

o/c

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

I.A. NO. OF 2025

IN

W.A. NO. OF 2025

Between:

1. M/s Sri Sai Builders of M/s Modi Ventures

A registered partnership firm,
rep by its authorized representative
Soham Modi S/o Satish Modi,
aged about 56 years, R/o 2nd floor,
Soham Mansion, M.G. Road
Secunderabad.

2. M/s Modi Ventures, a registered
registered partnership firm,
rep by its authorized representative
M/s Soham Modi S/o Satish Modi,
aged about 56 years, R/o 2nd floor,
Soham Mansion, M.G. Road.
Secunderabad

..... Petitioners/Appellants

AND

1. The Greater Hyderabad Municipal Corporation
Rep by its commissioner,
Hyderabad.

2. The Chief City and Town Planner,
Greater Hyderabad Municipal Corporation
(Town Planning Section, Head Office),
Hyderabad.

.... Respondents

AFFIDAVIT

I, Soham Modi S/o Satish Modi, aged about 56 years, R/o 2nd Floor, Soham Mansion, M.G. Road, Secunderabad do hereby solemnly affirm and state on oath as follows: -

1. I am the authorized representative of the 1st petitioner and managing partner of the 2nd petitioner-registered partnership firms and as such I am competent to depose to this affidavit on behalf of the petitioners.





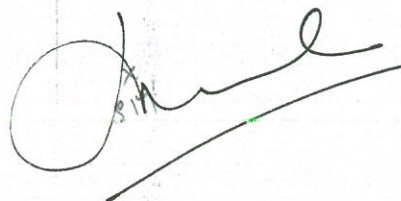
2. I submit that the petitioners are filing the present writ appeal questioning the orders passed in WP No. 2068 of 2009 dismissing the same on 28-05-2025 as erroneous and unsustainable and liable to be set aside.
3. I submit that the petitioners herein are registered partnership firms which are engaged in development of land and construction of group housing scheme residential apartment complexes etc.
4. I submit that the petitioners had earlier purchased about Ac 4-00 gts of land in Sy No. 93,94 and 95 of Mallapur Village, Uppal Mandal, Ranga Reddy District and after obtaining construction permission/building permission from the 1st respondent-corporation they have constructed five blocks of apartments under Group Housing Scheme. Subsequently, the petitioners had purchased adjoining land admeasuring about Ac 1-18 gts of land in the same survey numbers with an objective of extending the same Group Housing Scheme by constructing two other similar blocks of residential apartments. Therefore, the petitioners had submitted building application dated 26-04-2008 to the 1st respondent seeking permission for construction of the proposed two blocks of residential apartments as an extension of the Group Housing scheme under which five blocks were already constructed based on the permission that was granted by the 1st respondent.
5. I submit that pursuant to the said building application the 1st respondent had called upon the petitioner to make payment of a sum of Rs 55,00,205/- vide its letter dated 25-01-2008 in the said

X
SY



aggregate demand a component of "Layout Regularization Scheme Charges" of Rs 25,54,430/- was included. When the petitioners had received the said demand they made a protest against levy of "Layout Regularization Scheme Charges" vide representation dated 30-12-2008 stating that the "Layout Regularization Scheme Charges" would become payable only for such plots of land which were not having sanctioned layout as defined in G.O. Ms No. 902, Municipal Administration of Urban Development Department dated 31-12-2007. Despite the said representation and protest of the petitioners the 1st respondent has reiterated its demand vide letter dated 17/27-07-2009 and called upon th petitioners to make payment of the same within seven days failing which the file will be closed.

6. It is further submitted that the petitioners are in immediate requirement of the sanctioned plan since the cost of construction and selling value of th built up area are undergoing drastic changes every day in view of the "great depression" and any delay in grant of construction permission would jeopardize the interest of the petitioners. Thus, the petitioners have reconciled to the situation of making payment of the protested demand also i.e., the amount of Rs 25,54,430/- towards "Layout Regularization Scheme Charges" but they are advised to file the present writ petition questioning the validity of the said levy. It is wholly inapplicable to the building application of the petitioners. Thus, the petitioners are constrained to seek indulgence of this court.



