\_\_ & \_\_\_\_\_ by GHMC/HMDA are attached herein to show that such tot-lots/greenery is permitted between blocks. In both the projects the greenery has been developed and occupancy certificate has been issued by GHMC. Photographs are also attached.
3. Ramps are located within the setbacks. The shortfall generated is absolutely incorrect. The ramp provided in A and C blocks have been provided within the building line of A & C blocks by eliminating 2 flats on the ground floor in each block.

For Mehta & Modi Realty (Timmapur) LLP  
  
Partner

4. To maintain travel distance of 22.5 mtrs – there is no such rules specified in the bye-laws. This is the condition related to fire safety/NOC. Fire NOC has already been received on 27.09.2022 and the statutory authority has examined our plans and issued the NOC. It is not open to HMDA to review the plans already approved by the fire department.

Shortfall no.4: To submit the latest risk insurance policy for the construction period for all the floors for all blocks. Revised insurance policy has now been obtained (copy enclosed).

Shortfall No.5: To submit a copy of dissolution of firm M/s. Siddhi Vegetable Oil Products a partnership firm, in case the firm is not dissolved authorization from M/s. Sidhi Vegetable Oil Products to Meena Agarwal for sale of land, details of any future claims on the applied land, details of correction in Dharani portal for Ac.0-24 gts in Sy.No.199/U. Further the applicant may also be informed to submit a copy of NALA payment proceedings issued by RDO, copies of ROR/mutation proceedings issued by Tahsildar, details of ED/CBI, Court cases/mortgages as mentioned in NOC copy of SBI on the applied land for further verification.

1. M/s. Siddi Vegetable Oils is an ongoing partnership firm. M/s. Siddi Vegetable Oil and Mrs. Meena Agarwal are parties to our sale deed and therefore the shortfall raised is erroneous.
2. There is an error in the Dharani portal with respect to 24 guntas owned by Mrs. Meena Agarwal. Patta passbook has been issued to Meena Agarwal (copy enclosed). The name of Siddi Vegetable Oil and Mrs. Meena Agarwal have been clearly reflected as

For Mehta & Modi Realty (Timmagur) LLP  
Partner

owners of 3 acres and 24 guntas respectively in the pahanis of 2004-2005, 2005-2006, 2009-2010 years. Several representations have been made by us to the revenue department for correction of Dharani portal. The MRO after examining the revenue records and physical possession of land had issued a letter dated 13.10.2022 and 13.01.2023 addressing to District Collector clearly acknowledging the error. The revenue department has lakhs of complaints with regard to errors in the Dharani portal and they do not have the resources to make the corrections in a reasonable time frame. The collector vide its letter dated 30.05.2023 has directed us to file grievance in the TM-03 module of the Dharani portal. However, the module is not accepting our grievance stating that 'Registration year must not be greater than 2020'. We are in touch with the revenue department for correction of the Dharani portal.

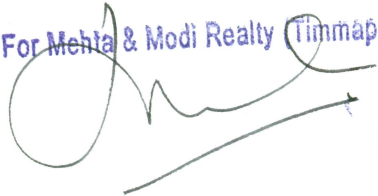
3. Proof of payment of Nala – The order for conversion under NALA is of 2003. It is not possible to trace the proof of payment either through the payee or the revenue department. Infact the Revenue department vide its reply dated 26.09.2023 issued under RTI Act, which clearly states that the information is not available in their office. This issue has reached its finality, further the Sy. No.199/RUU belonging to Siddi Vegetable Oil to an extent of Ac.3-00 gts., is reflected as non-agricultural use under Dharani portal. Copy of relevant page is attached.
4. Copies of ROR and mutation proceedings – The names of Siddi Vegetable Oil and Mrs. Meena Agarwal are correctly reflected in the pahanies. Patta passbooks are typically not issued to firms/companies that are using land for non-agricultural purposes and accordingly no patta passbook is being issued to Siddi Vegetable Oil. Patta passbook is issued to Mrs. Meena Agarwal.

For Mehta & Modi Realty (Timmapur) LLP  
Partner

Copy of ROR / mutation proceedings are not available (see memo no.B/302/2023 dated 07.08.2023.)

