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[3296]

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

MONDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION Nos: 3698 and 16595 of 2023

WRIT PETITION NO: 3698 OF 2023

Between:

1. M/s. Rolling Hills House Owners' Association, Having its office at Club House, Adj to C18, Rolling Hills, Gachibowli, Ranga Reddy district, Rep. by its President Mr. D. Dinesh Kumar Reddy, s/o Late Sri D. Dasthagiri Reddy, aged about 55 years
2. T Pavana Devi, W/o. Gopichand Tummala, Aged about 60 years, R/o Villa No.D8, Rolling Hills, Gachibowli, Ranga Reddy Dist- 500032

...PETITIONERS

AND

1. Greater Hyderabad Municipal Corporation, Office of the Commissioner, Town Planning Section (HO), GHMC, Tank Bund, Hyderabad.
2. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority, District Commercial Complex, Administrative L-Block, Tarnaka, Hyderabad,
3. M/s. Patel Engineering Limited, a registered company, Having its Registered Office at Patel Estate Road, Jogeshwari (West), Mumbai-400015 and branch at H.No.6-3-635, Akash Ganga, 4th Floor, Khairatabad, Hyderabad, rep. by its Authorized Signatory Sri B.S.Reddy
4. M/s. P.B.S.R. Developers Private Limited, Having its Registered Office at 8-2-293/82/A/76, First Floor, Road No.9A, Jibilee Hills, Hyderabad-500033, Rep. by its Authorized Signatory Sri Vineet Aggarwal

...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 an appropriate order, writ or direction more particularly one in the nature of



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writ of mandamus declaring the revised layout permit No.2755/Layout/CDA/PLG/HMDA/2002, dated 26.04.2013 and permit No.39591/HO/WZ/Cir.-11/2015, dated 20.01.2015 in File No. B/429/TPS/TP-11/GHMC/2014. and Revised Permit No.53374/HO/WZ/Cir-11/2016, 03.11.2017 in File No.117404/21/02/2017/HO/29, and Order in Lr. No. 117404/21/02/2017/HO/29, dated 09.01.2023 passed by 1st respondent, as illegal, arbitrary, contrary to law, without jurisdiction and violative of Articles 14, 21 and 300A of the Constitution of India and consequently set aside the same, in the interest of justice.

I.A. NO: 1 OF 2023

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 suspend the revised lay out permit No.2755/Layout/CDA/PLG/ HMDA/2002, dated 26.04.2013 and permit No.39591/HO/WZ/Cir.-11/2015, dated. 20.01.2015 in File No. B/429/TPS/TP-11/GHMC/2014, and Revised Permit No.53374/HO/WZ/Cir-11/2016, 03.11.2017 in File No.117404/21/02/2017/HO/29, and Order in Lr.No.117404/21/02/2017/HO/29, dated 09.01.2023 passed by 1St respondent and direct 1st respondent not to issue any occupation certificate on the basis of the said permission, in the interest of justice, pending disposal of the writ petition.

I.A. NO: 2 OF 2023

Between:

1. M/s. Patel Engineering Limited, a registered company, Having its Registered Office at Patel Estate Road, Jogeshwari (West), Mumbai-400015 and branch at H.No.6-3-635, Akash Ganga, 4th Floor, Khairatabad, Hyderabad, rep. by its Authorized Signatory Sri B.S.Reddy
2. M/s. P.B.S.R. Developers Private Limited, Having its Registered Office at 8-2-293/82/A/76, First Floor, Road No.9A, Jibilee Hills, Hyderabad-500033, Rep. by its Authorized Signatory Sri Vineet Aggarwal

...PETITIONERS

AND

1. M/s. Rolling Hills House Owners' Association, Having its office at Club House, Adj to C18, Rolling Hills, Gachibowli, Ranga Reddy district, Rep. by its President Mr. D. Dinesh Kumar Reddy, s/o Late Sri D. Dasthagiri Reddy, aged about 55 years



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2. T Pavana Devi, W/o. Gopichand Tummala, Aged about 60 years, R/o Villa No.D8, Rolling Hills, Gachibowli, Ranga Reddy Dist- 500032
3. Greater Hyderabad Municipal Corporation, Office of the Commissioner, Town Planning Section (HO), GHMC, Tank Bund, Hyderabad.
4. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority, District Commercial Complex, Administrative L-Block, Tarnaka, Hyderabad,

...RESPONDENTS

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 vacate the interim order passed in WP No.3698 of 2023 dated 16/02/2023 in the interest of justice, pending disposal of the writ petition.

I.A. 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 rectify the reference to "Occupancy Rights Certificate" to "Occupancy Certificate" and clarify that the Petitioners can execute and register Sale Deeds or such other documents confirming or perfecting the title of the purchasers in respect of their past purchase as on 26.03.2024 either in their name or in favour of their nominees, pending disposal of the writ petition.

**Counsel for the Petitioner: SRI E.MADAN MOHAN RAO, Sr. COUNSEL, REP.
SRI T.SHARATH & SRI M.SRINIVAS**

Counsel for the Respondent No.1: SRI M.A.K.MUKHEED, SC FOR GHMC

Counsel for the Respondent No.2: SRI V.NARASIMHA GOUD, SC FOR HMDA

**Counsel for the Respondent No.3 & 4: SRI L.RAVI CHANDER, Sr. COUNSEL,
REP. SRI DUVVA PAVAN KUMAR**

WRIT PETITION NO: 16595 OF 2023

Between:

1. Mr. Sattiraju Venkateswarlu, S/o Sri S. Barreyya, Age. 73 years, Occupation. Business R/o 1-60/8/6/D5, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032



2. Mr. Ramesh Loganathan, S/o Sri SM Loganathan Age. 55 Years, Occupation. Service, R/o 1-60/8/6/E11, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
3. Mrs. Kalpana Ramesh, W/o Mr. Ramesh Loganathan Age. 53 Years, Occupation. Service R/o 1-60/8/6/E11, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
4. Mr. E. Prabhakar Yadav, S/o Sri E. Muthyalu Age. 45 Years, Occupation. Business R/o 1-60/8/6/E31, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
5. Mr. Sukumar Thirurayan, S/o Sri R. Thirurayan Age. 54 Years, Occupation. Service R/o 1-60/8/6/E32, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
6. Mr. K. Upendra Rao, S/o Sri K V Prasad Age. 53 Years, Occupation. Business R/o 1-60/8/6/B14, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
7. Mr. M. Murali Mohan Reddy, S/o Sri M Pratap Reddy Age. 66 Years, Occupation. Business R/o 1-60/8/6/C12, Rolling Hills Gachibowli, Ranga Reddy District Telangana 500032
8. Mr. P. Sandeep Reddy, S/o Sri P. P. R. Reddy Age. 49 Years, Occupation. Service R/o 1-60/8/6/B12, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
9. Mrs. V Vijaya Lakshmi, W/o Sri V. Narender Reddy Age. 59 Years, Occupation. House Maker R/o 1-60/8/6/B20, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
10. Mrs. V. Aishwarya, W/o Dr. V. Bharghav Aged about 45 R/o 1-60/8/6/B20, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 500032
11. Mr. S. Bhpal Reddy, S/o Sri S. Manikya Reddy Age. 53 Years, Occupation. Business R/o 1-60/8/6/D2, Rolling Hills Gachibowli, Ranga Reddy District Telangana - 32