7. I further submit that the land purchased by the petitioners in Sy No. 93, 94 and 95 of Malapur Village, Uppal mandal, Ranga Reddy District was never divided into plots nor the plots were sold to third parties in the form of a layout. I further submit that the petitioners had applied for extension of Group Housing Scheme and after the construction of the residential apartments in the said scheme, the petitioners will indulge in sale of the built-up area covered by the residential apartments and the question of plotting out the land and selling the land does not arise. Hence, the question of levy of charges towards layout regularization scheme, does not fit in into the present facts and circumstances and the building application that was made by the petitioners.
8. As already stated the issue of regularization of layout arises only when agricultural land had been divided into plots which are sold out. Since the building application of the petitioner and the construction activity of the petitioner is not either based on plots or in the form of plots. The layout regularization scheme itself does not apply to the building application of the petitioners. Thus, the payment of the 1st respondent corporation contained in the letter dated 25-11-2008 in so far as it relates to the levy of "Layout Regularization Scheme Charges" of Rs 25,54,430/- is totally unauthorized and illegal. Under these circumstances the petitioners are constrained to approach the Hon'ble Court.
9. I submit that the respondent corporation has filed counter affidavit and upon hearing the writ petition was dismissed by the LD. Single



judge in a totally erroneous manner, thus, necessitating the filing of the present writ appeal. The petitioners are questioning the orders passed by the LD. Single judge on various grounds as raised in the grounds of writ appeal. The same may be read as part and parcel of this affidavit.

10. It is submitted that the orders passed by the LD. Single judge are totally erroneous and liable to be set aside and the petitioners are entitled to refund of the amounts illegally collected by the respondents to the tune of Rs 25,54,430/- as layout regularization scheme charges along with interest @ 18% PA.
11. I submit that the orders were passed by the LD. Single judge on 28-5-2025. However, as the managing partner of the petitioner was not well and suffering from severe health issues requiring treatment and rest, he could not contact the advocate and give instructions for filing the writ appeal within time and as such there is a delay of _____ days in filing the writ appeal. Further the advocate on record also could not pursue the matter effectively in view of his personal inconvenience as his elder brother and colleague Sri Peri Venkata Ramana, Advocate was terminally ill during the relevant point of time from May 2025 to 20-08-2025 on which date he died and as such also the delay is unintentional and liable to be condoned in view of the cause for delay stated above.
12. It is submitted that as the petitioner has paid the charges long back in the year 2008 itself and the matter is pending for so long

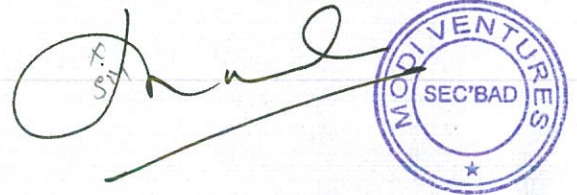


there is an urgency for hearing the writ appeal and the petitioner is praying for expedited hearing of the appeal.

13. It is therefore prayed that the Hon'ble court may be pleased to condone the delay of _____ days in filing the writ appeal against the orders passed in WP No. 2068 of 2009 dt 28-05-2025 and pass such order or other order in the interest of justice.

14. It is therefore prayed that the Hon'ble court may be pleased to expedite the hearing of the writ appeal and fix a date for hearing the same on merits and pass such other order or orders in the interest of justice.

Sworn and signed before me on
this the Day of October, 2025
at Hyderabad.



DEPONENT

Advocate:: Hyderabad

VERIFICATION

I, Soham Modi S/o Satish Modi, aged about 56 years, R/o 2nd Floor, Soham Mansion, M.G. Road, Secunderabad do hereby verify and state that the facts mentioned above are true and correct to my knowledge and based on the information available on records and believed to be correct.

Hence verified on this the ____ day of October, 2025
at Hyderabad.




