

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 26377 OF 2024

Between:

Modi Realty Genome Valley LLP, Represented by its Managing Partner Shri Soham Modi 5-4-187/3 and 4, II Floor, Soham Mansion M.G. Road, Secunderabad Telangana -500 003

...PETITIONER

AND

1. State of Telangana, Rep. by its Principal Secretary, Municipal Administration and Urban Development Secretariat, Hyderabad
2. The Hyderabad Metropolitan Development Authority, Rep. by its Metropolitan Commissioner 7th Floor Swarna Jayanthi Complex, Ameerpet, Hyderabad
3. State of Telangana, Rep by its Principal Secretary, Revenue (LA) Department, Secretariat, Hyderabad
4. The District Collector, Revenue (LA) Department, Office of Collector, Medchal Malkajgiri District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or Direction by (a)declaring the shortfall notice issued by the 2nd respondent in File No.062334/MED/R1/U6/HMDA/26012024 dated 14.02.2024 in so far as Remark No.6 requiring the petitioner to clarify regarding the survey numbers being part of prohibited properties list being maintained by the 4th Respondent for consideration of the Application No. 062334/MED/R1/U6/HMDAJ26012024 dated 26-01-2024 as arbitrary, illegal, (b)declaring the action of the 4th Respondent in not deleting the Survey Nos. 506/P (Ac 0.1 Gs) , 507 (Ac 0.7 Gts), 508/P (Ac 0.11 Gts), 511 (Ac 0.13 Gts) and 532/P (Ac 0.10 Gts) of Kothur/Kolthur Village, Shamirpet Mandal, Medchal Malkajgiri District from the list of prohibited properties register maintained by it U/s. 22-A in spite of lapse of the Acquisition Notification No.G2/1546/2019, dated 27-08-2019 as arbitrary and illegal, (c)and

direct the 4th respondent to delete Survey nos. 506/P (Ac 0.1 Gts) , 507 (Ac 0.7 Gts), 508/P (Ac 0.11 Gts), 511 (Ac 0.13 Gts) and 532/P (Ac 0.10 Gts) of Kothur/Kolthur Village, Shamirpet Mandal, Medchal Malkajgiri District from the list of prohibited properties register maintained by it U/s. 22-A (d) and consequently direct the 2nd respondent to consider the construction permission application of the Petitioner bearing No.062334/MED/R1/U6/HMDAJ26012024, dated 26-01-2024 without reference to Reference No.6 requiring the petitioner to clarify regarding the survey numbers being part of prohibited properties list being maintained by the 4th Respondent U/s. 22-A, and pass such other order or orders in the interest of the justice

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd respondent to consider the construction permission in Application No. 062334/NTED/R1/U6/HMDA/ 26012024 dated 26.01.2024 and process the same without reference to the Remark No.6 requiring the petitioner to clarify regarding the survey numbers being part of the prohibited properties list being maintained by the 4th Respondent pending disposal of the Writ Petition

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 4th Respondent to delete the Survey nos. 506/P (Ac 0.1 Gts) , 507 (Ac 0.7 Gts), 508/P (Ac 0.11 Gts), 511 (Ac 0.13 Gts) and 532/P (Ac 0.10 Gts) of Kothur/Kolthur Village, Shamirpet Mandal, Medchal Malkajgiri District from the list of prohibited properties register maintained by it U/s. 22-A of the Registration Act, 1905 in view of the Gazette Notification No.G2/1546/2019 dated 27-08-2019 having lapsed pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI. PRABHAKAR PERI

**Counsel for the Respondent No.1: GP FOR MUNICIPAL ADMINISTRATION
AND URBAN DEVELOPMENT**

Counsel for the Respondent No.2: Smt. D. MADHAVI, SC FOR HMDA

Counsel for the Respondent Nos. 3&4: GP FOR LAND ACQUISITION

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.26377 OF 2024

ORDER:

Heard learned Counsel for the petitioner, learned Government Pleader for Municipal Administration & Urban Development appearing on behalf of respondent No.1, Smt. D. Madhavi, learned Standing Counsel appearing on behalf of respondent No.2, learned Government Pleader for Land Acquisition appearing on behalf of respondent Nos.3 and 4 and with the consent of learned Counsel appearing for the parties, the Writ Petition is taken up for hearing and disposal at the admission stage.

2. Shorn of unnecessary details, the case of the petitioner in brief, is that he had approached the 2nd respondent and submitted an application for grant of building permission for construction of Cellar, Stilt + 8 upper floors, *vide* application dated 26.01.2024; that the 2nd respondent authority by issuing proceedings dated 14.02.2024 had raised certain short fall and called upon the petitioner to remove the aforesaid short fall within seven days for the authorities to consider the aforementioned building permission application of the petitioner.

3. Petitioner further contends that while the petitioner is willing to remove/comply with the short fall noted in serial Nos.1 to 5, however, it is aggrieved by the short fall noted at serial No.6 whereby the authorities have sought for clarification with regard to the subject land being placed in prohibitory list under Section 22-A of Registration Act.

