

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(SPECIAL ORIGINAL JURISDICTION)

TUESDAY, THE FOURTH DAY OF NOVEMBER,

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 43756 OF 2016, 29802 AND 21269 OF 2025

WP NO: 43756 OF 2016:

Between:

1. VUDA Harita Allottees Association, D.No.7-8-23, Flat No.1, Sea View Towers, Opposite R.K. Mission, Visakhapatnam, Represented by its president Prof. Gan Bhukta.
2. Y. Markandeyulu, LIG - 29, Phase - I, Madhurawada, VUDA Colony, Vishakapatnam - 18

...Petitioners

AND

1. State of Andhra Pradesh, rep. by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat Buildings, Hyderabad.
2. Visakhapatnam Urban Development Authority, (VUDA) 3rd Floor, UdyogBhavan, Siripuram, Visakhapatnam-530 003 Rep. by its Secretary.

...Respondents

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction and more particularly one in the nature of Mandamus declaring the action of respondent No.2 in not registering the sale deeds, transferring the right, title and interest of the individual flat along with joint share in physical



infrastructure and social infrastructure viz., Community Centre, Hospital and convenient shopping of the Narita Housing Project Phase-I in favour of allottees/Members of the 1st petitioner Association, even while collecting the total sale consideration, as being 'illegal, arbitrary, unconstitutional and consequently direct respondent No.2 to register the sale deeds, transferring the right, title and interest of the individual flat along with joint share in physical infrastructure and social infrastructure viz., Community Centre, Hospital and convenient shopping of the Harita Housing Project Phase I, in favour of the allottees of the 1st petitioner Association, having collected the total sale consideration from them;

IA NO: 1 OF 2016:

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondent no. 2 to consider the representation of the petitioner dated: 05-04-2016 thereby registering the sale deeds, transferring the right, title and interest of the individual flat along with joint share in social infrastructure viz., Community Centre, Hospital and convenient shopping of the Narita Housing Project Phase I, in favour of the allottees of the 1st petitioner Association, having collected the total sale consideration from them, pending disposal of WP.No.43756 of 2016, on the file of the High Court.

IA NO: 2 OF 2016:

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to restrain the respondent no. 2 from creating any third party rights or interest in the social infrastructure viz., Community Centre, Hospital and convenient shopping of the Narita Housing Project Phase I, pending disposal of WP.No.43756 of 2016, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Avinash Desai, Advocate for the Petitioners and Sri Somisetty Ganesh Babu, Standing Counsel for the Respondents;

WP NO: 21269 OF 2025:

Between:

Welfare Association Of Harita Gardens, Rep by its Chairman, Capt Ganti Pradeep(Rtd), (WAHG) Regd.No.73 of 2022, R/o, Flat No. 213; Nagavali Block-1, Harita Gardens, Maduruwada, Vishakapatnam, 530045. 8186842104.

...Petitioner

AND

1. The State of Andhra Pradesh, Rep by its Principal Secretary, Municipal Administration and Urban Development Department Secretariat Buildings, Hyderabad.
2. Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) Rep by its Commissioner, R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003.
3. Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) Rep by its Secretary, R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003.
4. Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) Rep by its Secretary, R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003

...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 issue a writ more particularly one in the nature of writ of

mandamus declaring the action of the respondent 3, (1) issuing proceedings dt.01-07-2025 vide No.Rc.No.17021/(31)71/2020 to Shop-6, R.C.No. 17027/17/2021 to Shop No.7, RR.C.No.17027/17/2021 to Shop No.8, R.C.No. 17027/17/2021 to Shop No.9 for allotment of shops to members who are already existing shop members. (2) Trying to take control of common area and facility, (3) Not Transferring fee amounts on account of common area and facility to the petitioner society is illegal and arbitrary and consequently (1) set aside the proceedings dt.01-07-2025 vide No.Rc.No. 17021/(31)71/2020 to Shop-6, R.C.No.17027/17/2021 to Shop No.7, R.C.No 17027/17/2021 to Shop No.8, R.C.No. 17027/17/2021 to Shop No.9,(2) declare that developer is obligated to transfer all the common area/facilities AND infrastructure within three months from the issuance of occupancy certificate to all the respective flat owners,(3) Transfer fee amount collected on account of common area and facilities to the petitioners society.

IA NO: 1 OF 2025

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.2 to 4 and their bench men not to interfere with in respect of common area and facilities, specifically shops No.6 to 9 and social infrastructure of the petitioner society, Pending disposal of WP 21269 of 2025, on the file of the High Court.

The Petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated 13.08.2025 made herein and upon hearing the arguments of M/s V

LAKSHMI HARISH Advocate for the Petitioner, and of GP FOR MUNICIPAL ADMN URBAN DEV, for the Respondent No.1, and of SRI S.GANESH BABU, Standing Counsel for the Respondent Nos.2 to 4;

WP.No.29802 OF 2025:

Between:

Welfare Association of Harita Gardens, Rep by its Chairman, Capt Ganti Pradeep(Rtd) (WAHG) Regd.No.73 of 2022, R/o, Flat No. 213, Nagavali Block-1, Harita Gardens, Maduruwada, Vishakapatnam,530045.
8186842104.

