

**KACHWALA MISAR & CO.**

Advocates & Solicitors

309, 3rd Floor, Sardar Griha Building, Opp. Office of Commissioner of Police, L. T. Marg, Mumbai-400 002.

Tel. : +91-22 6464 6052 E-mail : kachwalamisar@gmail.com

**MUSTAFA KACHWALA  
RAKESH V. MISAR**

---

To,

**MESSRS HARASIDDH DEVELOPERS.**

501, Rutu Business Park, Service Road,  
Off. L.B.S. Road,  
Thane (West) - 400601.

Dear Sirs,

Under your instructions we have investigated your development rights and title to the property more particularly described in the First and Second Schedule hereunder written by perusing the documents sent to us as hereunder mentioned and have to report as under:

1. We have taken requisite search in the office of the Sub-registrar of Assurances at Thane for the period of last 30 years i.e. from 1986 to 2016, pertaining to the property described in the First and Second Schedule mentioned hereunder.

2. We have given public notices in the daily newspapers 'The Free Press Journal' in English language published from Mumbai and 'Janadesh' in Marathi language published from Thane both issue dated March 09, 2016, inviting claims to the property described in the First and Second Schedule mentioned hereunder and have received no claims in respect of the said property.

3. It appears that:

- (i) Smt. Mandakini Jagdish Nanavati and another (hereinafter referred to as 'the First Original Owners') were seized and possessed of and otherwise well and sufficiently entitled to the land bearing Survey Nos. 168, 169, 170/1 admeasuring 57,880 square meters situated at Village Kavesar, Taluka and

District Thane, in the State of Maharashtra (hereinafter referred to as 'the First Property').

- (ii) Shri Abdul Kadir Shaikh Mohammed Warekar and others (hereinafter referred to as 'the Second Original Owners') were seized and possessed of and otherwise well and sufficiently entitled to the land bearing Survey No. 170/2 admeasuring 36,400 square meters situated at Village Kavesar, Taluka and District Thane, in the State of Maharashtra.
- (iii) By an Agreement for Sale dated March 14, 1988, registered with the Sub-registrar of Assurances at Thane under Sr. No. 1881, Shri. Abdul Kadir Shaikh Mohammed Warekar and others have agreed to sell to M/s. Shanan Estates and Investments Pvt. Ltd., the land bearing Survey Nos. 170 Hissa (part) admeasuring 36,827.07 square meters situated at Village Kavesar, Taluka and District Thane, for the consideration and on the terms and condition therein contained.
- (iv) By a Development Agreement dated November 08, 2002, registered with the Sub-registrar of Assurances at Thane under serial No. 5876 of 2002, M/s. Shanan Estates and Investments Pvt. Ltd. have agreed to give to M/s. Shree Sai Enterprises (hereinafter referred to as 'the First Developers') the development rights in respect of land bearing Survey nos. 170 Hissa (part) admeasuring 36,827.07 square meters situated at Village Kavesar, Taluka and District Thane, for the consideration and on the terms and condition therein contained.

*R*



- (v) By an Agreement for Development dated January 30, 2003, registered with the Sub-registrar of Assurances at Thane under Serial No. 675 of 2003, Shri Bharat Chandulal Nanavati of the First Original Owners have agreed to give to M/s. Shiv Sai Developers (hereinafter referred to as 'the Second Developers') the development rights in respect of 90% of undivided right in land bearing Survey Nos. 168, 169 and 170 (part) admeasuring totally 57,880 square meters situated at Village Kavesar, Taluka and District Thane, which includes the First Property being land bearing Survey No. 170/1 admeasuring 42,500 square meters, for the consideration and on the terms and condition therein contained.
- (vi) By an Agreement for Development dated February 04, 2003, registered with the Sub-registrar of Assurances at Thane under Serial No. 757 of 2003, Thakkar Land Development Corporation as the owners and Smt. Mandakini Jagdish Nanavati of the First Original Owners, as the Confirming party, have agreed to give to the Second Developers i.e. M/s. Shiv Sai Developers, the development rights in respect of 10% of undivided right in land bearing Survey Nos. 168, 169 and 170 (part) admeasuring totally 57,880 square meters situated at Village Kavesar, Taluka and District Thane, which includes the First Property being land bearing Survey No. 170/1 admeasuring 42,500 square meters, for the consideration and on the terms and condition therein contained.
- (vii) The Said First and Second Developers and one Messrs Darshan Enterprises (entitled to the development rights in respect of the property bearing Survey Nos. 166/29

