

IN THE COURT OF THE HON'BLE IIIrd Addl. CHIEF JUDGE, CITY CIVIL COURT
AT: HYDERABAD

ARB.O.P. No 36 of 2025

Between:

Mr. Sriramoju Sambeshwar Rao
S/o. S. Ramabrahmam,
aged about 62 years,
Occ: Business, R/o. Flat No.903,
LH-5, Lanco Hills Apartments,
Near Delhi Public School, Manikonda,
Hyderabad – 500089.

...Petitioner

AND

M/s. Modi Realty Pocharam LLP
Regd. Office at – 5-4-187/3 & 4,
II Floor, Soham Mansion, MG Road,
Secunderabad – 500003.
Represented by its Managing Director – Mr. Soham Modi,
S/o. Late. Satish Modi, aged about 54 years.

...Respondent

**PETITION FILED UNDER SECTION 9 OF THE ARBITRATION AND
CONCILIATION ACT, 1996 SEEKING INTERIM RELIEF.**

- I. **Description of the Petitioner:** The address of the petitioner for the purpose of service of process, summons and notices is that of his counsels M/s. Unnam Law Firm, Rep. by Partner – Unnam Sravan Kumar (TS/1594/2008), and its associates, and having its office at 6-73, Canara Nagar, Near Uppal Bus Depot, Hyderabad. 500098.
- II. **Description of the Respondent:** The address of the respondent for service of all notices, summons and process are the same as mentioned in the cause title.

III. The Petitioner humbly submits as under –

1. The Petitioner herein is the absolute owner and possessor of Ac.0-31.5Gts, forming part of Sy. No. 27, Pocharam Village, Ghatkesar Mandal, Medchal District (hereinafter referred to as **"Petition Schedule Property"**), having purchased the same vide Registered Sale Deed Doc No. 12620/2006 Dt.09/09/2006, registered on the file of SRO-Ghatkesar.
2. That the Petitioner along with others, also acquired jointly an extent of Ac.1-28Gts vide Document No.12451/2006, Dt. 07/08/2006 registered on the file of SRO-Ghatkesar. The Respondent herein, i.e., M/s. Modi Realty Pocharam LLP, claiming to be a reputed developer approached the Petitioner and other landowners and offered to develop the composite extent of Ac.2-19.50Gts, i.e., the Petitioner's extent of Ac.0-31.50Gts clubbed with the said extent of Ac.1-28Gts.
3. Thereafter, the Respondent after conducting its due diligence, and looking at the prospects of the land to be extremely suitable for the project it wished to execute, they initially entered into a Memorandum of Understanding Dt. 24/05/2018 (MOU) with the Petitioner, with the intention to lock-in the Petitioner's land along with neighbouring lands admeasuring to a composite extent of Ac.2-19.5Gts, for the purpose of developing a high rise residential apartments/flats consisting of 10 floors and divided into 3 Blocks. This MOU was subsequently superseded by the execution of two separate "Joint Development Agreement cum General Power of Attorney", one for the extent of the Petitioner herein alone, i.e.,

Ac.0-31.50Gts and another for the remaining extent of Ac.1-28Gts belonging to the Petitioner along with other landowners.

4. It is further submitted that the Respondent accordingly executed a registered Joint Development Agreement cum General Power of Attorney, in respect of Ac.1-28Gts belonging to the Petitioner along with other landowners; vide Doc. No. 13207/2019 Dt.17/09/2019 with specific terms and conditions for development of the said project. Likewise, on similar terms and conditions, the Respondent drew up a draft of Joint Development Agreement cum General Power of Attorney and shared the same with the Petitioner to execute the same for his independent extent and the same was executed by the Petitioner vide Registered Document No. 13206/2019, Dt.21/12/2019 (Hereinafter for the sake of brevity referred to as "JDA").
5. It is humbly submitted that the relevant clauses of the JDA are as follows:
 - i) **Clause 6** – It is agreed between the parties to share the flats to be developed by the respondent, in the ratio of 36:64, that is 36% of the total flats proposed to be constructed shall be to the share of the landowner (the Petitioner herein) and the remaining 64% shall be to the share of the developer.
 - ii) **Clause 7** – It is categorically stated that the owner (Petitioner herein) is not liable to pay any amount to the developer (the Respondent herein) for development of the owner's share of flats and delivery thereof to the owner.

