

SUNIL PRABHAKAR LAHANE

ADVOCATE, HIGH COURT, MUMBAI

1206, B-Wing, Dalamal Tower, Nariman Point, Mumbai 400 021 - Mob:
9892744138, Email: advsunillahane@gmail.com

TITLE CERTIFICATE

24th July, 2017

To,
Sahana Sheth,
Hallmark Business Plaza, 1201-1204,
12th Floor, Sant Dyaneshwar Marg,
Near Guru Nanak Hospital,
Kalanagar, Bandra (E),
Mumbai - 400 051

Dear Sir,

Re: All that piece or parcel of (i) land admeasuring 14,121 square meters or thereabouts (hereinafter referred to as "**Part A Land**") and (ii) land admeasuring 13388.90 sq. mtrs. or thereabouts (hereinafter referred to as "**Part B Land**") both carved out from land bearing C.S. No. 6 (part) of Sion Division and within the Registration and Sub-District of Mumbai City and Suburban and within local limits of Municipal Corporation of Greater Mumbai and lying being and situate at Sion Bhandarwada, Road No. 28 & 8, Scheme No. 6, F/North Ward, Sion Koliwada, Mumbai 400 022 (hereinafter collectively referred to as "**the said Property**").

1. I have been instructed by Sahana Sheth, an Association of Persons ("**Sahana Sheth**") to issue this Title Certificate relating to the development rights of Sahana Sheth in respect of the said Property.
2. I have relied on the information and photocopies of documents provided to me by the representatives of Sahana Sheth as more particularly enumerated in Para-4 below.
3. I have also relied on the Search Report dated 28th March 2016 ("**Search Report**") issued by Search Clerk Mr. H.D. Mashelkar.
4. For the purpose of this Title Certificate, I have perused the following documents:-
 - I. **In respect of Part A Land:-**
 - (i) Development Agreement dated 2nd August, 1999 made and entered into between Shiv Koliwada Co-operative Housing Society Limited and M/s. Jai Kay Developers;
 - (ii) Annexure-II dated 30th December, 1999 issued by Municipal Corporation of Greater Mumbai in respect of Shiv Koliwada Co-operative Housing Society Limited;



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- (iii) Letter of Intent dated 4th April, 2000;
- (iv) Letter dated 22nd March, 2004 by Municipal Corporation of Greater Mumbai to Pilot Constructions Private Limited;
- (v) Registration Certificate bearing No. MUM/W-FN/HSG/TC/8428/2004-200 dated 15th June, 2004 of Shiv Koliwada Co-operative Housing Society Limited issued by Deputy Registrar of Co-operative Societies, Mumbai;
- (vi) Development Agreement dated 19th October, 2004 executed between Shiv Koliwada Co-operative Housing Society Limited of the One Part and Pilot Constructions Private Limited of the Other Part;
- (vii) Power of Attorney executed by Shiv Koliwada Co-operative Housing Society Limited in favour of Pilot Constructions Private Limited;
- (viii) Tripartite Agreement dated 19th November, 2004 executed between Dr. Satish Bhide, Joint Municipal Commissioner (Improvements) / Dy. Municipal Commissioner (Improvements) of the First Part, Shiv Koliwada Co-operative Housing Society Limited of the Second Part and Pilot Constructions Private Limited of the Third Part;
- (ix) Letter dated 17th August, 2009 addressed by Government of Maharashtra, Environment Department to Pilot Constructions Private Limited;
- (x) Substituted Power of Attorney dated 27th February, 2010 executed between Laxmichand D. Chheda, Lachmandas S. Sajani and Sudhakar Shetty;
- (xi) Letter dated 9th July, 2010 issued by Maharashtra Pollution Control Board to Pilot Constructions Private Limited;
- (xii) Investment Agreement dated 27th July, 2010 executed between Pilot Constructions and Real Gold Developers LLP;
- (xiii) Letter dated 28th December, 2010 bearing No. AC/Estates/9743/A.E.(I) II issued by Municipal Corporation of Greater Mumbai to Pilot Constructions Private Limited;
- (xiv) Letter dated 20th January, 2011 bearing No. AC/Estates/20140/A.O. (Soc)-I issued by Municipal Corporation of Greater Mumbai to Pilot Constructions Private Limited;
- (xv) Deed of Cancellation dated 21st April, 2012 executed between Pilot Constructions Private Limited and Real Gold Developers LLP;

