

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

APPELLATE SIDE

W.P. No. 20561 OF 2022
AGAINST

No. OF 2022
On the file of the Court of

Appellant/
Petitioner

V E R S U S

Respondent

I/We

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 PROPERTIES PVT. LTD.
Managing Director

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 thisday of2022

Advocate, Hyderabad

S.R. No.

_____ District

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

APPELLATE SIDE

w.p. No. 20561 of 2021
AGAINST
No. _____ of 2021

VAKALAT

ACCEPTED

Appellant
Counsel for Petitioner
Respondent

**PERI PRABHAKAR (6390)
ADVOCATE**

Appellant
Advocate for Petitioner
Respondent

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THURSDAY, THE TWENTY FIRST DAY OF APRIL TWO THOUSAND AND
TWENTY TWO

WRIT PETITION NO: 28561 OF 2022



Between:

1. Samala Narsimha Reddy, S/o S. Bhoopal Reddy, Aged about 37 years, Occ. Agriculture, R/o H. No. 1-58, Pocharam village, Ghatkesar Mandal, Medchal-Malkajgiri District and 2 others

AND

.....PETITIONERS

- 1 The State of Telangana, Rep., by its Principal Secretary, Municipal Administration and Urban Development, Secretariat Building, Hyderabad.
- 2 The Pocharam Municipality, Pocharam, Medchal-Malkajgiri District. Rep., by its Commissioner.
- 3 Avani Vishishta Constructions LLP, Plot No. 8, Avigna Enclave, 4th Floor, PNT Colony, Medipally, Peerzadiguda Municipal Corporation, Hyderabad - 92, Rep., by its Designated Partner.
- 4 Modi Properties Pvt. Ltd, Rep by its Managing Director Soham Satish Modi Having office at 5-4-187/3 and 4, Soham Mansion, 2nd floor, M.G. Road Secunderabad Telangana 500003.
- 5 The Station House Officer, Ghatkesar Police Station, Ghatkesar, Medchal Malkajgiri District

.....RESPONDENTS

Upon motion this day made into this Court by T BALA MOHAN REDDY Advocate for the Petitioner(s) and the court being of opinion that the records, relating to and touching upon all the matters, and contentions raised in the memorandum of Writ petition, a copy of which is annexed hereto, together with the decision therein should be called for and perused : IT IS HEREBY COMMANDED.

(1) That you, the aforesaid Respondent No. 4+ do send for our use in High Court for the State of Telangana all and singular the said records and others with all the things touching the same as fully and perfectly as they have been made by you and now remain in your custody or power together with this, Rule Nisi before the day of 21/06/2022 and

That if you intend to oppose the writ petition, you, the aforesaid Respondent No. 4+ do appear personally OR by Advocate on the day of (21/06/2022) at 10.30 a.m. before this court to show cause why this petition should not be complied with and that we may cause further to be done thereon what of right and according to law we shall fit to be done.

WITNESS Honourable the Chief Justice, SATISH CHANDRA SHARMA, High Court for the State of Telangana this THURSDAY, THE TWENTY FIRST DAY OF APRIL TWO THOUSAND AND TWENTY TWO


ASSISTANT REGISTRAR

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MEMORANDUM OF WRIT PETITION
(UNDER ARTICLE 226 OF CONSTITUTION OF INDIA)

BEFORE THE HON'BLE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD
(SPECIAL AND ORIGINAL JURISDICTION)

W.P. No. OF 2022

BETWEEN:

1. Samala Narsimha Reddy, S/o S. Bhoopal Reddy,
Aged about 37 years, Occ: Agriculture,
R/o H. No. 1-58, Pocharam village,
Ghatkesar Mandal, Medchal-Malkajgiri District.
2. S. Anji Reddy, S/o S. Ram Reddy,
Aged about 60 years, Occ: Agriculture,
R/o H. No. 1-74/2, Pocharam village,
Ghatkesar Mandal, Medchal-Malkajgiri District.
3. S. Nagi Reddy, S/o S. Bhoopal Reddy,
Aged about 35 years, Occ: Agriculture,
R/o H. No. 1-53, Pocharam village,
Ghatkesar Mandal, Medchal-Malkajgiri District.

...PETITIONERS

AND

1. The State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration and Urban Development,
Secretariat Building, Hyderabad.
2. The Pocharam Municipality,
Pocharam, Medchal-Malkajgiri District.
Rep., by its Commissioner.