- iii) **Clause 11** – It is mutually agreed and covenanted by the respondent that the construction shall be of 'first class quality' as per the specifications agreed under the JDA and annexed there to. Under the very same clause 11, it is also categorically covenanted that the quality of construction of the flats, either falling to the share of the Respondent or the Petitioner shall be uniform and similar.
- iv) **Clause 21** – That the Respondent shall be responsible for obtaining the necessary permissions from the competent authorities and in this regard it is the developer (Respondent) is empowered through a special power of attorney. It is also specifically agreed under the set clause 21 that the Respondent undertook to obtain the sanction/building permission within 3 months from the date of execution of the JDA.
- v) **Clause 38** – For easy reference, the entire clause 38 is extracted as below –

"That the Developer hereby undertake and agree to construct the Flat(s) and deliver to Owner their share of Flat(s) within 42 months from the date of receipt of sanction / permission for construction from appropriate authorities. The Developer proposes to divide the Housing Complex into 3 blocks namely block A, block B and block C. The Developer proposes to complete the construction of Block A within 24 months from receipt of permit for construction and other blocks in 33 and 42 months respectively, subject to 6 months grace period. The

Developer assures the Owner that there will not be a time over run of more than 6 months in handing over the agreed area except for reasons beyond its control (such as any natural calamities, abrupt change in Government Policies, unexpected shortage of materials, etc.). The Owner agrees for such grace period of 6 months. In case of delay beyond the time stipulated, except for reasons beyond control (i.e., force majeure event), the Developer will pay the Owner a sum of Rs. 7/- per Sft for every month of delay, for the area of each flat that has not been completed/handed over to the Owner. In the unlikely event of the Developer not being able to complete construction of all the Flat(s) falling to the share of the Owner, after a period of 48 months from the date of building permit, then the parties herein agree that the Developer shall in lieu of Flat(s) to be given to the Owner provide fully constructed Flat(s), that have not been sold, of equivalent size, from its share to the Owner. However, such an exchange / swap shall be on mutually agreed terms."

- vi) **Clause 56** – The parties had specifically agreed to refer all their disputes and differences to be resolved by way of arbitration. The parties have also categorically agreed to subject themselves to the exclusive jurisdiction of the courts at Hyderabad alone for all matters arising out of or in connection with the JDA.

6. With the above backdrop of the relevant clauses extracted from the JDA, it is pertinent to note that the Respondent made an application for building permission and accordingly, after the said application

was processed, the HMDA, approved the technical drawings and issued a Letter on 18/12/2020 vide Letter No. 12159/P4/Plg /HMDA/2018. Therefore, the timelines agreed under the JDA for completion of the project and handing over the share of the landowner shall be calculated from the said date of 18/12/2020. The same is also admitted by the Respondent in its Legal Notice Dt.12/11/2024.

7. Therefore, taking the same into consideration, as agreed under Clause 38 of the JDA, the project ought to have been completed on 18/12/2024, i.e., 42 months + 6 months grace period from the date the permission is obtained.
8. In the light of the same, it is humbly submitted that, currently as on date Block A that was promised to be completed within 24 months, from the date the permission was obtained, has not been completed even as on date. Further, Blocks B and C have not even commenced as on date and the same was promised to be completed in 33 and 42 months respectively, as can be seen in Clause 38 of the JDA.
9. It is further submitted that, even in respect of the flats constructed in Block A, it is categorically submitted that the progress in construction of the Respondent's share of flats, is at a much more advanced stage as compared to the Petitioners share of flats, and the photos evidencing such disparity between the completion of construction between the Respondent's flats and Petitioner's flats are being filed with the present petition for the kind perusal of this honourable court. Such a disparity in the progression of construction

between the Petitioner's flats and the Respondent's flats is squarely in breach and violation of clause 11 of JDA.