AND

...PETITIONERS

1. The Greater Hyderabad Municipal Corporation, Rep by Chief Commissioner, Office of the Commissioner Town Planning Section HO GHMC Tank Bund Hyderabad
2. The Hyderabad Metropolitan Development Authority, Rep by Metropolitan Commissioner District Commercial Complex Administrative L Block Tarnaka Hyderabad
3. M/s Patel Engineering Limited, Rep by authorized representative, a registered company Having its Registered Office at Patel Estate Road Jogeshwari West Mumbai 400015 and branch at H No 63635 Akash Ganga 4th Floor Khairatabad Hyderabad
4. M/s P B S R Developers Private Limited, Rep by its Authorized Signatory Sri Vineet Agarwal Having its Registered Office at 82293/82/A/76 First Floor Road No 9A Jubilee Hills Hyderabad 500033

**...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 order or direction more in the nature of writ of Mandamus U/Art 226 of the Constitution of India declaring the order Dt 9/01/2023 vide Lr.No. 117404/21/02/2017/HO/29 of the respondent No 1/ The Commissioner GHMC, disposing off the objection and upholding the revised permit No 2755/Layout/CDA/PLG/HMDA/2002 Dt 26/04/2013 and permit No.39591/HO/WZ/Cir-11/2015 Dt 20/1/2015 vide file No B/429/TPS/TP-11/GHMC/2014 and revised permit vide file No 53374/HO/WZ/Cir-11/2016 Dt 3/11/2017 in file No 117404/21/02/2017/HO as illegal , arbitrary without power or authority in terms of Art 14, 21 and 300-A of the Constitution of India and set-aside the same and consequently declare the Relinquishment deed No 4361 of 2013 dated 18-03-2013 executed by respondent No 2 /Metropolitan Commissioner HMDA in favour of the respondent No.3/ M/s Patel Engg Ltd and the gift deed No 4360 of 2013 dt 18/03/2013 executed by the respondent No.3 in favour of the respondent No respondent No.2, and gift deed No.18628 of 29/10/2021 as null and void.

I.A. NO: 1 OF 2023

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 dispense with filing the copies of the pro No 2755/Layout/CDA/PLG/HMDA/2002 dt 26-04-2013 and permit No 39591/HO/WZ/Cir-11/2015 dt 20-1-2015 vide file No B/429/TPS/TP-11/GHMC/2014 and revised permit vide file No 53374/HO/WZ/Cir-11/2016 dt 3-11-2017 in file No 117404/21/02/2017/HO, pending disposal of the writ petition.

I.A. NO: 2 OF 2023

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 suspend the order Dt 9-01-2023 vide Lr No 117404/21/02/2017/HO/29 of the respondent No 1/ The Commissioner GHMC, pending disposal of the writ petition pending disposal of the above writ petition.



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Counsel for the Petitioner: SRI E.MADAN MOHAN RAO, Sr. COUNSEL, REP.
SRI T.SHARATH & SRI M.SRINIVAS

Counsel for the Respondent No.1: SRI M.A.K.MUKHEED, SC FOR GHMC

Counsel for the Respondent No.2: SRI V.NARASIMHA GOUD, SC FOR HMDA

Counsel for the Respondent No.3 & 4: SRI L.RAVI CHANDER, Sr. COUNSEL,
REP. SRI DUVVA PAVAN KUMAR

The Court made the following: **COMMON ORDER**

**HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY****WRIT PETITION Nos.3698 and 16595 of 2023****COMMON ORDER:**

The issues involved in both these writ petitions are intrinsically interconnected and hence, they are taken up and heard together and are being disposed of by this common order.

2. Writ Petition No.3698 of 2023, under Article 226 of the Constitution of India, is filed by the petitioners, seeking the following relief:

“...to issue an appropriate order, writ or direction more particularly one in the nature of writ of mandamus declaring the revised layout permit No.2755/Layout/CDA/PLG/HMDA/2002, dated 26.04.2013 and permit No.39591/HO/WZ/Cir.-11/2015, dated 20.01.2015 in File No.B/429/TPS/TP-11/GHMC/2014, and Revised Permit No.53374/HO/WZ/Cir-11/2016, 03.11.2017 in File No.117404/21/02/2017/HO/29 and Order in Lr.No.117404/21/02/2017/HO/29, dated 09.01.2023 passed by 1st respondent, as illegal, arbitrary, contrary to law, without jurisdiction and violative of Articles 14, 21 and 300A of the Constitution of India and consequently set aside the same, in the interest of justice....”

3. Writ Petition No.16595 of 2023, under Article 226 of the Constitution of India, is filed by the petitioners, seeking the following relief:

“...to issue a writ, order or direction more in the nature of writ of Mandamus declaring the order Dt.9-01-2023 vide Lr.No.117404/21/02/2017/HO/29 of the respondent No.1/The Commissioner GHMC, disposing off the objection and upholding the revised permit No.2755/Layout/CDA/PLG/HMDA/2002 Dt 26-04-2013 and permit No.39591/HO/WZ/Cir-11/2015 Dt.20-1-2015 vide file No.B/429/TPS/TP-11/GHMC/2014 and revised permit vide file No. 53374/HO/WZ/Cir-11/2016 Dt.3-11-2017 in file No.117404/21/02/2017/HO as illegal, arbitrary without power or authority in terms of Art



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14, 21 and 300-A of the Constitution of India and set-aside the same and consequently declare the Relinquishment deed No.4361 of 2013 dated 18-03-2013 executed by respondent No.2/Metropolitan Commissioner HMDA in favour of the respondent No.3/M/s.Patel Engg Ltd and the gift deed No.4360 of 2013 dt.18-03-2013 executed by the respondent No.3 in favour of the respondent No 2, and gift deed No.18628 of 29-10-2021 as null and void.....”

4. Writ Petition No.3698 of 2023 is filed by M/s.Rolling Hills House Owners Association (hereinafter referred as ‘Association’) and W.P.No.16595 of 2023 is filed by the members of the Association. Writ Petition No.16595 of 2023 is taken up as a leading case to decide the *lis* in these two cases.