admeasuring 1000 square meters and bearing Survey No. 166/31 admeasuring 2100 square meters of Village Kavesar, Taluka and District Thane,) have vide V.P. No. 2003/24 issued by the Thane Municipal Corporation, obtained an order of amalgamation of all the three properties aforesated and for the sub-division of the said amalgamated properties into Plots A, B, C, D and E;

(viii) The Plots were sub-divided and as per the sanctioned layout, the Plot D aforesated comprised of two parts:

**Part - I** admeasuring 31,475 square meters being the areas part of which are freely developable without restriction and/or permissible /retainable land under the Urban Land Ceiling Act, and the areas for which the N.O.C. for development under the provisions of Section 20 of the Urban Land Ceiling and Regulation act have been obtained.

And

**Part - II** admeasuring 10,550 square meters out of properties of the Second Original Owners which at the time was declared as surplus vacant land to be surrendered to the Government under the provisions of U. L. (C & R) Act, 1976.

And

Plot E admeasuring 4,945.59 square meters (comprising parts of the properties described in the first and Second Schedules hereunder).

(ix) By an Agreement for Development dated June 18, 2004, registered with the Sub-registrar of Assurances at Thane under Serial No. 4569 of 2004, made and entered into between the First and Second Developers (therein and



hereinafter referred to as 'the Developers') on the one hand and the said Darshan Enterprises (therein referred to as the Confirming Party) and Yourselves (therein referred to as the Sub-Developers) on the other hand, the Developers have agreed to give you development rights in respect of part of amalgamated properties being:

1) Part - I of Plot D aforesated admeasuring 31,475 square meters with the benefit of full available F.S.I in respect thereof, which property is more particularly described in the Fourth Schedule thereunder as well as comprising of the First Schedule hereunder written;

And

2) Plot - E aforesated admeasuring 4,945.59 square meters with the benefit of full permissible F. S. I in respect thereof, which property is more particularly described in the Fifth Schedule thereunder as well as comprising of the First Schedule hereunder written.

3) And the additional F.S.I. area in lieu of the handing over the D. P. Road area admeasuring 11,478 square meters to be consumed by you on the above sub plots.

(x) After the execution of the aforesated Development Agreement, the First and /or Second Developers for and on behalf of the Second Original Owner, applied to the state Government for the repurchase/release of the said excess vacant land admeasuring 10,546 square meters (Part II of Plot D heretofore stated), which had vested in the Government under the Provisions of the U. L. (C & R) Act, 1976 and subsequently obtained permission *vide* letter No. 2024/251/ULC-3/ dated

July 6, 2004, addressed by the State Government to the Additional Collector and Competent Authority, U. L. C Thane, to release/revest and sell the said property being Part - II of Plot D on payment of the market value thereof. Accordingly the Additional Collector and Competent Authority U. L. C. Thane by letter No. ULC / TA/TP/SEC-20/sr-1362 dated July 12, 2004 directed the Second Original Owners to pay Rs. 88,27,002/- (Rupees Eighty Eight Lakhs Twenty Seven Thousand and Two only), as per the prevailing market value before releasing/reverting the said property admeasuring 10,546 square meters as aforesaid. The entire consideration amount of Rs. 88,27,002/- has been paid by Yourselves (for and on behalf of the Second Original Owners) to the Additional Collector and Competent Authority U. L. C. Thane, by Pay Order No. 041120 dated July 22, 2004 drawn on Standard Chartered Bank. In pursuance of the said payment made by you, the Additional Collector and Competent Authority ULC, Thane has by it letter date July 27, 2004 put you in possession of the said property.

- (xi) By an Agreement for Development dated August 27, 2004, registered with the Sub-registrar of Assurances at Thane under Serial No. 6258 of 2004, made and entered into between the First and Second Developers (therein and hereinafter referred to as 'the Developers') on the one hand and the said Darshan Enterprises (therein referred to as the Confirming Party) and Yourselves (therein referred to as the Sub-Developers) on the other hand, the said First and Second Developers have agreed to give development rights in respect of the excess vacant land mentioned above i.e. Plot D Part II

*R...*



aforestated, more particularly described in the Fourth Schedule thereunder and second Schedule hereunder written.