10. It is further submitted that the petitioner on several occasions made several attempts to approach the respondent for seeking redressal of the aforementioned issues and also to take an update as to the manner in which the respondent intends to comply with the timelines agreed under the JDA. However all such attempts were futile and the Respondent in order to pre-empt the petitioner and other similarly situated land owners from raising any claims, caused legal notices on false pretexts and irrelevant grounds.
11. It is humbly submitted that the petitioner had suitably responded to all such frivolous notices sent by the respondent and also issued a Legal Notice dated 28/05/2024, demanding the respondent to pay penalty of Rs.69,37,280/-, in terms of Clause 38 for the delay that has already been caused.
12. It is humbly submitted the respondent tried to take shelter under several frivolous reasons which are inconsistent and unconnected with the project for the purpose of pre-emptively finding excuses for not being able to comply with the timelines under the JDA. The fact remains that all such frivolous contentions that have been raised by the respondent in its legal notices for setting up an excuse in horribly breaching the timelines under the JDA, have been properly addressed and answered in the reply legal notices that have been issued by the petitioner through its legal counsel. The said legal notices issued by the respondent and the corresponding reply legal

notices issued by the petitioner are here with being filed as Annexures for the kind perusal of this Hon'ble court.

13. It is humbly submitted that, since the Respondent is supposed to complete the construction of Block A on or before the expiry of 24 months from the date of permission, which expired on 17/12/2022. Therefore, as the same is not yet completed, there is a considerable delay of more than 26 months till date, and the same continues till the date the Petitioner's share of completed Flats are handed over. In the light of the same, the Petitioner is entitled for penalty @ 7/- per Sft, in respect of its share of undelivered Flats in Block A.
14. Therefore, in respect of 38,700 Sq. Feet of undelivered share of Petitioner's Flats in Block A, the penalty @ 7/- per Sft is applicable, which shall be payable for the said delayed period of 26 months, which comes to Rs.70,43,400/- (Rupees Seventy Lakhs Forty-Three Thousand Four Hundred only) as on date. This penalty shall continue to accrue until the Respondent completes the construction of the Petitioner's share of Flats and hands them over to the Petitioner or until the Respondent complies with the specific condition of swapping its share of completed Flats with the Petitioner, as categorically contemplated under Clause 38 of the JDA.
15. It is further submitted that, in respect of Blocks B & C, the construction did not commence even as on date and therefore, the Respondent is in material breach of the JDA in so far as Blocks B & C are concerned. Therefore, the Petitioner reserves his rights to invoke appropriate remedies in respect of the non-performance of

the JDA by the Respondent. The Petitioner is also reserving his rights to recover the penalty @ Rs.7/- per Sft in so far as his share of Flats in Blocks B & C also.

16. In the light of the above, it is evident that the Respondent is in gross breach of the conditions stipulated under the JDA, especially the conditions mutually agreed under Clause 38. However, in order to defeat the rights of the Petitioner, the Respondent is trying to alienate his entire share of Flats in Block A, even without completing the construction / finishing of the Flats falling to the share of the Petitioner. This conduct of the Respondent in trying to evade any and all response to the Petitioner and its conduct in trying to alienate and create third-party rights in respect of its share of Flats in Block A, is to ensure that the specific condition under Clause 38 of the JDA cannot be invoked by the Petitioner to protect its rights and interest.
17. It is further submitted that, if the Respondent is allowed to further breach Clause 38 of the JDA, the remedy and right available to the Petitioner thereunder, shall become a nullity, and the Petitioner will be put to irreparable loss and injury, that cannot be compensated in monetary terms. Hence, pending the lis, if the said qua-timet interim protection is not granted, by this Hon'ble Court, the Petitioner will suffer irreparable loss and injury, which cannot be compensated in monetary terms.
18. Therefore, the Petitioner, having no other alternative efficacious remedy, is invoking Section 9, of the Arbitration & Conciliation Act, 1996, for an ad-interim injunction, restraining the Respondent from

creating any third-party interest/charge over the Flats mentioned in the Schedule appended to this Petition (Petition Schedule Flats), and to pass such other interim measure of protection, as may appear to this Hon'ble Court, to be just and convenient, under section 9 of the Arbitration & Conciliation Act, 1996, as amended by Amendment Act, 2015.