5. Details of ED/CBI/Court cases /mortgages as mentioned in NOC copy of SBI. Note that the proceedings of ED/CBI were against M/s. Siddi Vegetable Oil Products Private Limited. It is distinct from the partnership firm M/s. Siddi Vegetable Oil. The partners of the firm M/s. Siddi Vegetable Oil have pledged its property, as collateral, to SBI for the loan taken by the private limited company. The private limited company has repaid its loan under a one-time settlement and SBI has released its charge on the properties owned by M/s. Siddi Vegetable Oil. The proceedings against the private limited company have no bearing on the property owned by M/s. Siddi Vegetable Oil.

8. It is submitted that, thus the shortfall raised by the 2<sup>nd</sup> Respondent are totally arbitrary, illegal and without considering the documents which are uploaded by the Petitioner in the correct perspective and as such the shortfall letter is liable to be set aside. It is submitted that answering the shortfall letter issued by the 2<sup>nd</sup> Respondent is not going to serve any purpose as twice the 2<sup>nd</sup> Respondent has issued rejection letters and inspite of the orders passed by this Hon'ble Court earlier failed to consider the application of the Petitioner and required the Petitioner to file fresh application resulting in severe hardship to the Petitioner. Thus the petitioner is constrained to file the present writ petition.

For Mehta & Modi Realty (Timmapur) LLP  
  
Partner

9 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.

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

11. It is necessary that this Hon'ble court may be pleased to direct the 2<sup>nd</sup> Respondent to consider the construction permission application filed by the Petitioner in File No.012136/BP/HMDA/2692/SMD/2023, dated 20.10.2023 without insisting on compliance of the shortfalls dated 15.11.2023 pending disposal of the Writ Petition.

12. 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 declaring the shortfall notice dt: 15.11.2023 as arbitrary, illegal and unsustainable and set aside the same and consequently direct the Respondent 2 to grant construction permission to the Petitioner in respect of the Application in File No.012136/BP/HMDA/ 2692/SMD/2023, dated 20.10.2023 and pass such other order or orders in the interest of justice.

For Mehta & Modi Realty (Timmapur) LLP .  
Partner

Sworn and signed before me on this  
the 22<sup>nd</sup> day of January 2024 at Hyderabad.

For Mehta & Modi Realty (Timmapur) LLP  
Deponent.  
Partner

Advocate, Hyderabad

**VERIFICATION**

I, Soham Modi, S/o. Late Satish Modi, aged about 52 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 22<sup>nd</sup> day  
of January 2024 at Hyderabad.

For Mehta & Modi Realty (Timmapur) LLP  
Deponent  
Partner

Counsel for petitioner



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

No. OF 2024

AGAINST

No. OF 2024

On the file of the Court of  
Mehta & Modi Realty Timmapur LLP

Appellant/  
Petitioner

V E R S U S

The State of TS Secretary MA&UD & Another

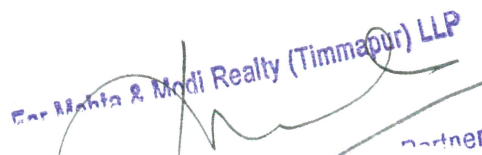
...Respondent

I/Mehta & Modi Realty Timmapur LLP Rep by its Managing  
Partner, Soham Modi, S/o Late Satish Modi Occ: Business, R/o  
5-4-187 /3&4, MG Road Secunderabad.

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.



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 this.....day of .....2024

Advocate, Hyderabad

S.R. No.

\_\_\_\_\_ District

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

APPELLATE SIDE

No. \_\_\_\_\_ of 2024

AGAINST

No. \_\_\_\_\_ of 2024

**VAKALAT**

ACCEPTED

Mehta & Modi Realty Timmapur LLP  
..Appellant

Versus

The State of TS Secretary MA&UD  
& Another

..Respondents

**PERI PRABHAKAR (6390)  
ADVOCATE**

Advocate for Petitioner

Address for Service: \_\_\_\_\_ Ph:23210956

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