II. In respect of Part B Land:-



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- (i) Annexure-II dated 30th December, 1999 issued by Municipal Corporation of Greater Mumbai in respect of Aakar SRA Co. Op. Housing Society Limited.
- (ii) Registration Certificate bearing No. MUM(SRA)/HSG/TC/10526/1998-99 dated 15th April 1998 issued by Deputy Registrar of Co-operative Societies, SRA Mumbai in respect of Aakar SRA Co. Op. Housing Society Limited issued by Deputy Registrar of Co-operative Societies SRA Mumbai;
- (iii) No Objection Letter dated MCGM dated 8th October 1998 issued by Municipal Corporation of Greater Mumbai for implementation of redevelopment of Scheme.
- (iv) Letter bearing No. AC/Estates/43003 dated 22nd March 2004 issued by Municipal Corporation of Greater Mumbai in respect of conversion of Jai Kay Developers to Pilot Constructions Private Limited;
- (v) Extract of Minutes Book of Aakar SRA Co. Op. Housing Society Limited with respect to Resolution dated 30th January 2010 passed in Annual General Body Meeting;
- (vi) Development Agreement dated 17th May 2010 executed between Aakar SRA Co. Op. Housing Society Limited of One Part and Pilot Constructions Private Limited of the Other Part;
- (vii) Irrevocable Power of Attorney dated NIL executed by Haresh Kashinath Keni and others of Aakar SRA Co. Op. Housing Society Limited in favour of Dinesh Mohan Nayak of Pilot Constructions Private Limited;
- (viii) Declaration dated 12th June 2014 executed by Pilot Constructions Private Limited to the Slum Rehabilitation Authority, registered under BBE-2/4764-2014;
- (ix) Letter dated 16th June 2014 issued by SRA with respect to subdivision layout of amalgamated scheme along with approved layout.

III. In respect of the said Property:-

- (i) Memorandum of Understanding dated 1st November, 2001 executed between M/s. Jai Kay Developers through its partners Laxmichand Damji Chheda, Hansaben Laxmichand Chheda, Rajinder Singh Ahluwalia and Pilot Constructions Private Limited;
- (ii) Joint Venture Agreement dated 4th November, 2011 registered at Sub-Registrar of Assurances at Mumbai at Sr. No. BBE-2-7844 of 2011



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executed between Pilot Constructions Private Limited and Sheth Buildwell Private Limited;

- (iii) Amalgamated Letter of Intent bearing no. SRA/ENG/2532/FN/ML/LOI dated 30th May, 2014 issued by Slum Rehabilitation Authority;
- (iv) Supplementary Agreement dated 26th June, 2014 registered with the Sub-Registrar of Assurances at Mumbai at Sr. No. BBE-2-5199 of 2014 executed between Pilot Constructions Private Limited and Sheth Buildwell Private Limited;
- (v) Property register card dated 28th April 2010 pertaining to C.S. No.6 of Sion Division.
- (vi) Indenture of Mortgage dated 23rd December, 2016 executed by and between the Sahana Sheth (therein referred to as the 'Mortgagor' or 'AOP Borrower') of the First Part, IDBI Trusteeship Services Limited (therein referred to as 'the Mortgagee' or 'the Security Trustee') and Sheth Creators and Promoters Private Limited (therein referred to as the 'SPV Borrower' or 'Confirming Party') of the Third Part and registered with the office of the Sub-Registrar of Assurances at Sr. No. BBE-7385 of 2016.

5. BRIEF HISTORY:

I. In respect of Part A Land:-

- (i) Several members residing on the Part A Land organised themselves into a Society named Shiv Koliwada Co-operative Housing Society limited (hereinafter referred to as "SKCHSL") and the same was registered vide Registration Certificate dated 15th June, 2004 bearing No. MUM/W-FN/HSG/TC/8428/2004-2005 issued by Deputy Registrar of Co-operative Societies.
- (ii) Vide a Development Agreement dated 2nd August, 1999, Shiv Koliwada Co-operative Housing Society Limited ("SKCHSL") (then Proposed) granted development rights in respect of portion of Part A Land admeasuring 13153 sq. mtrs. to M/s. Jai Kay Developers on terms and conditions mentioned therein.
- (iii) SRA has issued Annexure-II dated 30th December, 1999 in respect of property bearing C.S. No. 6(pt).
- (iv) Vide Letter of Intent bearing no. Estates/23/SR.PO/33(7)/25 of 2000 dated 4th April, 2000, MCGM sanctioned the redevelopment scheme in respect of Part A Land.

