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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)

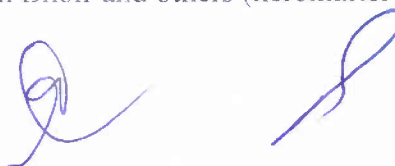
BARCA

TO WHOMSOEVER IT MAY CONCERN

Property/Land Ref.: That pieces or parcels of N.A. 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 the Registration District and Sub-District of Thane and bearing Survey/Hissa Nos. 175/4, 175/6 and 176/3.

The search of the Index II of the above referred plot of land have been taken by us with help of Search-Clerk Shri. Suresh S. Shewale and Mrs. Sharda P. Kadam in the office of Sub-Registrar of Assurances at Thane from 1988 to 21.08.2017. It is found in the said search that the transactions have taken place in respect of 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. 175/6, out of the land 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. 175/4, out of the land above referred to, executed by Chandrakant Gopal Desale.

The piece and parcel of land bearing Survey/Hissa No. 175/4 owned by Eruch Barjorji Patel and others (hereinafter referred to as the said **First Owners**), Survey/Hissa No. 175/6 owned by Parshuram Laxman Bhoir and others (hereinafter referred to as the said **Second**



Owners) and Survey/Hissa No. 176/3 owned by Narayan Dinanath Mhatre and others (hereinafter referred to as the said **Third Owners**).

1) a) That one Shri. Barjorji Hormasji Patel was the original owner and Shri. Sakharam Dadabhai was the tenant of interalia land bearing Survey/Hissa No. 175/4 out of the land 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. 175/4 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 175/4, Kabuli Jabab given by the said Barjorji Hormasji Patel, the name of his nephew Naushir Manikji Patel recorded to interalia the land bearing Survey/Hissa No. 175/4 out of the land 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 land including Survey/Hissa No. 175/4 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 on 10.03.2005, executed by the said **First Owners** through their Attorney Shri. Sadashiv Sakharam Patil and confirmed by attorney's heirs Smt. Shantabai Sadashiv Patil and others, in favour of M/s. Roma Builders Pvt. Ltd., a Company incorporated under the Companies Act, 1956 and having its office at 514, Dalamal Towers, Nariman Point, Mumbai – 400 021 (the Developers), granted the development rights in favor of the developers interalia in respect of land bearing Survey/Hissa No. 175/4 out of the land above referred to. In pursuance of the Said Development Agreement dated 24.12.2004 the said **First 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.

2) a) That Kul/Purchaser Shri. Parshuram Laxman Bhoir and others i.e. the said **Second Owners** fully paid the Purchase price of Rs. 6339/= under Sec. 32G of MTAL Act. 1948, interalia, in respect of the land bearing Survey/Hissa No. 175/6 out of the land above referred

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to, thus A.L.T., Thane, Taluka-Thane issued 32M Purchase Certificate bearing No. 29/2006 dated 06.02.2006 to and in favor of said Parshuram Laxman Bhoir and others by deleting boja of Land owners Smt. Kanta Rasiklal Makhecha and others from other right column (M.E.No. 2470).

b) By and under the Development Agreement dated 11.12.2002 duly registered with the Sub-Registrar of Assurances, Thane – 5 under serial no. 6493/2002 on 11.12.2002 executed by the said **Second Owners**, and further by and under the Development Agreement dated 09.04.2007 registered with the Sub-Registrar of Assurances, Thane – 5 under serial no. 3228/2007 on 24.04.2007 for abundant precaution executed by Shri. Parshuram Laxman Bhoir and 3 others i.e. some of the Co-owners in the family of the said **Second Owners** have granted the development rights in favor of the Developers interalia in respect of land bearing Survey/Hissa No. 175/6 out of the land above referred to. In pursuance of the Said Development Agreement dated 11.12.2002 and dated 09.04.2007 the said **Second Owners**, executed Registered Power of Attorneys dated 11.12.2002 and dated 24.04.2007 respectively, 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.

3) a) By and under Order/Hukum passed by A.L.T., Thane, Taluka-Thane under the Provisions of M.T.A.L. Act, 1948, Smt. Premkuwarbai Dwarkadas sold to Kul/Purchaser Shri. Dinya Hasha Mhatre interalia, Survey/Hissa No. 176/3 out of the land above referred to for Purchaser price of Rs. 677.75 Ps. dated 07.04.1961 (M.E.No. 609). The Tenant/Kul Shri. Dinya Hasha Mhatre has/had fully paid the purchase price boja of Rs. 825=95Ps. thus 32M

Certificate (Tenancy Purchase Certificate) bearing No. 609 dated 19.09.1968 issued (M.E.No.1392).

b) The said Dina Hasha Mhatre died in the year 1973, leaving behind him heirs sons-1) Narayan Dina alias Dinanath Mhatre, 2) Raghunath Dinanath Mhatre, 3) Bhagirath Dinanath Mhatre, 4) Sajan Dinanath Mhatre, 5) Dinkar Tulshiram Mhatre (grand son), 6) Alka Tulsiram and 7) Manda Tulsiram (grand daughters), 8) Smt. Barkubai Tulsiram Mhatre (daughter-in-law) and married daughter 9) Smt. Santubai Devram Patil (M.E.No. 1718).

