

**Office :**

3<sup>rd</sup> Floor, Basilius,  
Rodas Enclave, Hiranandani Estate,  
Near Commissioner Bungalow,  
Ghod Bunder Road, Patlipada,  
Thane (W) – 400 607.

① 2530 8032

**S.M. KARNIK**

B. A. LL.B

**ADVOCATE**

(Enrollment No. MAH/1569/1985)

**AJAY YADAV**

B.Com. LL.B.

**ADVOCATE**

(Enrollment No. MAH/4008/2011)

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**TO WHOMSOEVER IT MAY CONCERN**

**Property/Land Ref.:** All that piece and parcel of N. A. land or ground situate, lying and being at Revenue Village Kolshet, Taluka and District Thane, within the limits of Thane Municipal Corporation, and in the Registration District and Sub-District of Thane bearing Survey/Hissa Nos. 173/2, 174/4 and 179/1 and all that piece and parcel of agricultural plot of land or ground situate lying and being at Revenue Village Kolshet, Taluka and District Thane within the limits of Thane Municipal Corporation and in Registration District and Sub-District of Thane and bearing Survey/Hissa No. 173/3.

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1. The search of the Index II of the above referred land has been taken by us with help of Shri. Suresh S. Shewale (Search Clerk) in the office of Sub-Registrar of Assurances at Thane from 1988 to 29.05.2017. It is found in the said search that the transactions have taken place in respect of the above referred land together with the other properties of the owners as mentioned in the respective Search Reports, observed Notice of Lis Pendence has been registered below Document No. 2998/2014 in the office of the Sub-Registrar of Assurances, Thane-9 interalia in respect of land bearing Survey/Hissa No. 173/3, out of the lands above referred to executed by Nikhil Rasiklal Makhecha. Another Notice of Lis Pendence has been registered below Document No. 7839/2010 in the office of the Sub-Registrar of Assurances, Thane-2 interalia in respect of land bearing Survey/Hissa No. 174/4, out of the lands above referred to executed by Chandrakant Gopal Desale.



2. That the piece and parcel of land bearing Survey/Hissa No. **173/3** of Village- Kolshet owned by Rajesh Anilkumar Makhecha and others (hereinafter referred to as the said First Owners), Survey/Hissa No. **173/2 and 179/1** of Village- Kolshet owned by Dhan Sorabji Kharas and others (hereinafter referred to as the said Second Owners), Survey/Hissa No. **174/4** of Village – Kolshet owned by Eruch Burjorji Patel and others (hereinafter referred to as the said Third Owners).

3. a) One Shri. Dwarkadas Ratanshi Shet originally was interalia owned of land bearing Survey/Hissa No. **173/3** out of the lands above referred to.

b) The said Dwarkadas expired on **31.01.1958**; before demise, the said Dwarkadas bequeathed all lands including the land bearing Survey/Hissa No. **173/3** out of the lands above referred to, to Smt. Premkuwarbai Dwarkadas Thakkar by Will dated **21.01.1958**.

c) The said Smt. Premkuwarbai Dwarkadas died intestate as on 16.08.1967 leaving behind her legal heirs, married daughters 1) Smt. Kanta Rasiklal Makhecha, 2) Smt. Yesumati Anilkumar Makhecha, 3) Smt. Shobha Suresh Makhecha (M.E.No. 1168) who inherited interalia land bearing Survey/Hissa No. **173/3** out of the lands above referred to, of the said Premkuwarbai.

d) Shri. Rajesh Anilkumar Makhecha and Shri Anilkumar Karsandas Makhecha inherited interalia land bearing Survey/Hissa No. **173/3** of Village Kolshet for undivided shares of Smt. Yesumati Anilkumar Makhecha, who died intestate on **14.12.1971** (M.E.No.1316).