19. The Petitioner had made out all the principles, governing the grant of order of interim protection, before and pending the arbitral award, therefore, its legitimate rights and claims, seeking an interim measure of protection and preservation of the substratum of the arbitral matter, is required to be protected. This Hon'ble Court has got equitable discretionary power, to pass appropriate orders, as that may appear to this Hon'ble Court to be just and convenient to preserve the substratum.
20. The Petitioner had made out a prima facie case and the balance of convenience is in its favour. If the reliefs as prayed-for, are not granted, the Petitioner will suffer irreparable loss and hardship. Therefore, before and pending the Arbitral Proceedings, the Petitioner's legitimate and legal rights shall be protected by this Hon'ble Court by way of an equitable ad-interim injunction, restraining the Respondent from selling, alienating or transferring or creating any third-party interest either fully or partially against the Petition Schedule Flats.

IV. **Cause of Action:** The cause of action for filing the present petition initially arose on 17/12/2022, when the timelines of 24 months for completion of Block A expired and it further arose again in the month of

February 2024 when the Respondent caused pre-emptive Legal Notices to the Petitioner under false pretexts. It further arose in the month of May 2024 when such frivolous Legal Notices of the Respondent were replied by the Petitioner's legal counsel. It further specifically arose on 28/05/2024 when the Petitioner through its Legal Counsel issued a Legal Notice demanding for the payment of penalty under Clause 38 of JDA. It further arose on 12/11/2024 when the Respondent, through its Legal Counsel, responded to the Legal Notice Dt.28/05/2024 of the Petitioner, once again reiterating the frivolous grounds for taking shelter from the gross breach of timelines committed by the Respondent. The said cause continues even as on date, as there is a non-compliance of the condition mentioned under Clause 38 of the JDA by the Respondent. Therefore, as the Respondent is now contemplating to alienate its share of Flats in Block A and is making efforts to create third-party interest as against the same, the said cause of action further continues, till the reliefs in the present petition are granted.

- V. **Limitation**: The present petition is filed within the period of limitation.
- VI. **Declaration**: The Petitioner declares that it did not file any other case or initiate any proceedings before any other court or authority for the same relief that is being sought for in the present petition.
- VII. **Jurisdiction**: The Present dispute between the Petitioner and the Respondents arise out of the breach by the Respondent under Registered Joint Development Agreement cum General Power of Attorney Dt.21/12/2019. As such, under **'Clause 56 of the Joint Development Agreement cum General Power of Attorney**

Dt.21/12/2019, the parties have agreed to subject all their disputes to 'Arbitration' and to the exclusive jurisdiction of Courts at 'Hyderabad'. Hence, this Hon'ble Court has got jurisdiction to try this Petition.

VIII. Court Fees: The Present Petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996, wherein under Schedule II Article 11 of the T.S.C.F & S.V. Act, 1956 and a fixed Court Fee of Rs.250/- is paid.

IX. Prayer:

The Petitioner therefore humbly prays this Hon'ble Court to grant, the following reliefs:

- a) Before and pending the final disposal of the arbitration proceedings to be commenced and before making the arbitral award, this Hon'ble Court may be pleased to pass an interim injunction restraining the Respondents from selling/ alienating/ transferring/ creating any third-party interest either fully or partially in respect of the Petition Schedule Properties, so as to enable the petitioner from protecting its rights under Clause 38 of JDA.
- b) To grant such other interim measure of protection, as may appear to this Hon'ble Court to be just and convenient.
- c) To award the costs of the petition.