3. Avani Vishishtha Constructions LLP,
Plot No. 8, Avigna Enclave, 4th Floor, PNT Colony, Medipally,
Peerzadiguda Municipal Corporation. Hyderabad – 92,
Rep., by its Designated Partner.
4. Modi Properties Pvt. Ltd.
Rep by its Managing Director Soham Satish Modi
Having office at 5-4-187/3&4,
Soham Mansion, 2nd floor, M.G. Road
Secunderabad Telangana 500003.
5. The Station House Officer,
Ghatkesar Police Station,
Ghatkesar, Medchal Malkajgiri District

...RESPONDENTS

1. The address for service of all notices, notices, process etc., on the above-named Petitioners is that of their counsel, T. Bala Mohan Reddy, Zainab Khan, Advocates, Flat No. 101 and 102, Sai Priya Apts, Jaffer Ali Bagh, Somajiguda, Hyderabad-500082.

2. For the aforementioned reasons and those reasons which may be adduced at the time of hearing, it is therefore prayed that this Hon'ble Court may be pleased to grant an order, direction or writ, more so in the nature of writ of mandamus, declaring the the inaction of the 2nd Respondent in considering the representation dated 16.12.2021 and the action of the 2nd Respondent in resorting to dig nala in the agricultural land belonging to the Petitioners herein in Sy. Nos. 28 and 29 affecting land to the extent of 800 to 900 Sq. yds., situated in Pocharam village,

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Ghatkesar Mandal. Medchal-Malkajgiri District illegally with the active assistance of 5th respondent, for the benefit of developers like the 3rd and 4th Respondents herein, as illegal, arbitrary and high handed, apart from being violative of Article 14 and 300A of the Constitution of India and consequently, to direct the 2nd Respondent to consider the representation dated 16.12.2021 of the Petitioners herein and further, to direct the 2nd Respondent not to resort to diversion of water or digging of nala in the agricultural lands of the Petitioners in Sy.No. 28 and 29 of Pocharam Village, Ghatkesar Mandal, Medchal Malkajgiri District, except in accordance with the due procedure established under law and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

HYDERABAD
DATE: 21.04.2022


COUNSEL FOR PETITIONERS

RANGA REDDY DISTRICT

IN THE HIGH COURT FOR
STATE OF TELANGANA
AT: HYDERABAD

W.P.NO. OF 2022

WRIT PETITION

FILED ON: 20.04.2022

FILED BY:

T. BALA MOHAN REDDY (10543)
ZAINAB KHAN

ADVOCATES

COUNSEL FOR PETITIONERS

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

W.P. NO. OF 2022

BETWEEN:

1. Samala Narsimha Reddy, S/o S. Bhoopal Reddy,
Aged about 37 years, Occ: Agriculture,
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...PETITIONERS

AND

1. The State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration and Urban Development,
Secretariat Building, Hyderabad.
2. The Pocharam Municipality,
Pocharam, Medchal-Malkajgiri District.
Rep., by its Commissioner.
3. Avani Vishishta Constructions LLP,
Plot No. 8, Avigna Enclave, 4th Floor, PNT Colony, Medipally,
Peerzadiguda Municipal Corporation, Hyderabad - 92,
Rep., by its Designated Partner.

[Signature]

[Signature]

situated in Pocharam village, Ghatkesar Mandal, Medchal-Malkajgiri District illegally with the active assistance of 5th respondent, for the benefit of developers like the 3rd and 4th Respondents herein, as illegal, arbitrary and high handed, apart from being violative of Article 14 and 300A of the Constitution of India and consequently, to direct the 2nd Respondent to consider the representation dated 16.12.2021 of the Petitioners herein and further, to direct the 2nd Respondent not to resort to diversion of water or digging of nala in the agricultural lands of the Petitioners in Sy.No. 28 and 29 of Pocharam Village, Ghatkesar Mandal, Medchal Malkajgiri District, except in accordance with the due procedure established under law.

3. It is submitted that the 1st Petitioner herein is the absolute owner and peaceful possessor of the land admeasuring to the extent of Ac. 0-32 gts. in Sy. No. 28/A/1/2. That the 2nd Petitioner herein is the absolute owner and peaceful possessor of the land admeasuring to the extent of Ac. 0-31 gts. in Sy. No. 28/E and an extent of Ac. 0-26 gts. in Sy. No. 29/E. That the 3rd Petitioner herein is the absolute owner and peaceful possessor of the land admeasuring to the extent of Ac. 0-32 gts. in Sy. No. 28/AA/1. The other lands in Sy. Nos. 28 and 29 are belonging to



some other family members of the Petitioners. That the Petitioners are in peaceful possession and enjoyment of their respective properties. That the land belonging to the Petitioners is cultivable land and the Petitioners are growing paddy in the above lands and as on today, there is standing crop over the said lands. The names of the Petitioners are entered in Dharani and they were issued with the new pattadar passbooks for the aforementioned lands.