e) That by and under the Development Agreement dated **12.12.1999** duly registered with the Sub – Register of Assurances Thane -1 under serial No. **1276/2000** on **25.02.2000** executed by Smt. Kanta Rasiklal Makhecha for her undivided 1/3<sup>rd</sup> shares, interalia, in respect of lands mentioned therein including the land bearing Survey/Hissa No. **173/3** out of the lands above referred to in favour of Roma Builders Pvt. Ltd., a Company registered and incorporated under the Companies Act, 1956, having it's office at – 514, Dalamal Towers, Nariman Point, Mumbai – 400 021 (**the Developers**), further by and under another Development Agreement dated **24.11.1999** registered together with a Declaration dated **06.07.2001** duly sworn by Mr. Niranjan L. Hiranandani with Sub-Registrar of Assurances, Thane – 1 under Sr. No. **3776/2001** on **06.07.2001** executed by Smt. Shobha Suresh Mahkecha for her undivided 1/3<sup>rd</sup> shares, interalia, in respect of Survey/Hissa No. **173/3** out of the land referred above to in favour of the Developers, further by and under the Development Agreement dated **31.10.2000** registered together with a Declaration dated **06.07.2001** duly sworn by Mr. Niranjan L. Hiranandani with Sub-Registrar of Assurances, Thane – 1 under Sr. No. **3777/2001** on **06.07.2001** executed by Shri. Anilkumar K. Makhecha and Mr. Rajesh Anilkumar Makhecha for their collective undivided 1/3<sup>rd</sup> shares, interalia, in respect of the land bearing Survey/Hissa No. **173/3** in favour of the Developers, further, by an Agreement for Sale dated **07.04.2011** duly registered with the Sub – Register of Assurances Thane -5 under serial No. **3141/2011** on **07.04.2011** executed by the said Shri. Anilkumar K. Makhecha and Shri. Rajesh Kumar Makhecha in favour of the Developers, interalia, in respect of Survey/ Hissa No. **173/3** by agreeing to sell, convey and assign 1/3<sup>rd</sup> undivided shares therein to the Developers, in pursuance of the diverse Agreements referred as aforesaid in support thereof the co-owners executed registered/notarized irrevocable Power of Attorney/s dated 25.02.2000, 22.06.2001, 31.10.2000 and 07.04.2011 respectively interalia allowing, authorizing the attorney/s i.e. the nominees of the Developers to do, perform and



carry out various acts, deeds, matters, things privileges, rights and authorities which are in details contained therein.

4. By and under Development Agreement dated 27.08.1987, Smt. Bhikhoo Sorabji Kharas, Shri. Pravin H. Nanavati, Shri. Kanchan H. Nanavati and Shri. Eric Sorabji Kharas i.e. the said Second Owners, during their life - time transferred and assigned their right, title and interest interalia the land bearing Survey/Hissa No. 173/2 and 179/1 out of the lands above referred to, in favor of one M/s. Gandhi Patel and Agarwal Associates partnership firm having their office at: Gitanjalee, Opp. Civil Hospital, Tembhi Naka, Thane (W) (hereinafter referred to as the said First Firm). In pursuance with the Development Agreement dated 27.08.1987, the said Bhikhoo Sorabji Kharas and Shri. Niranjana Kanchanlal Nanavati executed Irrevocable Power of Attorney dated 19.02.1993 in favor of Shri. Devidas Koovarji Patel and Shri. Prabhudas Devram Thakkar, the partners of the said First Firm to do and perform various acts, duties etc. granted, transferred and assigned all their right, title and interest interalia in favor of the said First Firm. Further the said First firm by and under Development Agreement dated 18.02.2000 interalia in respect of land bearing Survey/Hissa No. 173/2 and 179/1 out of the land above referred to, registered with the Sub-Registrar of Assurances, Thane-1 under Sr. No. 1221/2000 as on 24.02.2000 executed, granted, assigned and transferred their rights, title and interest in favor of the Developers. In pursuance of the Development Agreement dated 18.02.2000 the said firm executed in favour of the nominees and assignees of the Developers Registered Power of Attorney dated 24.02.2000 allowing, authorizing the said Attorneys to do perform and carry out various acts, deeds, matters, things, privileges, rights and authorities which are in details contained therein.