4. Petitioner further contends that the subject lands have been placed in prohibitory list pursuant to gazette issued, *vide* file No.G2/1546/2019 dated 26.08.2019 in Gazette No.MMD.40 dated 27.08.2019 pursuant to land acquisition proceedings initiated by the 3rd and 4th respondent authorities.

5. It is also contended by the petitioner that the aforesaid land acquisition proceedings initiated, have lapsed on 26.08.2023, since no extension has been granted by notifying the same in the State Gazette. Thus, it is contended that the said short fall raised by the 2nd respondent authority in order to consider the Building permission application is without any valid basis or authority.

6. *Per contra*, learned Standing Counsel appearing on behalf of respondent No.2 submits that the petitioner can submit/clarify the above fact while removing the other short

falls noted in the impugned proceeding, the same would be considered by the authorities while examining the compliance of the other short fall for processing the building permission application made.

7. Learned Government Pleader appearing for respondent Nos.3 and 4 submits that the land acquisition proceedings initiated under the Gazette dated 27.08.2019 though was extended from time to time have lapsed on 26.08.2023, though the authorities have addressed a communication to the District Collector dated 21.08.2023 seeking extension of the validity of the acquisition proceedings initiated.

8. Learned Government Pleader however fairly submits that as of date no notification has been issued/extending the validity by notifying the same in the State Gazette as required under the Right to Fair Compensation, and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'Act, 2013').

9. I have taken note of the respective contentions urged.

10. The petitioner had made an online application to the 2nd respondent authority on 26.01.2024 seeking permission for construction of a multi storied (above 18 meters) residential

building in respect of land forming part of Sy. No.505/P, 506/P, 507, 508/P, 509, 510, 511 and 532/P of Kolthur village, Shamirpet Mandal, Medchal Malkajgiri District consisting of one cellar + stilt + 8 upper floors. The 2nd respondent authority while considering the aforesaid application had raised various short falls and one of the short fall relates to petitioner requiring to provide clarification with regard to the subject land being kept in prohibition list on account of land acquisition proceedings initiated by the 4th respondent authority for formation of Turkpalli Canal under Kaleswaram project. However, the land acquisition proceedings initiated under the 2013 Act would stand lapsed if the Award is not passed within the time prescribed thereunder or if no extension is granted by notifying such extension in the State Gazette.

11. In the facts of the present case, the petitioner having sought for grant of building permission by submitting application through online on 26.01.2024, after the expiry/lapse of notification dated 27.08.2019, though it is stated on behalf of the 4th respondent that a request was made to the District Collector on 21.08.2023 for extending the validity of the notification, admittedly no such extension has been granted as of date. In absence of extension of validity of the

notification issued for land acquisition, the authorities cannot continue to keep the lands notified earlier in the prohibitory list, nor the 2nd respondent authority continue to rely upon the same for rejecting or raising a short fall while considering the building permission application made by the petitioner. This Court in similar circumstances in W.P. No.13994 of 2024 had held that validity of the preliminary notification issued for acquiring lands under the Act, 2013 by a further period of 12 months before its expiry not being issued and notified in the State Gazette as per the provisions of the Act, the same would have to be considered as having lapsed.

12. Since, in the facts of the case, admittedly the Gazette notification dated 27.08.2019 as extended from time to time having lapsed on 26.08.2023, the 2nd respondent authority cannot rely on the said proceedings to claim that the subject lands are under acquisition and, as such, the application made by the petitioner for grant of building permission cannot be considered.

13. However, as there are other short falls which the petitioner is required to comply with, this Court is of the view that the petitioner is to be directed to comply with the other short falls and in so far as short fall No.6 regarding the subject

lands being placed in the prohibitory list as per notification dated 27.08.2019 not being applicable by submitting explanation to the authority for their consideration. Upon the petitioner submitting the aforesaid explanation/removing the other short falls, the respondent authority shall consider the application if the same is otherwise in order and the authorities having no other objection for granting the building permission sought for by the petitioner.

14. It is also made clear that though the preliminary notification issued earlier in the year 2019 had lapsed, the same would not preclude the authorities from initiating land acquisition proceedings afresh in terms of Act, 2013.

15. Subject to the above observation and direction, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending in the Writ Petition, shall stand closed.

//TRUE COPY//

SD/-K. AMMAJI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development Secretariat, Hyderabad
2. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority, 7th Floor Swarna Jayanthi Complex, Ameerpet, Hyderabad
3. The Principal Secretary, Revenue (LA) Department, Secretariat, Hyderabad
4. The District Collector, Revenue (LA) Department, Office of Collector, Medchal Malkajgiri District.
5. One CC to SRI. PRABHAKAR PERI, Advocate [OPUC]
6. One CC to Smt. D. MADHAVI, SC FOR HMDA[OPUC]
7. Two CCs to GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT, High Court for the State of Telangana, at Hyderabad [OUT]
8. Two CCs to GP FOR LAND ACQUISITION High Court for the State of Telangana, at Hyderabad [OUT]
9. Two CD Copies

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HIGH COURT

DATED:24/09/2024



ORDER

WP.No.26377 of 2024

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

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MMA

15/10/2024