Adhane

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- (v) Vide a Letter dated 22nd March, 2004 bearing No. AC/Estates/43003, MCGM accepted the conversion of the Jai Kai Developers to Pilot Constructions Private Limited ("**Pilot Construction**");
- (vi) Vide a Development Agreement dated 19th October, 2004, SKCHSL granted development rights in respect of Part A Land to Pilot Constructions on terms and conditions mentioned therein.
- (vii) Simultaneously on execution of the aforesaid Development Agreement dated 19th October 2004, SKCHSL has also executed General Power of Attorney in favour of Pilot Constructions so as to enable Pilot Constructions to facilitate the development work of Part A Land.
- (viii) Vide a Tripartite Agreement dated 19th November, 2004 made and entered into between Dr. Satish Bhide, Joint Municipal Commissioner (Improvements)/Dy. Municipal Commissioner (Improvements), SKCHSL and Pilot Constructions, Pilot Constructions acquired development rights in respect of the Part A Land on the terms and conditions mentioned therein.
- (ix) Vide a Substituted Power of Attorney dated 27th February, 2010, Laxmichand D. Chheda and Lachmandas S. Sajani delegated all powers conferred upon them by SKCHSL in respect of Part A Land unto Me. Sudhakar Shetty being the Director of Pilot Constructions.
- (x) Vide an Investment Agreement dated 27th July, 2010 ("**Investment Agreement**"), Real Gold LLP agreed to invest an amount of Rs.219,00,00,000/- (Rupees Two Hundred and Nineteen Crores Only) towards allotment of residential premises admeasuring 3,00,000 square feet saleable area in free sale buildings on Part A Land on the terms and conditions mentioned therein.
- (xi) Vide letter bearing No. AC/Estates/9743/A.E.(I) II dated 28th December, 2010, MCGM requested Pilot Constructions to pay stamp duty amounting to Rs.1,31,19,600/- and penalty thereon upto 31st March 2010 on the Tripartite Agreement dated 19th November, 2004.
- (xii) Vide letter bearing No.AC/Estates/20140/A.O.(Soc)-I dated 20th January, 2011, MCGM demanded an amount of Rs.23,64,45,277/- (Rupees Twenty Three Crores Sixty Four Lakhs Forty Five Thousand Two Hundred and Seventy Seven Only) as a capitalized value and interest amounting to Rs.10,99,56,739/- (Rupees Ten Crores Ninety Nine Lakhs Fifty Six Thousand Seven Hundred and Thirty Nine Only) from the Pilot Constructions. Further this letter mentions that non-payment of capitalized value and interest thereon may result into action for revocation of LOL.



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- (xiii) Vide a Deed of Cancellation dated 21st April, 2012 made and entered into between Pilot Constructions and Real Gold Developers LLP, Real Gold LLP surrendered and relinquished all its right, title and interest of any nature which was obtained vide the Investment Agreement in respect of the Part A Land or otherwise and also cancelled the said Investment Agreement.

II. In respect of Part B Land:-

- (i) The slum / hutment dwellers occupying Part B Land organized themselves into a co-operative society viz., Aakar SRA Co-Operative Housing Society (Proposed) pursuant to which Registration Certificate dated 15th April 1998 has been issued by Deputy Registrar of Co-operative Societies, SRA, Mumbai in favour of Aakar SRA Co-Operative Housing Society Ltd. (hereinafter referred to as "Aakar Society") bearing registration certificate No. MUM(SRA)/HSG/TC/10526/1998-99, whereby Aakar Society stood duly formed and registered.
- (ii) MCGM vide its letter dated 8th October 1998 issued No Objection Certificate for implementation of redevelopment of Scheme on Part B Land.
- (iii) Pursuant to the Resolution passed in Annual General Body Meeting of Aakar Society held on dated 30th January 2010, Pilot Constructions was appointed as a developer to develop the Part B Land.
- (iv) Aakar Society, through its office bearers, entered into a Development Agreement with the Pilot Constructions on 17th May 2010, whereby the Aakar Society conferred development rights in respect of the Part B Land unto the Pilot Constructions on terms and conditions more particularly mentioned therein.
- (v) Aakar Society through its office bearers namely, Harish Kashinath Keni and others, executed an Irrevocable Power of Attorney in favour of Pilot Constructions to carry out the re-development of Part B Land.
- (vi) Vide a letter bearing No. SRA/Eng/696/FN/ML/LAY dated 16th June 2014, the SRA has approved the plans submitted for the layout/sub-division of the Part B Land. As per the approved layout, the total sale built up area on the Part B Land is 18186.72 sq. mtrs.