Counsel for the Petitioner

Petitioner

VERIFICATION

I, Sriramoju Sambeshwar Rao S/o. S. Ramabrahmam, aged about 62 years, Occ: Business, R/o. Flat No.903, LH-5, Lanco Hills Apartments, Near Delhi Public School, Manikonda, Hyderabad – 500089, do hereby verify and state that the contents stated in the above paragraphs are true and correct to the best of my knowledge and belief and are verified on legal advice, hence verified on 13 day of March 2025 at Hyderabad.

Counsel for the Petitioner

Petitioner

PETITION SCHEDULE FLATS

[As per Annexure A of Supplementary Joint Development Agreement vide

Doc. No. 7609 of 2021 Dt.15/07/2021]

[Flats fallen to the share of the Developer and unsold as per the Encumbrance

Certificate generated on <https://registration.telangana.gov.in/>]

S. No	Unit No.	Floor	Super Built up Area (Sft)
1.	A101	1 st	1350
2.	A102	1 st	1380
3.	A103	1 st	1425
4.	A104	1 st	1350
5.	A105	1 st	1325
6.	A106	1 st	1450
7.	A107	1 st	1325
8.	A108	1 st	1425
9.	A109	1 st	1425

10.	A202	2 nd	1380
11.	A204	2 nd	1350
12.	A205	2 nd	1325
13.	A206	2 nd	1450
14.	A207	2 nd	1325
15.	A208	2 nd	1425
16.	A209	2 nd	1425
17.	A303	3 rd	1425
18.	A305	3 rd	1450
19.	A306	3 rd	1450
20.	A307	3 rd	1450
21.	A308	3 rd	1425
22.	A309	3 rd	1425
23.	A405	4 th	1450
24.	A406	4 th	1450
25.	A407	4 th	1450
26.	A408	4 th	1425
27.	A409	4 th	1425
28.	A504	5 th	1425
29.	A505	5 th	1450
30.	A506	5 th	1450
31.	A508	5 th	1425
32.	A509	5 th	1425
33.	A604	6 th	1425
34.	A609	6 th	1425
35.	A703	7 th	1425
36.	A704	7 th	1425
37.	A705	7 th	1450
38.	A707	7 th	1450
39.	A708	7 th	1425
40.	A709	7 th	1425
41.	A803	8 th	1425
42.	A804	8 th	1425
43.	A902	9 th	1425
44.	A903	9 th	1425
45.	A909	9 th	1425
46.	A1001	10 th	1425
47.	A1002	10 th	1425
48.	A1003	10 th	1425
49.	A1004	10 th	1425
50.	A1005	10 th	1450

51.	A1006	10 th	1450
52.	A1007	10 th	1450
53.	A1008	10 th	1425
54.	A1009	10 th	1425

All that the portion of the land area to the Ac.0-31.5Gts, forming part of Sy. No. 27, Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District, and bounded by:-

NORTH : Land in Sy No. 27-Schedule Land-A

SOUTH : Land in Sy No. 27

EAST : Land in Sy No. 27

WEST : Road

Counsel for Petitioner

Petitioner

VERIFICATION

I, Sriramoju Sambeshwar Rao S/o. S. Ramabrahmam, aged about 62 years, Occ: Business, R/o. Flat No.903, LH-5, Lanco Hills Apartments, Near Delhi Public School, Manikonda, Hyderabad – 500089, do hereby verify and state that the contents stated in the above Schedules are true and correct to the best of my knowledge and belief and are verified on legal advice, hence verified on 16 day of March 2025 at Hyderabad.