5. The brief facts of the case are as follows:

6. It is stated that the members of petitioner No.1-Association had purchased residential plots in a gated community developed over land admeasuring Ac.18.14 guntas in Survey No.31, situated at Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, pursuant to a final layout approved by the-then Cyberabad Development Authority (CDA). On 26.07.2004, the CDA issued final layout approval upon completion of the project, after accepting the gift deed and taking over the designated open spaces. It is further stated that on 10.08.2004, the CDA released the mortgaged area for finalization of the layout, and subsequently, the final layout approval was granted vide Permit No.2755/Final/Layout/CDA/2002 dated 23.08.2004. Thereafter, the land was developed into a gated



community, and construction of 101 independent residential buildings was undertaken based on Permit No.5085/BP/CDA/2004 dated 10.11.2004. It is stated that the Respondent No.3 sold several houses in the said layout to the petitioners under registered sale deeds and the members of the Association have been in peaceful possession and enjoyment of their respective houses since 25.04.2009, and they have also been maintaining the internal roads and open spaces. Since then, the respondent No.3 ceased to have any ownership, title, possession, or interest over the said land. It is further stated that on 17.08.2006, respondent No.3 submitted an application seeking revision of the approved layout. In response to the same, the CDA, vide letter No.2755/LO/CDA/PLG/HMDA/2002 dated 10.12.2012, clarified that any revision to the layout must retain the pattern of open spaces, plots, and road network. However, the respondent No.3, in collusion with others, sought a revised layout including adjacent land in Sy.No.32 admeasuring Ac.4.00 guntas and proposed alterations to the earmarked open space, park area, and internal roads without obtaining consent from the petitioners. It is further stated that on 18.03.2013, respondent No.2 executed a deed of relinquishment in respect of open space land measuring 1718 square yards in Sy.No.31(P), which was already deemed to have vested under law. On the same day, respondent No.3 executed a gift settlement deed in favour of HMDA for lands



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admeasuring 718 square yards and 400 square yards, which was already under occupation of the purchasers. Based on these developments, the original layout was revised vide proceedings No. 2755/Layout/CDA/PGL/HMDA/2002 dated 26.04.2013, 39591/HO/WZ/Cir.-11/2015 dated 20.01.2015, and 53374/HO/WZ/Cir.-11/2016 dated 03.11.2017. Thereafter, an amended Gift Deed dated 29.10.2021 was executed, transferring 2419 square yards including part of the land already forming part of the approved layout No.2755/Final/Layout/CDA/2002. Aggrieved by the issuance of revised layout and attempts by the respondents to alter the original layout and demolish the existing compound wall in the lands between Sy.Nos.31 and 32, the petitioners submitted a representation dated 07.03.2022. When there was no action, the petitioners filed O.S.No.165 of 2022 on the file of the Principal Junior Civil Judge, Ranga Reddy District, seeking an injunction, and also filed W.P.No.18266 of 2022 on the file of this Court. This Court, vide order dated 12.04.2022, disposed of the said writ petition directing respondent No.1 to consider and dispose of the petitioners' representation dated 07.03.2022 in accordance with law. The grievance of the petitioners is that respondent No.1, without properly considering their objections, passed the impugned order No.117404/21/02/2017/HO/29 dated 09.01.2023, rejecting their



claim on irrelevant and extraneous grounds. Hence, the W.P.No.16595 of 2023.

7. The respondent Nos.3 and 4 filed counter affidavit, *inter alia* stating that the respondent No.3 along with six others had purchased land admeasuring Ac.18.14 guntas in Survey No.31, situated at Gachibowli Village, Serilingampally Mandal, under various registered sale deeds during the years 1998 and 1999. Additionally, they also purchased an extent of Ac.4.00 guntas in the adjoining Survey No.32 under registered sale deeds. It is further stated that they entered into a Development Agreement dated 10.11.2003 with M/s. GAR Developers for undertaking the project. Pursuant to the said agreement, they obtained final layout approval vide Permit No.2755/Final/Layout/CDA/2002 dated 23.08.2004 in respect of 101 plots. According to respondent Nos.3 and 4, as per the 2004 approved plan for the land in Survey No.31, the total plotted area was 50,306 sq. yds., the road area was 27,449 sq. yds., the park area was 8,833 sq. yds., and the amenities area was 1,742 sq. yds., making the total approved layout area as 88,300 sq. yds. They state that several plots were sold to the petitioners/members of the Association under registered sale deeds. However, land admeasuring 685.06 sq. yds. in Plot Nos.B10 and B11 remains vacant. It is their case that, based on negotiations with the petitioners and other



members, a revised layout plan was submitted for approval. They assert that the petitioners were fully aware of the submission of the revised plan, and despite such knowledge, they permitted the construction activities to proceed under the revised layout, which was approved by respondent Nos.1 and 2 through Proceedings No.2755/Layout/CDA/Plg/HMDA/2002 dated 26.04.2013. It is contended that after allowing the construction to progress under the revised plan, the petitioners, with malafide intent, filed O.S.No.165 of 2022 before the Principal Junior Civil Judge, Ranga Reddy District, seeking to restrain the respondents from continuing with the construction. The Respondent Nos.3 and 4 further submit that the writ petitions are barred by delay and laches. They also contend that the sale deeds executed in favour of the petitioners do not contain any clause to the effect that the land would be developed as a gated community. It is asserted that the layout sanctioned is not designated as a gated community layout, and hence, the petitioners are not entitled to encircle the property with a compound wall or prevent respondent Nos.3 and 4 from accessing their abutting land in Survey No.32, for which they claim to have obtained valid construction permissions.

8. The Respondent No.2–Metropolitan Commissioner, Hyderabad Metropolitan Development Authority (HMDA), filed counter affidavit,



inter alia stating that respondent Nos.3 and 4 had filed an application seeking revision of the originally sanctioned layout for the land admeasuring Ac.18.10 guntas in Survey No.31 of Gachibowli Village, under File No.1308/MP2/HUDA/2000. However, the said application was not approved by the-then authority and was rejected vide Letter No.1304/MP2/HUDA/2000 dated 02.05.2000 on the ground that the land fell within the jurisdiction of the Cyberabad Development Authority (CDA), and that a Special Action Plan/Master Plan for that region was still under preparation. Subsequently, a revised layout proposal in respect of Survey No.31 was treated as a fresh application and was examined by the CDA in light of G.O.Ms.No.538 MA dated 29.01.2001. It is stated that the land in Sy.No.31 was earmarked partly for Residential Use Zone and partly for Commercial-cum-Housing Use Zone and was also affected by proposed 45-metre and 36-metre roads as per the notified Master Plan of the CDA. As per CDA norms at the relevant time, the open space requirement in such layouts was 25% of the total layout area. Further, the Government had issued Letter No.23622/H2/2001-3 MA dated 16.05.2002 revising the External Betterment Charges (EBC) for plotted development layouts and regulations relating to Free Floor Area Ratio (FAR). Clarification was issued through Letter No.3661/H2/2002-1 dated 20.05.2002 stating that building applications filed before the issuance of CDA Master Plan, and not



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rejected on technical grounds, shall be treated as old cases. Thereafter, vide letter dated 29.06.2022, the representation was once again forwarded for re-examination and for furnishing a detailed report. In the meantime, under G.O.Ms.No.343 MA dated 09.07.2003, the Government revised the Free FAR from 0.75 to 1.00 and reduced the percentage of open space requirement from 25% to 10% of the total layout area. Based on the revised norms, the revised layout proposal was technically approved by HMDA on 19.01.2013 and forwarded to respondent No.1 vide Letter No.2755/Layout/CDA/Plg/HMDA/2002 dated 26.04.2013 for issuance of layout release orders. The Respondent No.2 further stated that development control powers were conferred on HMDA by the Government vide Letter No.15048/HMDA/2008 dated 17.01.2009 to exercise all development control powers under Sections 18, 19, 20, 23, and 52 of the HMDA Act in respect of residential, commercial, and industrial constructions, including grant of building permissions. It is the specific stand of respondent No.2 that the procedure adopted in approving and releasing the revised layout in favour of respondent No.3 was strictly in accordance with law and applicable government orders. It is contended that there is no illegality or procedural irregularity in the approval process. Respondent No.2 also submits that the writ petitions are liable to be dismissed on the ground of



inordinate delay and laches, as the challenge is raised after a long lapse of time.