DEPONENT

/Advocate/

MEMORANDUM OF WRIT APPEAL
FILED UNDER CLAUSE 15 OF LETTER PATENT APPEAL
IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT: HYDERABAD

W.A. NO. OF 2025
AGAINST
W.P. No. 2068 OF 2009

Between:

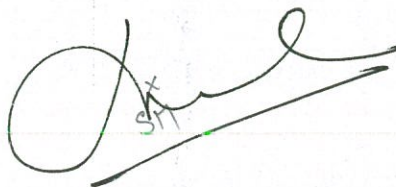
1. M/s Sri Sai Builders of M/s Modi Ventures
A registered partnership firm,
rep by its authorized representative
Soham Modi S/o Satish Modi,
aged about 56 years, R/o 2nd floor,
Soham Mansion, M.G. Road
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2. M/s Modi Ventures, a registered
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AND

1. The Greater Hyderabad Municipal Corporation
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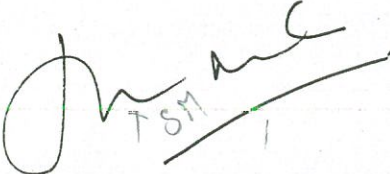
The address of the Appellant for services is same as mentioned in the above cause title and that of his counsel Sri. PERI PRABHAKAR (6390), PERI VISWAJITH (26352), P.VINOD NAMBIAR (27354), Advocates, H.No.102, Narven's Vaishno Sudhaam, 6-3-1089 & 1089/A, Gulmohar Avenue, Villa Mary College Lane, Lane Opposite to Yes Bank, Raj Bhavan Road, Somajiguda, Hyderabad- 500 0082.



Aggrieved by the Orders passed in WP No. 2068 of 2009 dated 28-05-2025 whereby the Writ Petition filed by the Appellant/Petitioner herein was dismissed without considering the material on record, the Appellant is preferring the present Writ Appeal amongst others on the following Grounds:

GROUND OF APPEAL

1. The order of the LD. Single judge is contrary to law erroneous and against the material on record.
2. The LD. Single judge has erred in dismissing the writ petition without considering the pleadings and material on record in the correct perspective on an erroneous analysis of the facts and provisions of law and the Government orders.
3. The LD. Single judge has erred in holding that the respondent GHMC has not filed any counter affidavit though the same has been filed.
4. The LD. Single judge has erroneously held that GO MS No. 902 dt 31-12-2007 is applicable to the petitioner though the case of the petitioner does not fall within the four corners of the said GO and the said GO is not applicable at all to the petitioner or its land. The LD. Single judge having extracted the definition of unapproved/illegal layout and noted that the same means sub division of land into plots without or without developed roads, open spaces and amenities without the approval of competent authority has erroneously held that the said GO applies to the subject land of the petitioner and erroneously upheld imposing of layout regulation charges though there is no sub division of land into plots and there is no application for regulation of any so called unapproved layout.


TSM

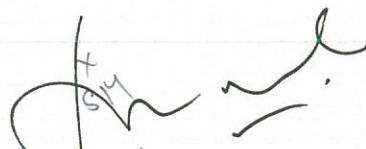


5. The LD. Single judge has erroneously held that in view of the fact that there would be a transfer of undivided interest in the land in favour of the prospective purchasers along with the built-up area proposed to be constructed in the residential apartment, it would effectively amount to a sale without developed roads, common open spaces, amenities and without approval of the competent authority. This reasoning given by the LD single judge is totally erroneous, illogical and in fact amounts to putting the cart before the horse. The reasoning of the LD. Single judge is totally erroneous in view of the fact that there is no such development which is irregular or unauthorized and the petitioner has made an application for construction permission in a piece of land on which there is neither any sub division of plots nor any illegal construction and no layout regularization charges for illegal and unapproved layout can be imposed on the appellant even without any such illegal layout being in existence only as a measure of strengthening the treasury. It is further submitted that in the case of an apartment construction, the undivided share of land is proportionately allocated to each flat purchaser only to the extent of their share in the total built-up area, without any physical demarcation or sub-division of land. Such allocation of undivided share is merely incidental to the sale of the built-up area and does not amount to division of land into individual plots. Therefore, the same cannot be treated as a layout or sub-division requiring regulation under G.O. Ms. No. 902 or any other provisions of law.
6. The finding of the LD. Single judge that the act of the petitioners in acquiring additional land adjacent to its existing construction and proposing to undertake construction of 2 additional blocks would be



covered by the definition of unapproved layout as defined under the GO is totally erroneous and nothing short of a perverse finding.