5. a) That one Shri. Barjorji Hormasji Patel was the original owner and Shri. Sakharam Dadabhai was tenant of interalia land bearing Survey/Hissa No. 174/4 out of the lands above referred to (M.E.No.354).

b) By and under vide Taluka Hukum bearing No. TNC1/Cos 537 dated 14.05.1958 interalia in respect of land bearing Survey/Hissa No. 174/4 the name of Barjorji Hormasji recorded as cultivator and the name of Kul/Tenant deleted therefrom (M.E.No. 454).

c) By and under Taluka order bearing No. RTS SR1354 dated 27.02.1958 interalia in respect of land bearing 174/4, Kabuli Jabab given by the said Barjorji Hormasji Patel, the name of his nephew Naushir Manikji Patel recorded to the lands including the land bearing Survey/Hissa No. 174/4 out of the lands above referred to (M.E.No. 473).

d) By and under Taluka Hukum No. RTS SR2443 dated 26.07.1960 together with Prant-Saheb Hukum No. RTS 2283 dated 25.07.1960, by an application preferred by Barjorji Horamasji the lands including Survey/Hissa No. 174/4 recorded in the name of Naushir Manikji Patel transferred and recorded in the name of Barjorji Horamasji Patel (M.E.No. 492).

e) The said Barjorji Horamasji Patel died on 18.06.1962, leaving, behind him wife Khorshedbai Barjorji Patel, son Eruch Barjorji Patel and daughter Nargis Barjorji Patel (M.E.No.748).

f) The said Smt. Khorshedbai Barjorji Patel died on 22.10.1990 leaving behind to her son 1) Shri. Eruch Barjorji Patel, daughters 2) Naju Barjorji Patel, 3) Roshan Barjorji Patel, 4) Nargis Barjorji Patel (M.E.No. 2380).





g) By and under the Development Agreement dated 24.12.2004 registered with the Sub-Registrar of Assurances, Thane-5 under Serial No. 2030/2005 on 10.03.2005, executed by Eruch Burjorji Patel and others i.e. the said **Third Owners** through their Attorney Shri. Sadashiv Sakharam Patil and confirmed by attorney's heirs Smt. Shantabai Sadashiv Patil and others, in favour of the Developers, granted the development rights in favor of the developers in respect of land bearing Survey/ Hissa No. 174/4 out of the lands above referred to. In pursuance of the said Development Agreement dated 24.12.2004 **the said Third Owners**, through their attorney executed Power of Attorney dated 10.03.2005, interalia allowing, authorizing the nominees and assignees of the Developers to do perform and carry out various acts, deeds, matters, things privileges, rights and authorities which are in details contained therein.

6. In view thereof, we record that the Developers are fully, freely authorized and entitled to deal with and dispose of the Development on the above referred land (constructed and/or otherwise) in the manner and for the consideration and upon the terms and conditions as the Developers may think fit, proper and to receive, recover and appropriate the consideration and all other benefits on terms of such sale and transfer.

7. On investigating the documents made available to us for inspection from the Developers including various NOC's under the Maharashtra Land Revenue Code 1966, Urban Land (Ceiling and Regulation) Act, 1976 (since repealed), revenue records and search reports, and further we have gone through non-agricultural permission bearing No. Sr Revenue/K-1/T-1/NAP/SR-179/05 dated 03.03.2006 granted by the Collector of Thane interalia for land bearing Survey/Hissa No. 173/2, 179/1 and 174/4 out of the land above referred to, further I/we have gone through 'Public Notice' dated 29.05.2006 in daily 'Thane Vaibhav' published by Sub - Divisional Officer, Thane, Division - Thane wherein given

property description interalia, village – Kolshet/Kavesar, wherein mentioned about acquisition of the land by the Govt. under Indian Forest Act 1927, and Maharashtra Private Forest Act 1975 for acquisition of the lands and letter dated 11.12.2012 issued by Range Forest Officer, Thane Forest Division, Thane, mentioned therein the lands excluding the lands above referred to, listed Survey Nos. of the Kolshet / Kavesar villages are deemed to be “Reserved Forests” as per the provisions of the Maharashtra Private Forest (Acquisition) Act, 1975.