9. The Respondent No.1-Commissioner, Greater Hyderabad Municipal Corporation (GHMC), filed counter affidavit, *inter alia* stating that the respondent No.2 had approved the final layout in favour of respondent No.3 through Permit No.3/Final Layout/CDA/2004 dated 23.08.2004, vide Letter No.2755/Final Layout/CDA/2002. Subsequently, a revised final layout permit was issued vide proceedings dated 26.04.2013 for individual open plots. Based on this, the GHMC issued the revised final layout release order vide Proceedings No.B/1109/CCP/TPS/HO/GHMC/2013 dated 27.05.2013. It is categorically submitted that both the original and revised layout approvals were issued for individual open plots and not for villas or a gated community, as claimed by the petitioners. It is asserted that the layout was never sanctioned as a gated community and hence, the petitioners cannot claim exclusive rights or community-specific benefits based on such a presumption. It is further submitted that in compliance with the orders of this Court in W.P.No.18266 of 2022, the GHMC re-examined the representations of both the petitioners and the respondents and after providing an opportunity of hearing and considering the final layout sanctioned under Permit No.2755/Final Layout/CDA/2002 dated



23.08.2004, as well as the revised layout sanctioned vide Permit No.2755/Layout/CDA/Plg/HMDA/2002 dated 26.04.2013, the Corporation confirmed the validity of the revised layout through the impugned order bearing Letter No.117404/21/02/2017/HO/29 dated 09.01.2023.

10. In the reply affidavit filed by the petitioners to the counter affidavits of the respondents, it is stated that filing of a writ petition by the Association to ventilate the collective grievances of its members does not bar or disentitle individual members from filing separate writ petitions. It is stated that the reliefs sought in the respective writ petitions are distinct and independent of each other. It is further stated that respondent Nos.3 and 4, in collusion, secured the release of the revised layout by unlawfully modifying the originally sanctioned layout approved vide Permit No.2755/Final/Layout/CDA/2002 dated 23.08.2004. It is contended that the revised layout was manipulated by raising a ramp in the park area situated in Sy.No.31. It is asserted that the sanctioned park space was interfered with after the Association had already taken possession of the fully constructed villas. It is submitted that the reliance placed on Google Earth maps by the respondents is misleading, as those maps depict structures like Decathlon, Smondo Towers, and Meenakshi Trident Towers which were constructed after



the year 2005 and do not reflect the ground reality as on the date of original layout sanction. It is reiterated that the villas were fully constructed and handed over to the Association as early as in the year 2009, and therefore, respondent Nos.3 and 4 have no authority to alter the park area or amenities through a revised layout. It is contended that land admeasuring 1742 sq. yds. in Sy.No.31, which was earmarked for amenities in the original layout, was unlawfully adjusted and relocated into Sy.No.32 to benefit respondent Nos.3 and 4, which is impermissible under law. The petitioners rely on Condition No.12 of the Permit No.2755/Final/Layout/CDA/2002 dated 23.08.2004, which, according to them, expressly prohibits any revision or alteration of the approved layout plan without follow due process of law. Thus the petitioners prayed this Court to allow the writ petitions.

11. Mr. E. Madan Mohan Rao, learned Senior Counsel appearing on behalf of Mr. T. Sharath, learned counsel and Mr. M. Srinivas, learned counsel for the petitioners in both the writ petitions, strenuously contended that the petitioners purchased the villas with the legitimate expectation of leading a peaceful life in properties forming part of approved residential layouts. He submitted that such layouts are expected to provide essential open spaces for various public purposes such as roads, gardens, schools, hospitals, and

community centres. It is contended that several purchasers, including the petitioners, opted for preferential plots abutting or facing public amenities like parks, roads, or water bodies, and accordingly paid additional or higher charges at the time of purchase, with a clear expectation of availing and enjoying the benefits of such amenities. It is further contended that the respondent Nos.3 and 4 as developers cannot be permitted to change the status of lands to deceive the allottees and more particularly, in the instant cases by altering the Survey Numbers and adjusting the park/amenities area in another Survey Number, which was not part of the original layout approved in the year 2004. It is also contended that as per the final layout sanctioned vide Proceedings dated 23.08.2004, the Sy.No.32 was not included and in the revised layout the Sy.No.32 was included. It is further submitted by the learned Senior Counsel that there is no power conferred by the legislature on the respondent Nos.1 and 2 to revise the final layout by changing the amenities that were earmarked for community purpose and revising the layout after a period of 10 years that too after large number of Villas being sold in favour of the petitioners/members of the Association and altering the final layout and adding the new survey number for the open spaces amounts to taking away the vested rights of the petitioners for which the respondents have no authority in law. The learned Senior Counsel would further contend that the



action of the respondents in revising final layout vide Permit No.2755/Final Layout/CDA/2002 dated 23.08.2004, in the year 2013 vide Permit No.2755/Layout/CDA/PLG/HMDA/2002, dated 26.04.2013 and permit No.39591/HO/WZ/ Cir.-11/2015, dated 20.01.2015 in File No.B/429/TPS/TP-11/GHMC/2014, and Revised Permit No.53374/HO/WZ/Cir-11/2016 dated 03.11.2017 in File No.117404/21/02/ 2017/HO/29 is without jurisdiction, arbitrary, malafide, based on extraneous reasons, colorable exercise of power and violative of Articles 21 and 300A of the Constitution of India. In support of his submissions, the learned Senior Counsel placed much reliance on the decision of the Hon'ble Apex Court in ***Supertech Limited v. Emerald Court Owner Resident Welfare Association***¹ and finally, prayed to allow the writ petitions.