Counsel for the Petitioner

Petitioner

LIST OF DOCUMENTS FILED BY THE PETITIONER

S. No	Date	Description of the document	Xerox	Page No.
1.	21/12/2019	Joint Development agreement cum GPA between Sriramoju Sambeshwar Rao and M/s. Modi Realty Pocharam LLP vide Doc No.13206 of 2019	Xerox	1-38
2.	17/08/2019	Joint Development agreement cum GPA between Sriramoju Sambeshwar Rao & 21 others and M/s. Modi Realty Pocharam LLP vide Doc No. 13207 of 2019	Xerox	39-108
3.	24/05/2018	MOU between Sriramoju Sambeshwar Rao and M/s. Modi Realty Pocharam LLP	Xerox	109-111
4.	09/09/2020	Copy of Proceeding No. B/2133/2020 issued by RDO-Keesara regarding NALA Conversion	Xerox	112-113
5.	23/04/2021	Municipal Building Permit Order Vide Lr No. 12159/P4/Plg/HMDA/2008	Xerox	114-118
6.	18/12/2020	HMDA Permit Order Vide Lr No. 12159/P4/Plg/HMDA/2008	Xerox	119-120
7.	17/06/2021	RERA certificate of the respondent	Xerox	121
8.	15/07/2021	Supplementary Joint Development Agreement between Sriramoju Sambeshwar Rao & 21 others and M/s. Modi Realty Pocharam LLP vide Doc No. 7609/2021	Xerox	122-151
9.	23/02/2024	Legal notice issued by respondent company to Sriramoju Sambeshwar Rao	Xerox	152-154
10.	23/02/2024	Legal notice issued by respondent company to Sriramoju Sambeshwar Rao	Xerox	155-157
11.	27/02/2024	Legal notice issued by respondent company to	Xerox	158-

		Sriramoju Sambeshwar Rao and 18 Others		164
12.	28/02/2024	Legal notice issued by respondent company to Sriramoju Sambeshwar Rao	Xerox	165-170
13.	10/01/2023	Copy of Order in WP No. 143 of 2023	Xerox	171-178
14.	14/02/2019	Copy of Decree in O.S. No. 1949 of 2018	Xerox	179-180
15.	14/05/2024	Reply to Legal notice Dt. 23/02/2024	Xerox	181-183
16.	14/05/2024	Reply to Legal notice Dt. 23/02/2024	Xerox	184-186
17.	14/05/2024	Reply to Legal notice Dt. 27/02/2024	Xerox	187-189
18.	14/05/2024	Reply to Legal notice Dt. 28/02/2024	Xerox	190-192
19.	28/05/2024	Legal notice issued Sriramoju Sambeshwar Rao to M/s. Modi Realty Pocharam LLP for Penalty	Xerox	193-198
20.	12/11/2024	Reply by M/s. Modi Realty Pocharam LLP to Notice Dt. 11/09/2024	Xerox	199-205
21.		Encumbrance certificate	Xerox	206-216
22.		Photographs with CD	Original	217-265

Place: Hyderabad

Date: 17/ 03 /2025

Counsel for the Petitioner

**IN THE COURT OF THE
HON'BLE CHIEF JUDGE CITY
CIVIL COURTS
AT: HYDERABAD**

ARB OP No. 36 of 2025

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...Respondent**

**PETITION FILED UNDER
SECTION 9 OF THE
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SEEKING INTERIM RELIEF.**

Filed on /8/03/2025

Filed By:-

**M/S. UNNAM LAW FIRM, Rep
by Unnam Sravan Kumar
(TS/1594/2008),**

and its associates,

**Office at - 4th Floor, Imperial Square,
Huda Techno Enclave, Hi-Tech City,**

Hyderabad - 500081.

Counsel for the Petitioner

sravan@unnamlaw.in

9701890891

III Doni.
**IN THE COURT OF THE HON'BLE CHIEF JUDGE, CITY CIVIL
COURTS AT: HYDERABAD**

ARB.O.P. No. 36 of 2025

Between:

Mr. Sriramoju Sambeshwar Rao

...Petitioner

AND

M/s. Modi Realty Pocharam LLP

Represented by its Managing Director – Mr. Soham Modi,

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Place: Hyderabad

Date: 17/ 03 /2025


Counsel for the Petitioner