4. It is submitted that the Petitioners' agricultural land is falling to one side of the road and paddy, being a water-based crop, the Petitioners' lands were divided into small divisions and also, channels of water were formed. There was no interference from any of the authorities in respect of the Petitioners' land and as on today, agricultural operations are being undertaken on the land.

5. It is submitted that in the year 2019, by virtue of enactment of the T.S. Municipalities Act, 2019, some Gram Panchayats were converted to Municipalities. Similarly, the 2nd Respondent was also carved from an erstwhile Gram Panchayat. That in view of the urbanization and expansion of the twin cities, some lands in Pocharam village are



converted as residential properties and major constructions are coming up, in and around the land situated in Pocharam. The 3rd and 4th Respondents are such builders who are constructing high-rise buildings and villas in the said area. That apart, the other lands which are situated near to the lands of the Petitioners, certain constructions in the form of villas and high-rise residential apartments are being undertaken.

6. It is submitted that the water and sewage flowing from these constructions as well as other constructions are diverted to the low-lying area. The course of water flow was changed due to formation of new roads by the builders. That the water accumulated to diverted to low lying areas and water was made to accumulate on the other side of the road where the property of the Petitioners herein is situated. That this was done for the convenience of builders and there was no identified water channel or nala existing, even as per the village map. Further, the 2nd Respondent, to help the builders, has been acting hand-in-glove to divert the water and sewage to the low-lying area, which has stagnated on the opposite side of road where the lands of the Petitioners are situated.

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7. It is submitted that in view of the above facts set out and the accumulation of the drainage water adjacent to the Petitioners' land, the Petitioners have made a representation to the 2nd Respondent herein vide representation dated 16.12.2021, complaining that due to the stagnation of water, the crop in their land was being damaged and the 2nd Respondent, being the appropriate authority, was sought to take action and do justice to them. The 2nd Respondent has not taken any steps as per the village map nor has proceeded in terms of the provisions of the T.S. Municipalities Act, 2019. It is submitted that recently, the municipal authorities came to the said location on 12.04.2022 and started digging the road to divert the stagnant water to the lands of the Petitioners. This action was objected to and it was represented that the highhanded acts of the authority ought not to be undertaken in as much as there is no nala to the side of the Petitioners' land and the drainage water is being diverted illegally to the lands of the Petitioners. If such drainage water is diverted to the lands of the Petitioners, the same would be affected badly and at about 800 to 900 Sq. yard. of land would be affected by the said action of the Respondents.



8. It is submitted that the provisions of the T.S. Municipalities Act, 2019 would cast a duty upon the Respondent to provide basic amenities to the residents. In view of urbanization, lots of constructions have been coming up and the municipalities are not taking any steps for providing the basic necessities for the said constructions and are, in fact, diverting the said water, including drainage, to the agricultural lands of the Petitioners, without any provision of law being followed. It is submitted that these highhanded acts have been resorted to by the Municipality to help the builders, who are similarly placed as to that of the 3rd and 4th Respondents and such actions are affecting the livelihood of the Petitioners, who are solely dependent on agricultural operations. This action of the Municipality is not only contrary to the provisions of the Act but is in clear violation of the rights guaranteed to the Petitioners.

9. It is submitted that the provisions of the T.S. Municipalities Act, 2019 provide for the creation of sewage and drainage. That the water flowing from these constructions is being diverted to low-lying areas and by acting hand-in-glove with the builders, the municipality authorities are simply digging the lands to divert the water to the agricultural land of the Petitioners. The land of the Petitioners is a



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private patta land and such highhanded actions should not have been resorted to, without following the procedure under law. Though the Petitioners have made representations with regard to the accumulation of water and damage to their crop, the official respondent, acting in connivance with the builders, is now trying to divert the same to the agricultural lands of the Petitioners, illegally and by resorting to highhanded actions of digging the Petitioners' lands and road. This action on part of the authorities is not authorized by law and is contrary to the provisions of the T.S. Municipalities Act, 2019, apart from being violative of the fundamental rights guaranteed to the Petitioners herein under Article 14 and 300A of the Constitution of India.