8. It is observed by us that, Thane Municipal Corporation, Thane vide its amended Commencement Certificate vide V. P. No. S06/0063/2010/TMC/TDD/2137/17 dated 11.04.2017 sanctioned the building plans for construction of various buildings including a building popularly known as “**OBELIA B (Building No. 27)**” on the piece, parcel and portion of the land above referred to, Mrs. Sharmistha Mukerjee-Shinde, Architect has issued a certificate to that effect dated 29.05.2017. However we have been informed by the representatives of the Developers that the Developers have an intention thus have preferred an application to the Government to incorporate interalia the lands above referred to in the Spl. Township Project being developing by the Developers at Villages Kolshet and Kavesar, Taluka Thane and within the limits of the Thane Municipal Corporation to which vide Notification No. TPS-1204/Thane/DP/DCR/UD-12 dated 25<sup>th</sup> May 2006 issued u/s 37(2) of Maharashtra Regional and Town Planning Act, 1966, The Government of Maharashtra, Urban Development Dept., Mantralaya, Mumbai 400 032 has implemented and sanctioned regulations mentioned therein for development of Special Township Project in the area under the Thane Municipal Corporation, further the Govt. of Maharashtra through its competent authorities have granted the Locational Clearance bearing order nos. TPS-1206/2682/CR-97/07/UD-12 dated 4<sup>th</sup> March 2009 and TPS-1206/2682/CR-97/07/UD-12 dated 7<sup>th</sup> August



2009 issued by Section officer of Urban Development Department, Mantralaya, Mumbai, for implementing Special Township Scheme thereon, thus the Developers have applied to Govt. for grant and sanction/approval of additional / amended Locational Clearance and include the lands aforesaid mentioned in the aforesaid Locational Clearances, and the sanction of the same is in process.

9. Further, I/we have gone through Regular Civil Suit No. 587/2011 filed by one Shri. Premnath Vitthal Shelke and others in the Court of Hon'ble Civil Judge (Junior Division), Thane at Thane interalia in respect of the land bearing Survey/Hissa Nos. 173/2, 173/3, 174/4 and 179/1 above referred to against the Developers claiming declaration and praying for permanent prohibitory injunction along with preferring ad-interim relief prayed therein, however, we find that till this date no final or interim order/s have been passed against the Developers by the Hon'ble Court in the Suit No. 587/2011.

Further, I/we have gone through Spl.Civil Suit No. 257/2014 filed by one Nikhil Makhecha in the Court of Hon'ble Civil Judge (Senior Division), Thane at Thane against the **Developers** interalia in respect of Survey/Hissa No. 173/3 out of the land above referred to for relief of Declaration, Cancellation and Injunction, wherein the Hon'ble Court passed an injunction order allowing an application preferred by the said Nikhil Makhecha against the **Developers** restraining the **Developers** from alienating the suit property till the decision of the suit, not to hand over the possession and not to make any development or construction; being aggrieved by the said order, the **Developers** had filed an A.O. being No. 816/2014 before the Hon'ble High Court, Judicature at Bombay, which has been allowed by the Hon'ble High Court Justice Shri. Tated by disposing off the said A.O. in favor of the Developers by allowing to carry out further construction etc., being aggrieved by the said order Nikhil Makhecha preferred a Special Leave Petition no. 14457 of 2015 before the





Hon'ble Supreme Court Of India, which was dismissed for lack of legal and valid grounds by the Hon'ble Supreme Court of India vide its order dated 15/05/2015; the said Spl. Civil Suit No. 257/2014 is pending for final hearing in the file of Hon'ble Civil Judge (Senior Division) Thane at Thane; also Nikhil Makhecha have filed Miscellaneous Application No. 14 of 2015 in the Civil Court (Senior Division Division) Thane against the Developers interalia in respect of Survey/Hissa No. 173/3 out of the land above referred to under the provisions of order XXXIX Rule 2(A) read with rule 11 as well as section 151 of CPC 1908 and same is pending for final hearing.

Further I/we have gone through various litigation that one Chandrakant Gopal Desale has filed Spl. Civil Suit No. 217/10 in the Court of Hon'ble Civil Judge (S.D.) Thane at Thane against Sadashiv Sakharam Patil & others including the Developers interalia in respect of Survey/Hissa No. 174/4 for the relief of declaration and injunction. However, Injunction application was allowed by the Hon'ble Court on 23.11.2010. Being aggrieved by the order all the Defendants including the Developers filed various appeals from order in High Court of Bombay. However in the Appeals from order bearing No. 265/2011, 274/2011, 518/2011 and 792/2011, Hon'ble High Court in its order dated 06.09.2011, set aside the order passed by the Hon'ble Civil Judge (S.D.) Thane, by vacating the injunction order. Aggrieved by the said order, the said Chandrakant Gopal Desale preferred Special Leave to Appeal (Civil) Nos. 26957-26960/2011 before the Hon'ble Supreme Court of India, the Hon'ble Supreme Court confirmed the order passed by the Hon'ble High Court and dismissed the petition on 23.09.2011, the said Special Civil Suit No. 217/2010 is pending for final hearing.