7. The LD single judge applying S. 388 of the GHMC act to the facts of the case is totally erroneous as the said section only provides for issuing notice to the commissioner GHMC of the intention to layout lands for building and private streets. The said section only provides for issuing of notice to the commissioner and does not provide for any imposition of layout regulation charges for unapproved/Illegal layout. When there is no construction and the petitioner is seeking permission to construct the question of there being any illegal or unapproved layout in existence and imposing charges for the same does not arise and at the most layout charges can be imposed and not layout regulation penalty charges. Thus, the reasoning given by the LD. Single judge by applying S. 388 of the act for upholding the imposition of layout regulation charges is totally erroneous, illegal and unsustainable and liable to be set aside.
8. The LD. Single judge has erred in holding that there is no prescription in GO MS 902 as amended by GO MS no. 113 regarding the extent of land which can be considered as a plot and as such the proposal of the petitioner to make construction on Ac 1-18 gts of land for the purpose of selling the said area by way of apartments and undivided share in land though not already divided would attract of the said provisions of the said GO and as such layout regularization charges are required to be paid is totally erroneous and liable to be set aside in view of the fact that the development is proposed and not already in place and at the most



layout charges can be imposed and not layout regulation charges which include penalties and surcharges.

9. The finding of the LD. Single judge that as per the table 1 of the GO any land irrespective of its size has to be considered as a plot and when the petitioners have submitted an application for construction of apartment complex necessary charges have to be paid towards regulation is totally erroneous as it is only a proposal to construct seeking permission without any sub division into plots either proposed or already in existence and the sale of undivided portions of land along with proportionate built up area in favour of prospective purchasers in future cannot attract layout regulation charges retrospectively when there is an intervening factor i.e., application seeking permission and as such the orders passed by the LD. Single judge are totally erroneous and liable to be set aside and the amounts already paid by the appellant towards LRS by way of protest are liable to be returned with interest.
10. The other grounds may be permitted to be urged at the time of hearing.

It is therefore prayed that the Hon'ble court may be pleased to set aside the orders passed in WP No. 2068 of 2009 dt 28-05-2025 and pass such other order or orders in the interest of justice.

Place; Hyderabad
Date: -10-2025

Counsel for the Appellant

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

APPELLATE SIDE

WA.No. _____ OF 2025

AGAINST

WP. No. 2068 OF 2009

On the file of the Court of _____

M/s Sri Sai Builders of M/s Modi Ventures
Rep by its Authorized signatory Mr.Soham Modi

..Appellant/
Petitioner

V E R S U S

The Greater Hyderabad Municipal
Corporation & 3 other's

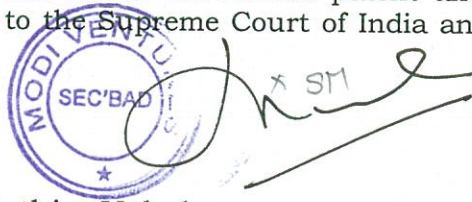
...Respondents

V A K A L A T N A M A

I/We M/s Sri Sai Builders, Rep. by its Authorized signatory Shri
Soham Modi, S/o Late Satish Modi, Aged: 56 years, Occ: Business,
R/o, Hyderabad. Appellant 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 executant who appeared perfectly to understand the same and made his /her/their signatures or mark in my presence.

Executed before me thisday of October 2025

Advocate, Hyderabad

S.R. No.

_____ District

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

AT: HYDERABAD

APPELLATE SIDE

WA. No. _____ of 2025

AGAINST

WP.No. 2068 of 2009

VAKALAT
ACCEPTED

M/s Sri Sai Builders
Rep by Mr.Soham Modi

..Appellant/
Petitioner

And

The Greater Hyderabad Mucicipal
Corporation & Another

..Respondents

PERI PRABHAKAR (6390)
ADVOCATE

Advocate for Appellant Petitioner

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SUDHAM, 6-3-1089 & 1089/A,
GULMOHAR AVENUE, VILLA
MARIE COLLEGE LANE, RAJ
BHAVAN ROAD, SOMAJIGUDA,
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