12. In oppugnation, Mr. L. Ravi Chander, learned Senior Counsel representing Mr.Duvva Pavan Kumar, learned counsel for respondent Nos.3 and 4, would submit that the CDA granted layout permission vide Permit No.2755/Final/Layout/CDA/2002 dated 23.08.2004 for a total area of 88,300 sq. yds., and respondent No.3 applied for revision of the layout in the year 2006. Acting on the said application, respondent No.2, vide Letter No.2755/LO/CDA/Plg/HMDA/2002 dated 10.12.2012, called upon respondent No.3 to

¹ (2021) 10 SCC 1



submit a revised layout while maintaining the same open space area as a condition for approving the revised layout. It is further submitted that in terms of the same, respondent Nos.3 and 4 executed registered gift deeds vide Document No.4360/2013 dated 18.03.2013, replacing the earlier gifted total area of 1718 sq. yds. with 1000 sq. yds. from the land in Sy.No.31 and 718 sq. yds as lands in Sy.No.31 towards open space. It is further submitted that as per the revised layout, an extent of 87,299 sq. yds of land is available and there is no change so far as the amenities area and park area, except the plotted area. It is also submitted that the petitioners, having been aware of the application submitted by respondent Nos.3 and 4 and the consequential execution of the revised gift deeds, filed the present writ petitions with an oblique motive and malafide intention and therefore, the present writ petitions are barred by delay and laches. In support of his submissions, the learned Senior Counsel relied upon the following decisions and prayed that this Court dismiss the writ petitions:

- i) C. Jacob vs. Director of Geology & Mining and another²**
- ii) Nimmala Samanaita vs. State of Telangana and others³**
- iii) Karnataka Power Corporation Limited and another vs. K.Thangappan and another⁴**

² (2008) 10 SCC 115

³ 2022 (4) ALT 548

⁴ (2006) 4 SCC 322



iv) Baskaran vs. The Commissioner of College Education and others⁵

v) Mayuri Nagar Welfare Association and others vs. State of Telangana and others⁶

vi) M.P.Housing and Infrastructure Development Board and another vs. Vijay Bodana and others⁷

vii) Shubhas Jain vs. Rajeshwari Shivam and others⁸

viii) Sanskruthi Township vs. The State of Telangana⁹

ix) Prabodh Verma and others vs. State of U.P and others¹⁰

13. Mr.M.A.K. Mukheed, learned Standing Counsel for GHMC (respondent No.1), and Mr. V. Narasimha Goud, learned Standing Counsel for HMDA (respondent No.2), adopted the same stand as stated in the respective counter affidavits and prayed for dismissal of the writ petitions.

14. Considered the submissions of learned counsel for the respective parties and perused the record.

15. The petitioners in W.P.No.16595 of 2023 are members of the 1st petitioner-Association in W.P.No.3698 of 2023. The Association is registered under the provisions of the Societies Registration Act vide Regd. No.2028/2007. The members of the Association purchased Villas under registered sale deeds from respondent Nos.3 and 4. It is

⁵ 1955 SCC Online Mad 381

⁶ Order dated 23.06.2022 passed in W.P.No.11734 of 2018 by a learned Single Judge of this Court.

⁷ (2020) 4 SCC 521

⁸ 2021 SCC Online SC 562

⁹ Order dt.17.01.2022 passed in W.P.Nos.8767 & 3501 of 2021 by learned Single Judge of this Court

¹⁰ (1984) 4 SCC 251

their case that respondent Nos.3 and 4 had purchased the land admeasuring Ac.18.14 gts in Sy.No.31, situated at Gachibowli Village, Serilingampally Mandal, under various registered sale deeds and entered into a Development Agreement dated 10.11.2003 with M/s.GAR Developers for development of the said land. They subsequently obtained layout approval vide Permit No.2755/Final/Layout/CDA/2002 dated 23.08.2004 in respect of 101 plots. As per the approved plan for the land in Survey No.31, the total plotted area is 50,306 sq. yds., the road area is 27,449 sq. yds., the park area is 8,833 sq. yds., and the amenities area is 1,742 sq. yds., making the total approved layout area as 88,300 sq. yds. It is the case of the petitioners that the villas purchased by them are encircled by a compound wall, clearly delineating the property as a gated community. It is their further case that respondent Nos.3 and 4, in active connivance with the officials of respondent Nos.1 and 2, made an application seeking revision of the final layout approved vide No.2755/Final Layout/CDA/2002 dated 23.08.2004, for the purpose of converting the open space admeasuring 1,718 sq. yds in Sy.No.31 and adjusting it with the land in Sy.No.32. It is also their case that as per Condition No.12 of the final layout dated 23.08.2004, the final layout once released shall not be revised for any purpose.



16. Whereas the case of respondent Nos.3 and 4 is that they are the owners of the land in Sy.No.31 to an extent of Ac.18.14 gts, having purchased the same under registered sale deeds executed in the years 1998 and 1999 and they also claim to have purchased land in Sy.No.32 and to make use of that land, submitted an application seeking revision of the layout approved under Proceedings No.2755/Final Layout/CDA/2002 dated 23.08.2004. It is further case of respondent Nos.3 and 4 that there is no clause in the sale deeds stating that the villas were sold as part of a gated community nor was the layout sanctioned as a gated community layout. Hence, the petitioners are not entitled to object to any layout changes, so long as the area reserved for public purposes in the original layout remains intact and thus prayed for dismissal of the writ petitions.

17. The stand of respondent Nos.1 and 2, who are the competent authorities for releasing layouts under the provisions of the GHMC Act, 1955 and HMDA Act, 2008 and the Rules made thereunder, is that the rights of the petitioners have not been affected in any manner. It is contended that the villas are not situated within a notified gated community, and mere adjustment of land with adjoining areas does not interfere with access to park/common amenities. It is further submitted that, after following the statutory procedure and being satisfied with development norms, the

application for revised layout was rightly considered. Therefore, the action taken by the authorities, does not suffer from any legal infirmity warranting interference under Article 226 of the Constitution of India and thus prayed for dismissal of the writ petitions.

18. Before examining the issues raised, it is necessary to consider the object of the HMDA Act, 2008 and the provisions thereunder. The Act was enacted to establish the Metropolitan Development Authority for the purposes of planning, coordination, supervising promoting and securing the planned development of the Hyderabad Metropolitan Region and for matters connected therewith or incidental thereto. As per Section 18 of the Act, all development powers of land vest with the Metropolitan Development Authority. Section 19 mandates obtaining prior permission for undertaking development. Incase developers fail to implement the layout conditions, under Section 22, HMDA is empowered to revoke such permission if it is found that the same was obtained by false statement or misrepresentation or suppression of any material facts or rule. Section 23 states that if during the execution of any development works/layout works/and civil works any deviation/ departure is made from the Development Permission granted, the



owner shall obtain revised sanction as per the procedure laid down in Section 19.