c) By and under the Development Agreement dated 20.07.1998 interalia in respect of the land bearing Survey/Hissa No. 176/3 out of the land above referred land to by the said **Third Owners** registered with the Sub-Registrar of Assurances, Thane – 1 under Serial No. 3706/1998 on 27.07.1998, have granted development rights in favor of the Developers. In pursuance of the said Development Agreement dated 20.07.1998, the said **Third Owners** executed Power of Attorney dated 27.07.1998, 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.

d) By and under Development Agreement dated 17.10.2003 registered with the Sub-Registrar of Assurances Thane -5 under serial no.6662/2003 on 17.10.2003, executed by Santubai Devram Patil i.e. the one of the Co-owner in the family of the said **Third Owners** for her 1/6th undivided shares in respect of Survey/Hissa No. 176/3 out of the land above referred to have granted the development rights in favour of the **Developers**.



e) Further, by and under the Agreement for Sale dated 25.09.2013 registered with the Sub-Registrar of Assurances, Thane – 5 under Serial No. 9727/2013 on 25.09.2013, executed by the said Third Owners have sold and transferred their rights and interest in favor of Developers interalia in respect of the land bearing Survey/Hissa No. 176/3 out of the land above referred to. In pursuance of the said Agreement for Sale dated 25.09.2013, the said **Third Owners** have executed in favor of the Developers and its nominees and assignees, the Regd. Power of Attorney dated 25.09.2013, interalia allowing, authorizing the Attorneys to do, perform and carry out various acts, deeds, matters, things, privileges, rights and authorities which are in details contained therein.

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 the terms of such sale and transfer.

It is observed by us that, Thane Municipal Corporation, Thane vide its sanction of Amended Development Permission/Commencement Certificate bearing V. P. No. 2006/69 TMC/TDD 32 dated 19.05.2016 for the lay-out comprising various land including the land above referred to, for interalia the building being **No.3** popularly known as '**BARCA**' being constructed on the portion of the land referred hereinabove as mentioned in the Certificate dated 18.08.2017 issued by Architect Sharmistha Mukerjee-Shinde.



On investigating the documents made available to us for inspection including various NOC's under the Maharashtra Land Revenue, Urban Land (Ceiling and Regulation) Act, 1976 (since repealed), Bombay/Maharashtra Tenancy and Agricultural Land Act 1948, revenue records and search reports, further we have gone through Non-Agricultural permission bearing no. Sr. Revenue/K-1/T-1/NAP/SR-154/06 dated 16.04.2007 for interalia Survey/Hissa No. 176/3 as aforesaid mentioned and Sr. Revenue/K-1/T-1/NAP/SR-168/06 dated 28.06.2007 for interalia Survey / Hissa No. 175/4 and 175/6 as aforesaid mentioned, further, 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 in respect of the land mentioned therein excluding the land 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 (Acq) Act, 1975.

Further 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. 175/4 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 therein 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. 175/4 for the relief of declaration and such other reliefs, together with preferring an 'Injunction Application', however, no interim or ad-interim order is passed against the Developers 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. 175/4 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 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 Survey/Hissa No.175/4 against the Developer 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 Regular Civil Suit No. 587/2011 and same is pending

for further hearing. Further we have gone through Reg. Civil Suit No. 61/2013 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 Survey / Hissa No. 175/4 against the Developer and others praying for declaration, to declare him owner by way of adverse possession 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 Regular Civil Suit No. 61/2013 and same is pending for further hearing.

One Nikhil Makhecha has filed Spl. Civil Suit No. 257/2014 in the Court of Hon'ble Civil Judge (Senior Division), Thane at Thane against the **Developers** interalia in respect of Survey / Hissa No. 175/6 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 to 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 the construction, being aggrieved by the said order, the **Developers** have 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 Makheja 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 Court vide its order dated 15/05/2015, and the said Spl. Civil Suit No. 257/2014 pending for final hearing in the file of Hon'ble Civil Judge (Senior Division) Thane, at Thane; and also the said Nikhil Makhecha

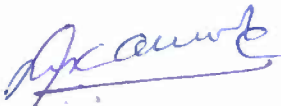


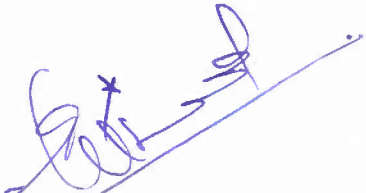
has filed Miscellaneous Application No. 14 of 2015 in the Civil Judge (Senior Division)
Thane against the Developers interalia in respect of Survey/Hissa No. 175/6 under the
provisions of order XXXIX Rule 2(A) read with rule 11 as well as section 151 of CPC 1908
and same is pending for further hearing.

In facts and circumstances as aforesaid we find that the title of the said **First Owners**,
the said **Second Owners**, the said **Third Owners** together with the Developers to the land
referred hereinabove is clear and marketable, subject to final disposal of Special Civil Suit
No. 217/2010, Special Civil Suit No. 552/2014, RTS Appeal 15/2016, Regular Civil Suit
No. 587/2011, Regular Civil Suit No. 61/2013, Special Civil Suit No. 257/2014 and
Miscellaneous No. 14/2015 mentioned as aforesaid and subject to provisions of Urban Land
(Ceiling and Regulation) Act 1976 (since repealed) and any notices sent or orders passed
thereunder.

Thane.

Date: 22.08.2017


S. M. KARNIK
ADVOCATE


AJAY S. YADAV
ADVOCATE