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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH.
AT: HYDERABAD

W.P. No. 2068 OF 2009

Between: -

Sri Sai Builders and Modi Ventures, Rep. by its Partner, Soham Modi, S/o. Satish Modi, aged about 38 years, R/o. 5-4-187/3 and 4, II Floor, Soham Mansion, M.G. Road, Secunderbad.

.. Petitioner

And

1. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tank Bund Road, Hyderabad.
2. The Chief City Planner, Town Planning Section, (HO), Greater Hyderabad Municipal Corporation, Tank Bund Road, Hyderabad.

.. Respondents

AFFIDAVIT FILED ON BEHALF OF THE PETITIONER

I, Soham Modi, S/o. Satish Modi, aged about 38 years, R/o. 5-4-187/3 and 4, II Floor, Soham Mansion, M.G. Road, Secunderbad, do hereby solemnly affirm and sincerely state on oath as follows:--

1. I am the Partner of the petitioner firm herein and as such I am well aquatinted with the facts of the case.
2. I submit that the petitioner firm is questioning the demand of the respondent corporation in Lr. No. 0514/CSC/TPI/2008, dated 25.11.2008 in so far as it relates to imposition of layout regularization scheme charges to the tune of Rs. 25,54,430/-.
3. I submit that the petitioner has applied for construction permission in Sy. No. 93, 94 and 95, Mallapur Village, Kapra, Hyderabad in respect of two blocks, by an application dated 26.04.2008.



4. It is relevant to submit here that earlier the petitioner has constructed five blocks of residential apartments in Sy. No. 93(p), 94(p) and 95(p) at Mallapur Village, Kapra, Ranga Reddy District. The respondent corporation has granted permission for construction and thereafter the petitioner has completed the construction of all the five blocks (block A, B, C, D and E) and thereafter the respondent has issued Occupancy Certificates in respect of all Blocks.
5. While so, the petitioner has purchased the land adjacent to the site and thereafter applied for construction permission to construct two blocks of residential apartments in the land acquired by an application dated 26.04.2005. I submit that by Lr.No.0514/CSC/TP1/2008, dated 25.11.2008, the respondent has demanded an amount of Rs.55,00,205/- towards 1) Building permit Fee, 2) VLT Charges, 3) Debris, tree grounds, RWHC, EDF, Drainage charges, 4) Development Charges, 5) Layout regularization scheme charges, under the head of Layout Regularization Scheme charges the respondent has demanded Rs.25,54,430/ -. I submit that the demand of the respondent corporation towards layout regularization scheme charges is illegal and unsustainable. I submit that the petitioner has applied for permission to construct residential apartment blocks in the land purchased by it and the land is adjacent to the apartments being constructed by the petitioner earlier. The apartments are being constructed by the petitioner after obtaining valid permission and payment of all necessary fee and charges. The present application for construction is an independent application for construction of residential flats and as such no layout regularization scheme charges can be imposed on the petitioner as there is no requirement of obtaining any layout. The act of the respondent in demanding layout regularization scheme charges is illegal and has no rationale behind it. The petitioner has issued a notice to the respondent dated 30.12.2008 requesting for deletion of the layout regularization scheme charges from the demand dated 25.11.2008 in Lr.No.0514/CSC/TP1/2008. However the respondents have not responded
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either way till date. The project of the petitioner is not able to commence for want of the required permission and as the same is not liable to be paid. The petitioner is not in a position to pay the demanded amount. Thus the petitioner is constrained to approach this Hon'ble Court under Article 226 of the constitution of India.

6. The petitioner has no other alternate remedy except to approach this Honourable Court under Article 226 of the Constitution of India. The petitioner has not approached any court for the same relief, which is sought for in this writ petition.
7. It is necessary that the Honourable Court may be pleased to direct the respondent not to demand layout regularization scheme charges from the petitioner and receive the other amounts paid as per the demand in Lr.No.0514/CSC/TPI/2008, dated 25.11.2008 and release the construction permission, pending disposal of the writ petition in the interest of justice.
8. It is therefore prayed that the Honourable Court may be pleased to issue a writ of Mandamus or any other appropriate writ declaring that the action of the respondent in demanding the layout regularization scheme charges from the petitioner vide Lr.No.0514/CSC/TPI/2008, dated 25.11.2008 is arbitrary and illegal and consequently direct the respondents to accept the other amounts as per the Lr.No.0514/CSC/TPI/2008, dated 25.11.2008 without insisting on payment of layout regularization scheme charges and issue construction permission to the petitioner, and grant such other relief as it deems fit in the circumstances of the case.

Sworn and signed before me on this the
21st day of January, 2009, at Hyderabad



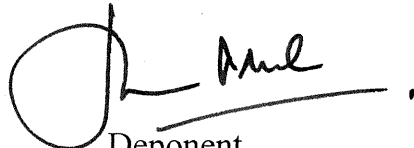
Deponent

Advocate, Hyderabad.

Verification Statement

I, Soham Modi, S/ o. Satish Modi, aged about 38 years, R/ o. 5-4-187/3 and 4, II Floor, Soham Mansion, M.G. Road, Secunderabad, being the partner of the petitioner herein, do hereby state that the facts mentioned in paragraphs 1 to 5 are true and correct to the best of my knowledge and belief and the facts mentioned in paragraphs 6 to 8 are true legal advice obtained from my counsel and I believe the same to be true and correct. Hence, verified to be true and correct on this the 21 st day of January, 2009 at Hyderabad.

Advocate


Deponent