19. In the instant cases, the respondent Nos.3 and 4 alleged to have made an application as per the provisions of the HMDA Act seeking approval of the layout. The respondent Nos.3 and 4 have executed gift deeds in favour of respondent Nos.1 and 2 on 26.07.2004 in respect of land to an extent of 36,282 sq.yards absolutely transferring the open areas and the space reserved for amenities in favour of respondent Nos.1 and 2 and the said land vested in the State free from all encumbrances. The layout was approved and released by respondent No.2 vide Permit No.2755/Final Layout/CDA/2002 dated 23.08.2004, indicating 50,306 sq. yds for plots, 8,833 sq. yds for park area, 27,449 sq. yds for roads, and 1,742 sq. yds for amenities in Sy.No.31, admeasuring Ac.18.10 gts, for a total of 101 plots. A perusal of the proceedings dated 23.08.2004, annexed to W.P.No.3698 of 2023 (Page No.45), shows that under Condition No.12, the final layout once approved shall not be revised. Respondent Nos.3 and 4 constructed villas and sold them to the petitioners/members of the Association, leaving only a small portion as undeveloped plots. They later submitted applications in 2006 seeking revision of the layout, which was approved vide Permit No.2755/Layout/CDA/PLG/HMDA/2002 dated

26.04.2013. Further revised permits were issued vide Permit No.39591/HO/WZ/Cir.-11/2015 dated 20.01.2015 in File No.B/429/TPS/TP-11/GHMC/2014, and Revised Permit No.53374/HO/WZ/Cir-11/2016 dated 03.11.2017 in File No.117404/21/02/2017/HO/29. Consequently revised gift deeds were executed in the year 2021. According to the petitioners, based on these revised permits, when respondent Nos.3 and 4 attempted to alter the nature of the plotted area and the amenities area, they instituted O.S.No.165 of 2022 on the file of Principal Junior Civil Judge, Ranga Reddy District, seeking an injunction, and also filed W.P.No.18266 of 2022 before this Court. The facts make it clear that there has been no inordinate or unreasonable delay in questioning the impugned revised layout or the consequential permits granted by the respondents.

20. In *Supertech Limited v. Emerald Court Owner Resident Welfare Association*¹¹, the Hon'ble Supreme Court held that breach by the planning authority of its obligation to ensure compliance with building regulation is actionable at the instance of residents whose rights are infringed by violation of law. In Paras 159, 161 to 169, it was observed as under:

"159. The rampant increase in unauthorised constructions across urban areas, particularly in metropolitan cities where soaring values of land

¹¹ (2021) 10 SCC 1



place a premium on dubious dealings has been noticed in several decisions of this Court. This state of affairs has often come to pass in no small a measure because of the collusion between developers and planning authorities.

161. The judgments of this Court spanning the last four decades emphasise the duty of planning bodies, while sanctioning building plans and enforcing building regulations and bye-laws to conform to the norms by which they are governed. A breach by the planning authority of its obligation to ensure compliance with building regulations is actionable at the instance of residents whose rights are infringed by the violation of law. Their quality of life is directly affected by the failure of the planning authority to enforce compliance. Unfortunately, the diverse and unseen group of flat buyers suffers the impact of the unholy nexus between builders and planners. Their quality of life is affected the most. Yet, confronted with the economic might of developers and the might of legal authority wielded by planning bodies, the few who raise their voices have to pursue a long and expensive battle for rights with little certainty of outcomes. As this case demonstrates, they are denied access to information and are victims of misinformation. Hence, the law must step in to protect their legitimate concerns.

162. In *K. Ramadas Shenoy v. Town Municipal Council, Udipi* [K. Ramadas Shenoy v. Town Municipal Council, Udipi, (1974) 2 SCC 506], A.N. Ray, C.J. speaking for a two-Judge Bench of this Court observed that the municipality functions for public benefit and when it "acts in excess of the powers conferred by the Act or abuses those powers then in those cases it is not exercising its jurisdiction irregularly or wrongly but it is usurping powers which it does not possess". This Court also held : (SCC p. 513, para 27)

"27.... The right to build on his own land is a right incidental to the ownership of that land. Within the Municipality the exercise of that right has been regulated in the interest of the community residing within the limits of the Municipal Committee. If under pretence of any authority which the law does give to the Municipality it goes beyond the line of its authority, and infringes or violates the rights of others, it becomes like all other individuals amenable to the jurisdiction of the courts. If sanction is given to build by contravening a bye-law the jurisdiction of the courts will be invoked on the ground that the approval by an authority of building plans which contravene the bye-laws made by that authority is illegal and inoperative. (See [*Yabbicom v. R.*, (1899) 1 QB 444])."

This Court held that an unregulated construction materially affects the right of enjoyment of property by persons residing in a residential area, and hence, it is the duty of the municipal authority to ensure that the area is not adversely affected by unauthorised construction.

163. These principles were re-affirmed by a two-Judge Bench in [*G.N. Khajuria v. DDA*, (1995) 5 SCC 762] where this Court held that it was not open to the Delhi Development Authority to carve out a space, which was meant for a park for a nursery school. B.L. Hansaria, J. speaking for the Court, observed : (SCC p. 766, para 10)



"10. Before parting, we have an observation to make. The same is that a feeling is gathering ground that where unauthorised constructions are demolished on the force of the order of courts, the illegality is not taken care of fully inasmuch as the officers of the statutory body who had allowed the unauthorised construction to be made or make illegal allotments go scot free. This should not, however, have happened for two reasons. First, it is the illegal action/order of the officer which lies at the root of the unlawful act of the citizen concerned, because of which the officer is more to be blamed than the recipient of the illegal benefit. It is thus imperative, according to us, that while undoing the mischief which would require the demolition of the unauthorised construction, the delinquent officer has also to be punished in accordance with law. This, however, seldom happens. Secondly, to take care of the injustice completely, the officer who had misused his power has also to be properly punished. Otherwise, what happens is that the officer, who made the hay when the sun shined (sic), retains the hay, which tempts others to do the same. This really gives fillip to the commission of tainted acts, whereas the aim should be opposite."

164. In *[Friends Colony Development Committee v. State of Orissa, (2004) 8 SCC 733]*, this Court dealt with a case where the builder had exceeded the permissible construction under the sanctioned plan and had constructed an additional floor on the building, which was unauthorised. R.C. Lahoti, C.J., speaking for a two-Judge Bench, observed : (SCC p. 744, para 24)

"24. Structural and lot area regulations authorise the municipal authorities to regulate and restrict the height, number of storeys and other structures; the percentage of a plot that may be occupied; the size of yards, courts and open spaces; the density of population; and the location and use of buildings and structures. All these have in our view and do achieve the larger purpose of the public health, safety or general welfare. So are front setback provisions, average alignments and structural alterations. Any violation of zoning and regulation laws takes the toll in terms of public welfare and convenience being sacrificed apart from the risk, inconvenience and hardship which is posed to the occupants of the building."

Noting that the private interest of landowners stands subordinate to the public good while enforcing building and municipal regulations, the Court issued a caution against the tendency to compound violations of building regulations : (*Friends Colony Development Committee case [Friends Colony Development Committee v. State of Orissa, (2004) 8 SCC 733]* , SCC p. 744, para 25)

"25. ... The cases of professional builders stand on a different footing from an individual constructing his own building. A professional builder is supposed to understand the laws better and deviations by such builders can safely be assumed to be deliberate and done with the intention of earning profits and hence deserve to be dealt with sternly so as to act as a deterrent for future. It is



common knowledge that the builders enter into underhand dealings. Be that as it may, the State Governments should think of levying heavy penalties on such builders and therefrom develop a welfare fund which can be utilised for compensating and rehabilitating such innocent or unwary buyers who are displaced on account of demolition of illegal constructions.”