Further, the Developers have filed Spl. Civil Suit No. 552/2014 before the Hon'ble Civil Judge (S.D.) Thane at Thane against Eruch B. Patel and others interalia in respect of Survey / Hissa No. 174/4 for the relief of declaration and such other reliefs, together with

preferring an 'Injunction Application', however, no interim or ad-interim order is passed therein and the suit is pending for further hearing. That, upon Eruch B. Patel wrote a letter to the Chief Minister of Maharashtra stating that the Power of Attorney issued by Khorshed Barjorji Patel and others interalia in respect of Survey/Hissa No. 174/4 in favour of Sadashiv S. Patil has been misused. Taking cognizance of the letter the Govt. of Maharashtra through the Collector, Thane has filed the RTS Appeal being No. 15/2016 in the Court of Sub-Divisional Officer at Thane by issuing notices to against Khorshed B. Patel and others including the Developer. The said RTS Appeal is pending for hearing.

Further, I/we have gone through Reg. Civil Suit No. 61/2013 filed by Shri. Premnath Vitthal Shelke and others in the Court of the Hon'ble Civil Judge (Junior Division), Thane at Thane interalia in respect of Survey/Hissa No. 174/4 against the Developers and others praying for declaration, to declare him owner by way of adverse possession along with preferring ad-interim relief prayed therein, however, I/we find that till this date no final or interim order/s have been passed against the Developers by the Hon'ble Court in the Regular Civil Suit No. 61/2013 and same is pending for further hearing.

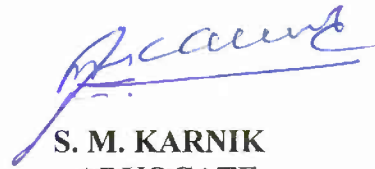
Further one Smt. Savitribai Hiraji Daki had filed a Tenancy Appeal No. 186/2016 against Bhalchandra Ramchandra Manera and 2 others in the Court of Sub-Divisional Office, Thane Division at Thane in respect of Survey/Hissa No. 179/1 out of the land above referred to against the order dated 01.12.2005 passed by the Tahsildar, Thane in case no. 70(B)/23/2005 filed u/s. 70B of BT & AL Act, 1948, wherein the Developers had filed an Application praying for joining Party Respondent in the Appeal and the Application was allowed and the matter is pending for further hearing.

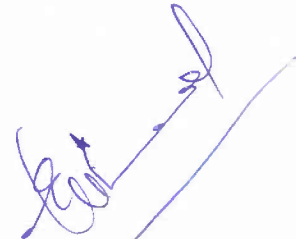


10. Further we find that the title of the said First Owners, the said Second Owners and the said Third Owners together with the Developers to the lands hereinabove referred is clear and marketable, subject to obtain appropriate amended Locational Clearance including the aforesaid lands in the Spl. Township Project of the Developers and subject to provisions of Urban Land (Ceiling and Regulation) Act 1976 (since repealed) and final disposal of Regular Civil Suit No. 587/2011, Special Civil Suit No. 257/2014, Miscellaneous Application No. 14/2015, Special Civil Suit No. 217/2010, Special Civil Suit No. 552/2014, Regular Civil Suit No. 61/2013, RTS Appeal No. 15/2016 and Tenancy Appeal No. 186/2016 and further subject to removal/deletion of entry/encumbrance mentioning the name of Vitthal Madhav Shelke in other right column of 7x12 extract in respect of land bearing Survey/Hissa No 173/3 out of the lands above referred to.

Thane.

Date: 30.05.2017

  
**S. M. KARNIK**  
**ADVOCATE**

  
**AJAY S. YADAV**  
**ADVOCATE**