10. It is submitted that on 20.04.2022 at about 10.30 p.m the personnel of 2nd respondent accompanied by the 5th respondent came to the lands along with one JCB. That when the petitioners herein have questioned as to how they could resort to such an action of digging nala from the petitioners lands, the personnel of 2nd respondent simply stated that they can do whatever they want. That the officials of 5th respondent have threatened that if we question the officials of 2nd respondent or obstruct the work, they would book cases against us. That this





highhanded action of the respondents in resorting to divert water on the agricultural lands for the benefit of builders is clearly not authorised by law. That apart there is no nala in village map and the water from these constructions is diverted and now for the help of these builders the 2nd respondent is digging nala from agricultural lands of petitioners highhandedly. That apart the 2nd respondent with the help of 5th respondent is threatening to book false cases against the petitioners if such illegal action is objected to. That the 2nd and 5th respondents are not authorised under law to resort to such actions and are bound to follow provisions laid down under law. The action of the authorities is clearly impermissible under law and is in clear violation of rights guaranteed to the petitioners. In such circumstances, the Petitioners are left with no other alternative other than to seek the indulgence of this Hon'ble Court to redress their grievance by directing the 2nd Respondent to not to interfere with the agricultural lands of the Petitioners in Sy. No. 28 and 29 of Pocharam village, without following due process of law. In view of the above, until and unless this Hon'ble Court considers the case of the Petitioners herein and directs the 2nd Respondent to not to interfere or resort to any digging activity in the Petitioners' land,



without following due process of law, else the Petitioners shall be put to irreparable loss and injury which cannot be compensated in any manner.

11. It is submitted that in the aforementioned circumstances, the Petitioners have no other effective and efficacious alternative remedy except to approach this Hon'ble High Court under its extraordinary jurisdiction by invoking Article 226 of the Constitution of India.

12. It is submitted that the Petitioners have not filed any other suit, proceedings or writ petition in respect of the aforesaid subject matter before any court or tribunal or this Hon'ble High Court except to the extent stated above.

For the aforementioned reasons and those reasons which may be adduced at the time of hearing, it is therefore prayed that this Hon'ble Court may be pleased to grant an order, direction or writ, more so in the nature of writ of mandamus, declaring the the inaction of the 2nd Respondent in considering the representation dated 16.12.2021 and the action of the 2nd Respondent in resorting to dig nala in the agricultural land belonging to the Petitioners herein in Sy. Nos. 28 and 29 affecting

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land to the extent of 800 to 900 Sq. yds., situated in Pocharam village, Ghatkesar Mandal, Medchal-Malkajgiri District illegally with the active assistance of 5th respondent, for the benefit of developers like the 3rd and 4th Respondents herein, as illegal, arbitrary and high handed, apart from being violative of Article 14 and 300A of the Constitution of India and consequently, to direct the 2nd Respondent to consider the representation dated 16.12.2021 of the Petitioners herein and further, to direct the 2nd Respondent not to resort to diversion of water or digging of nala in the agricultural lands of the Petitioners in Sy.No. 28 and 29 of Pocharam Village, Ghatkesar Mandal, Medchal Malkajgiri District, except in accordance with the due procedure established under law and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Pending disposal of the above writ petition, it is prayed that this Hon'ble Court may be pleased to direct the Respondent No. 2 and 5 to not to interfere with the agricultural lands of Petitioners in Sy.No. 28 and 29 of Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District, except in accordance with the due procedure established under law and pass such other order or orders as this Hon'ble Court may deem

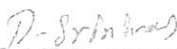


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fit and proper in the circumstances of the case and in the interests of justice.

Solemnly affirmed and sworn before me
On this the 18th day of April, 2022,
at Hyderabad.


DEPONENT


ADVOCATE: HYDERABAD

VERIFICATION

I, Samala Narsimha Reddy, S/o Bhoopal Reddy, being the 1st Petitioner herein, do hereby verify and declare that the facts stated in the above paragraphs No. 1 to 10 are true and correct to the best of my knowledge and belief and the contents of the rest of the paragraphs are believed to be correct based on information and legal advice of our counsel. Hence, verified on this 20th day of April, 2022 at Hyderabad.

Verified and signed before me:


COUNSEL FOR PETITIONERS


PETITIONER NO. 1