165. In *Priyanka Estates International (P) Ltd. v. State of Assam*, (2010) 2 SCC 27 : (2010) 1 SCC (Civ) 283], Deepak Verma, J. speaking for a two-Judge Bench, observed : (SCC p. 42, para 55)

“55. It is a matter of common knowledge that illegal and unauthorised constructions beyond the sanctioned plans are on rise, may be due to paucity of land in big cities. Such activities are required to be dealt with by firm hands otherwise builders/ colonisers would continue to build or construct beyond the sanctioned and approved plans and would still go scot-free. Ultimately, it is the flat owners who fall prey to such activities as the ultimate desire of a common man is to have a shelter of his own. Such unlawful constructions are definitely against the public interest and hazardous to the safety of occupiers and residents of multi-storeyed buildings. To some extent both parties can be said to be equally responsible for this. Still the greater loss would be of those flat owners whose flats are to be demolished as compared to the builder.”

The Court lamented that the earlier decisions on the subject had not resulted in enhancing compliance by developers with building regulations. Further, the Court noted that if unauthorised constructions were allowed to stand or are “given a seal of approval by Court”, it was bound to affect the public at large. It also noted that the jurisdiction and power of courts to indemnify citizens who are affected by an unauthorised construction erected by a developer could be utilised to compensate ordinary citizens.

166. In *[Esha Ekta Apartments Coop. Housing Society Ltd. v. Municipal Corpn. of Mumbai]*, (2013) 5 SCC 357 : (2013) 3 SCC (Civ) 89], G.S. Singhvi, J., writing for a two-Judge Bench, reiterated the earlier decisions on this subject and observed : (SCC p. 369, para 8)

“8. At the outset, we would like to observe that by rejecting the prayer for regularisation of the floors constructed in wanton violation of the sanctioned plan, the Deputy Chief Engineer and the appellate authority have demonstrated their determination to ensure planned development of the commercial capital of the country and the orders passed by them have given a hope to the lawabiding citizens that someone in the hierarchy of administration will not allow unscrupulous developers/builders to take law into their hands and get away with it.”

167. The Court further observed that an unauthorised construction destroys the concept of planned development, and places an unbearable burden on basic amenities provided by public authorities. The Court held that it was imperative for the public authority to not only demolish such

constructions but also to impose a penalty on the wrongdoers involved. This lament of this Court, over the brazen violation of building regulations by developers acting in collusion with planning bodies, was brought to the forefront when the Court prefaced its judgment with the following observations : (Esha Ekta Apartments case [Esha Ekta Apartments Coop. Housing Society Ltd. v. Municipal Corpn. of Mumbai, (2013) 5 SCC 357 : (2013) 3 SCC (Civ) 89], SCC p. 363, para 1)

“1. In the last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the cities, big or small, and those entrusted with the task of ensuring implementation of the master plan, etc. have miserably failed to perform their duties. It is highly regrettable that this is so despite the fact that this Court has, keeping in view the imperatives of preserving the ecology and environment of the area and protecting the rights of the citizens, repeatedly cautioned the authorities concerned against arbitrary regularisation of illegal constructions by way of compounding and otherwise.”

168. Finally, the Court also observed that no case has been made out for directing the municipal corporation to regularise a construction which has been made in violation of the sanctioned plan and cautioned against doing so. In that context, it held : (Esha Ekta Apartments case [Esha Ekta Apartments Coop. Housing Society Ltd. v. Municipal Corpn. of Mumbai, (2013) 5 SCC 357 : (2013) 3 SCC (Civ) 89], SCC pp. 394-95, para 56)

“56. ... We would like to reiterate that no authority administering municipal laws and other similar laws can encourage violation of the sanctioned plan. The courts are also expected to refrain from exercising equitable jurisdiction for regularisation of illegal and unauthorised constructions else it would encourage violators of the planning laws and destroy the very idea and concept of planned development of urban as well as rural areas.”

169. These concerns have been reiterated in the more recent decisions of this Court in Kerala State Coastal Zone Management Authority v. State of Kerala, (2019) 7 SCC 248], [Kerala State Coastal Zone Management Authority v. Maradu Municipality, (2021) 16 SCC 822 : 2018 SCC OnLine SC 3352] and [Bikram Chatterji v. Union of India, (2019) 19 SCC 161].”

21. In P.Venkateshwarlu and another vs. Government of Andhra Pradesh, Rep. by Secretary, Municipal Administration and others¹² when similar issues came up for consideration, the Hon’ble Division Bench of this Court, while following the various

¹² 2023 (6) ALT 217



judgments of the Hon'ble Apex Court, directed the authorities concerned to bring down the constructions inconformity with the sanctioned plan.

22. It is the specific contention of the petitioners that the respondents had no authority to revise the layout sanctioned vide Permit No.2755/Final/Layout/CDA/2002, dated 23.08.2004, after a lapse of ten years, by adjusting the open areas in Sy.No.31 of Gachibowli Village with the lands situated in Sy.No.32, which did not form part of the original final layout. A perusal of the material on record reveals that the respondents, under the guise of such adjustments, revised the final layout and altered the existing survey numbers, which amounts to exceeding their statutory powers and constitutes sheer abuse of provisions of the HMDA Act and condition No.12 of the final layout approval dated 23.08.2004. Respondent Nos.1 and 2, while revising the layout, failed to consider that, through the execution of registered sale deeds in favour of the petitioners, certain rights were conferred on the members of the Association in respect of lands in Sy.No.31. Any attempt to relinquish such rights by adjusting lands with Sy.No.32, clearly amounts to depriving the members of the Association of their accrued rights. Moreover, the respondents, while contending that the villas purchased by the petitioners do not form part of the gated



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community, ought not have curtailed the rights of those entitled to access and use the parks and amenity areas as per the sanctioned layout dated 23.08.2004. A careful comparison of the final layout (Permit No.2755/Final/Layout/CDA/2002 dated 23.08.2004) and the revised layout (Permit No.2755/Layout/CDA/Plg/HMDA/2002 dated 26.04.2013), placed before this Court, would show that there is change in the amenities area with the adjacent lands in Sy.No.32 and it is clear from the said layout plan that only to facilitate the respondent Nos.3 and 4 the revised layout was sanctioned modifying the extent of the park area/amenities area in Sy.No.31.

23. In the case of ***M.P.Housing and Infrastructure Development Board and another vs. Vijay Bodana and others*** (supra), the Hon'ble Apex Court observed as under:

"12. During the course of hearing before us, the appellant-board had produced the original layout plan of Indira Nagar in which the land in question was shown as reserved for a major shopping complex. Adjacent to this land is the land earmarked for a primary school. There are areas earmarked for a park/garden. Therefore, while we allow the present appeal and uphold the modification of the layout plan, we deem it proper to direct the appellant-board and the authorities to ensure that the areas/land earmarked for the primary school and park/garden are not converted into residential plots. We also direct the appellant-board and respondent authorities not to allot and sell any unsold residential plots. These plots which are yet to be sold would be utilised for general public amenities like park, garden, playground etc. The appellant-board and the authorities would act accordingly."