- (xii) An area admeasuring 53,217.00 square meters out of Survey Nos. 170(1) and 170(2) Part, Village Kavesar, District Thane of which the development rights are acquired by Yourselves were affected by the notice issued under the provisions of Section 35(3) of the Indian Forest Act, 1927 and the provisions of Maharashtra Private Forests (Acquisition) Act, 1975. Accordingly, the Tahsildar, Thane made mutation entry No. 2195 and in pursuance thereof the 7/12 extracts, in respect of the above referred property, was changed by deleting the names of the owners and the words 'reserved forest of Government of Maharashtra' were inserted.
- (xiii) The Hon'ble Supreme Court, India, by a common judgment pronounced on January 30, 2014, in the Godrej and Boyce matter Civil Appeal No. 1102 of 2014 arising out of SLP No. 10677 of 2008 and other similar Civil appeals arising out of the various connected Forest Special Leave Petitions has allowed all the appeals and applications for impleadment/intervention. The Hon'ble Supreme Court held that the notice issued in the year 1957 under Section 35(3) of the Indian Forest Act had become ineffective as no follow up action was taken by the State Government within a reasonable time and therefore the lands cannot be deemed to be private forest.
- (xiv) By an order dated March 16, 2015 the Sub Divisional Officer, Thane cancelled the mutation entry No. 2195. As a result, by Mutation Entry No. 3138 dated March 20, 2015 the entry



against the said property "Government of Maharashtra Forest Land" stood deleted.

4. Subject to what is heretofore stated and obtaining and complying with all requisite permissions and clearances required in law for the development of the said property from the Thane Municipal Corporation, and compliance with the terms of the agreements and writings heretofore stated, you are entitled to develop the said property described in the First and Second Schedule hereunder written to the extent and in accordance with the terms and conditions set out in the said two development agreements dated June 18, 2004 and August 27, 2004 and to sell the flats and premises therein on ownership basis with good and marketable title.

**THE FIRST SCHEDULE ABOVE REFERRED TO:**

A. ALL that piece or parcel of land admeasuring 31,475 square meters or thereabouts, being Part I of Plot D admeasuring 42,050 square meters or thereabouts, as per the sanctioned layout under V.P. 2003/24 dated March 12, 2004, by the Thane Municipal Corporation, situated at Village Kavesar, Taluka and District Thane, and in the Registration District of Thane and within the municipal limits of Thane Municipal Corporation and comprising as follows:-

Survey No. 169	2,840.48 square meters
Survey No. 170 (part)	6,209.76 square meters
Survey No. 170 (part)	22,424.76 square meters
<b>Total</b>	<b>31,475.00 square meters</b>

*R*



B. ALL that piece or parcel of land admeasuring 4,945.59 square meters or thereabouts, being Plot E, as per the proposed layout under V.P. 2003/24, by the Thane Municipal Corporation, situated at Village Kavesar, Taluka and District Thane, and in the Registration District of Thane and within the municipal limits of Thane Municipal Corporation and comprising as follows:-

Survey No. 169	1,812.65 square meters
Survey No. 170 (part)	3,132.94 square meters
<b>Total</b>	<b>4,945.59 square meters</b>

C. And the additional F.S.I. area in lieu of the handing over the D. P. Road area admeasuring 11,478 sq.mts. to be consumed by you on the above sub plots.

**THE SECOND SCHEDULE ABOVE REFERRED TO:**

ALL that piece or parcel of land admeasuring 10,546.00 square meters or thereabouts, being part II of Plot D, as per the amalgamated layout under V.P. 2003/2004, by the Thane Municipal Corporation, bearing Survey No. 170 (part) and situated at Village Kavesar, Taluka and District Thane, and in the Registration District of Thane and within the municipal limits of Thane Municipal Corporation.

Mumbai.

Dated this 8<sup>th</sup> day of April, 2016.



Partner  
**Kachwala Misar and Co.,**  
Advocates & Solicitors.