...Petitioner

AND

1. State of Andhra Pradesh, Rep. by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat Buildings, Hyderabad.
2. Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) Rep by its Chair Person, R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003.
3. Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) Rep by its Commissioner, R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003.
4. Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) Rep by its Secretary, R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003
5. VUDA Haritha Allottees Association, Rep. by its President Prof. Gan Bhukta, D.No. 7-8-23, Flat No.1, Sea View Towers, Opposite R.K.Mission, Visakhapatnam.

...Respondents

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High

Court may be pleased to issue a writ, order, or direction, more particularly one in the nature of Writ of Mandamus, declaring that –

a. the action of the 3rd Respondent in issuing arbitrary, unjust, illegal resolution bearing no. 17 dated 05.07.2016 as null, void and violative of Sec. 9 of AP Apartments (Promotion of Construction and Ownership) Act, 1987

b. the notice vide Rc.No.17027/17/2021 dated 21.10.2025 as illegal, unjust, arbitrary

c. not transferring the common areas, facilities, and infrastructure to the Petitioner (respective flat owners welfare association) within three months from the issuance of the Occupancy Certificate, is in violation of applicable laws including Section 9 of the Andhra Pradesh Apartments (Promotion of Construction and Ownership) Act, 1987, and consequentially

1. set aside the resolution bearing no. 17 dated 05.07.2016 as null, void and violative of Sec. 9 of AP Apartments (Promotion of Construction and Ownership) Act, 1987 and any other proceedings, including any orders, whereby VUDA usurp the rights of the Social Infrastructures pertaining to the Housing Housing Scheme as violative of the provisions of the AP Apartments Act, 1987

2. set aside the notice vide Rc.No. 17027/17/2021 dated 21.10.2025 as illegal, unjust, arbitrary

3. declare that the common facilities and social infrastructure as developed in accordance with the sanctioned plan is part of the Project and the beneficial rights shall be vested with the welfare association of society and for the sole benefit of the welfare society of the Petitioner.

4. Direct the respondents to transfer the rental amounts collected to the Petitioner Society forthwith along with 12% interest per annum;

IA NO: 1 OF 2025:

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the operation and effect of impugned notice bearing Rc.No.17027/17/2021 dated 21.10.2025, pending disposal of WP.No.29802 of 2025, on the file of the High Court.

IA NO: 2 OF 2025

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to declare the petitioner society to continue to have the rights over the common facilities; including all civic and social infrastructure Direct the respondent No.A/MRDA to transfer 50% of the amount so collected as rent to the petitioner society's bank account for the purposes of maintenance of the common facilities and paying the arrears of electricity charges and other maintenance works; Direct the respondent No.3 to consider and decide the representation made by the Petitioner association, pending disposal of WP.No.29802 of 2025, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri V.Lakshmi Harish, Advocate for the Petitioner and GP for Municipal Admn and Urban Dev for the Respondent No.1, the Court made the following;

ORDER:

"The learned counsel for the petitioner(s) submits that this Court granted Status-quo with regard to the possession of the petitioner(s) in W.P.No.21269 of 2025.

There shall be a stay of operation of the impugned proceedings dated 21.10.2025 in W.P.No.29802 of 2025.

Post these matters on 25.11.2025 for filing of counter affidavits by the respondents."

DY.
//TRUE COPY//

SD/-SK MD RAFI
DEPUTY REGISTRAR
SECTION OFFICER

For

To,

1. The Principal Secretary, State of Andhra Pradesh, Municipal Administration and Urban Development Department, Secretariat Buildings, Hyderabad. (now Velagapudi, Amaravathi) (by Special messenger)
2. The Chair Person, Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003.
3. The Commissioner, Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003.
4. The Secretary, Visakhapatnam Metropolitan Regional Development Authority, (VMRDA) R/o, 3rd Floor, Udyog Bhavan, Sripuram, Visakhapatnam-53003
5. The President Prof. Gan Bhukta, VUDA Haritha Allottees Association, D.No. 7-8-23, Flat No.1, Sea View Towers, Opposite R.K.Mission, Visakhapatnam. (Addressee Nos.2 to 5 by RPAD)
6. One CC to Sri. V.Lakshmi Harish, Advocate [OPUC]
7. Two CCs to GP for Municipal Admn and Urban Dev, High Court of Andhra Pradesh. [OUT]
8. One CC to SRI S.GANESH BABU, Advocate [OPUC]
9. One CC to Sri Avinash Desai, Advocate [OPUC]

10. One CC to Sri Somisetty Ganesh Babu, Standing Counsel
[OPUC]
11. One spare copy

HIGH COURT

HN,J

DATED:04/11/2025

POST THESE MATTERS ON 25.11.2025

ORDER

WRIT PETITION NO: 43756 OF 2016, 29802 AND 29802 OF 2025

STAY