24. A careful examination of the various judgments referred supra reiterate the principle that once a layout has been approved, any subsequent revision, even if permissible under the statute is strictly



limited to those portions of land that are not earmarked for schools, parks, gardens, amenities, open spaces, or lung spaces. Any revision contrary to this would not only amount to destroying the ecological and environmental balance of the area but also infringes the rights of *bona fide* purchasers who acquired their properties based on the original approved layout. In the present case, the respondent Nos.1 and 2 instead of making use of the land for which it was reserved, have modified the earlier approved plan. On equitable principle, the petitioners are entitled to reliefs even if there is delay in filing the Writ Petitions. As a matter of fact, the petitioners have explained the circumstances under which they have invoked the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India. Since the petitioners have been successful in establishing the legal malice against the respondents in revising the layout sanctioned vide Proceedings dated 23.08.2004 after the large extent of plots in the layout were sold in favour of members of the Association, this Court is of the opinion that the perpetual illegal action causing substantial injustice to the petitioners is required to be remedied by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India. If the action of the respondents in revising the final layout is approved, it will open pandora's box for multiple litigations and cause hardship to the innocent citizens. The said acts ~~must~~ not be encouraged and should be nipped in the bud.



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Therefore, the respondents cannot contend that the present writ petitioners have approached this Court with inordinate delay and the writ petitions have to be dismissed on the ground of delay of laches, when the final layout sanctioned in the year 2004 was revised in the year 2013 and consequential permits were granted vide Permit No.2755/Layout/CDA/PLG/HMDA/2002, dated 26.04.2013 and permit No.39591/HO/WZ/Cir.-11/2015, dated 20.01.2015 in File No.B/429/TPS/TP-11/GHMC/2014 and Revised Permit No.53374/HO/WZ/Cir-11/2016 dated 03.11.2017 in File No.117404/21/02/2017/HC/29 and admittedly, the alterations took place in the year 2020 and impugned order rejecting the petitioners claim was passed on 09.01.2023. Further, the respondents failed to consider the impact of the revised layout on the rights of the petitioners/Members of the Association, as well as the consequential repercussions on the validity of their property rights. Such action amounts to violation of systematic and planned building regulations. Hence, the writ petitions deserve to be allowed. In view of the misdeeds committed by respondent Nos.1 and 2, in collusion with respondent Nos.3 and 4, in revising the final layout and compelling the *bona fide* purchasers to run from pillar to post, imposition of appropriate costs on the respondents would serve the ends of justice.



25. For the aforesaid reasons, both the Writ Petitions are allowed. The revised layout Permit No.2755/Layout/CDA/PLG/HMDA/2002, dated 26.04.2013; Permit No.39591/HO/WZ/Cir-11/2015, dated 20.01.2015, in File No.B/429/TPS/TP-11/GHMC/2014; Revised Permit No.53374/HO/WZ/Cir-11/2016, dated 03.11.2017, in File No.117404/21/02/2017/HO/29; and the impugned order in Lr.No.117404/21/02/2017/HO/29, dated 09.01.2023, passed by respondent No.1, are set aside. Respondent Nos.1 and 2 are directed to bring the constructions inconformity with the original layout sanctioned under Permit No.2755/Final/Layout/CDA/2002, dated 23.08.2004, by following due process of law, within a period of three(03) months from the date of receipt of a copy of this order. Further, respondent Nos.1 and 2 are directed to pay costs of Rs.1,00,000/- (Rupees One Lakh only) each, and respondent Nos.3 and 4 are directed to pay Rs.2,00,000/- (Rupees Two Lakhs only) each to the Armed Forces Battle Casualties Welfare Fund (Account No.90552010165915, Canara Bank Ltd., South Block Defence Headquarters, New Delhi-110011, IFSC Code: CNRB0019055, within a period of four (04) weeks from today and copy of the Receipts shall be filed in the Registry.

Miscellaneous petitions, if any pending in these writ petitions shall stand closed. No order as to costs.

MEMORANDUM OF COSTS

W.P.Nos.3698 & 16595 of 2023

Rs. Ps.

Costs Quantified by Hon'ble Court (That the Respondent No.1 & 2 are directed to pay costs of Rs.1,00,000/- (Rupees One Lakh Only) each & Respondent No.3 & 4 are directed to pay costs of Rs.2,00,000/- (Rupees Two lakhs only) each to the Armed Forces Battle Casualties Welfare Fund (Account No.90552010165915, Canara Bank Ltd., South Block Defence Headquarters, New Delhi-110011, IFSC Code:-CNRB0019055, within a period of four (4) weeks from the date of order).

Respondent No.1- Rs.1,00,000/-
Respondent No.2- Rs.1,00,000/-
Respondent No.3- Rs.2,00,000/-
Respondent No.4- Rs.2,00,000/-

6,00,000-00

TOTAL

6,00,000-00

**SD/-P.PONNA KRISHNA
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Chief Commissioner, Greater Hyderabad Municipal Corporation, Office of the Commissioner, Town Planning Section, HO GHMC, Tank Bund, Hyderabad
2. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority, District Commercial Complex, Administrative L-Block, Tarnaka, Hyderabad
3. The Authorized Signatory, Sri B.S.Reddy, M/s. Patel Engineering Limited, a registered company, Having its Registered Office at Patel Estate Road, Jogeshwari (West), Mumbai-400015 and branch at H.No.6-3-635, Akash Ganga, 4th Floor, Khairatabad, Hyderabad.
4. The Authorized Signatory, Sri Vineet Aggarwal, M/s. P.B.S.R. Developers Private Limited, Having its Registered Office at 8-2-293/82/A/76, First Floor, Road No.9A, Jubilee Hills, Hyderabad-500033.
5. One CC to SRI T.SHARATH, Advocate [OPUC]
6. One CC to SRI M.SRINIVAS, Advocate [OPUC]
7. One CC to SRI DUVVA PAVAN KUMAR, Advocate [OPUC]
8. One CC to SRI M.A.K.MUKHEED, SC FOR GHMC [OPUC]
9. One CC to SRI V.NARASIMHA GOUD, SC FOR HMDA [OPUC]
10. Two CD Copies

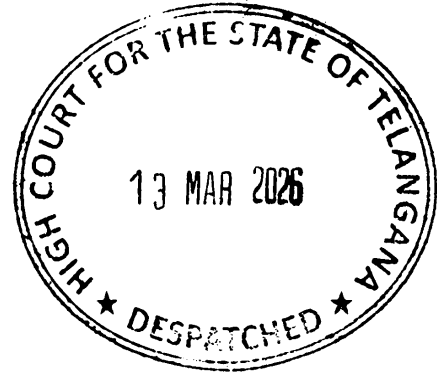
BSR
GJP



2025:TSHC:54512

HIGH COURT

DATED: 09/06/2025



COMMON ORDER

WP.Nos.3698 & 16595 of 2023

**ALLOWING BOTH THE WRIT PETITIONS,
WITH COSTS**

(12) JKS
12/3/26