III. In respect of the said Property:-



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- (i) Vide a Memorandum of Understanding dated 1st November, 2001 ("MOU"), M/s. Jai Kay Developers through its partners Laxmichand Damji Chheda, Hansaben Laxmichand Chheda, Rajinder Singh Ahluwalia transferred, assigned all its right in the said M/s. Jai Kay Developers to Pilot Construction. Vide this MOU, Pilot Construction has taken over and acquired the business of M/s. Jai Kay Developers as a going concern. As per Clause 4 of the MOU, M/s. Jai Kay Developers executed a Deed of Dissolution dated 12th November 2003, whereby the said M/s. Jai Kay Developers stood dissolved with effect from 12th November 2003.
- (ii) Vide a Joint Venture Agreement dated 4th November, 2011 registered at Sub-Registrar of Assurances at Mumbai at Sr. No. BBE-2-7844 of 2011 ("JVA") made and entered into between Pilot Constructions and Sheth Buildwell Private Limited ("Sheth"), Pilot Constructions and Sheth formed Sahana Sheth, an association of person, and agreed that Sahana Sheth shall undertake development of the said Property on the terms and conditions and in the manner as set out therein.
- (iii) On perusal of the said JVA, it is revealed that the SRA had issued LOI dated 30th April 2011 in respect of Part B Land, whereby Pilot Constructions was entitled to develop and construct free sale component. Subsequently, SRA has issued revised LOI dated 31st December 2013 for redevelopment of Aakar Society.
- (iv) Vide a Supplementary Agreement dated 26th June, 2014 registered with the Sub-Registrar of Assurances at Mumbai at Sr. No. BBE-2-5199 of 2014, Pilot Constructions and Sheth modified the terms of sharing of realisation mentioned in the JVA on terms and conditions mentioned therein.
- (v) The property register card dated 28th April 2010 pertaining to land bearing Cadastral Survey No.6 of Sion Division reflects name of Trustees for the Improvement of the City of Bombay as the owner thereof and area of the land is recorded as admeasuring 10,36,344.95 sq. mtrs.
- (vi) By and under a Mortgage cum Loan Agreement dated 30th March, 2016 executed by and between the Sahana Sheth (therein referred to as the "AOP/Borrower") of the First Part, the Pilot Construction Private Limited (therein referred to as "Pilot") of the Second Part and Sheth Creators Private Limited (therein referred to as "SCPL / Lender") of the Third Part, the Sahana Sheth has created a mortgage and charge inter-alia on the development rights of the said Property (ranking subservient only to charge of ICICI Bank, ICICI Pru and



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Charge of IIFL) in favour of the Lender, in the manner and on the terms and conditions as stated therein. Sahana Sheth has declared that the Mortgage cum Loan Agreement dated 30th March, 2016 is not registered.

- (vii) By and under an Indenture of Mortgage dated 23rd December, 2016 executed by and between the Sahana Sheth (therein referred to as the 'Mortgagor' or 'AOP Borrower') of the First Part, IDBI Trusteeship Services Limited (therein referred to as 'the Mortgagee' or 'the Security Trustee') and Sheth Creators and Promoters Private Limited (therein referred to as the 'SPV Borrower' or 'Confirming Party') of the Third Part and registered with the office of the Sub-Registrar of Assurances at Sr. No. BBE-7385 of 2016, the Sahana Sheth inter-alia have created a first ranking exclusive mortgage and charge inter-alia on all the right title interest of the Sahana Sheth in the said Property (as defined therein and Unsold Units (as defined therein) in the said Property to secure repayment of the loans (i) of amount of Rs. 450,00,00,000/- (Rupees Four Hundred and Fifty Crores only) taken by the Sahana Sheth and (ii) of amount of Rs. 175,00,00,000/- (Rupees One Hundred and Seventy Five Crores only) taken by Sheth Creators and Promoters Private Limited, in the manner and on the terms and conditions as stated therein.

IV. Litigations:

Pilot Constructions Private Limited has informed me that save and except the litigations, as more particularly set out in Annexure "A" annexed hereto, there are no litigation pending in respect of the said Property.

V. Permissions and approvals:-

- (i) The Slum Rehabilitation Authority vide its letter bearing no.SRA/ENG/2532/FN/ML/LOI dated 30th May 2014 issued the Amalgamated LOI ("Amalgamated LOI") in respect of the said Property.
- (ii) The Slum Rehabilitation Authority vide its letter bearing no.SRA/ENG/3119/FN/ML/AP dated 19th January 2015 has issued commencement certificate ("the said CC") for free sale building to be constructed on the said Property.
- (viii) The Slum Rehabilitation Authority vide its letter bearing no.SRA/ENG/3119/FN/ML/AP dated 28th April 2016 has issued the Amended Intimation of Approval ("Amended IOA") in respect of redevelopment of the said Property.



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- (ix) The Slum Rehabilitation Authority vide its letter bearing no.SRA/ENG/3119/FN/ML/AP dated 9th June 2016 amended the said CC as per the Amended IOA and issued the amended commencement certificate ("Amended CC") and the same is revalidated and re-endorsed on 9th August, 2016 in respect of Tower A to be constructed on the said Property.
6. I have not conducted or caused to conduct search in the revenue records in respect of the said Property.
7. I have not caused to publish public notice in any newspapers to invite claims in respect of the said Property.

8. **Opinion:**

Relying on the documents and information provided to me and subject to what is stated hereinabove, I am of the opinion and certify that Pilot Constructions Private Limited and Sheth Buildwell Private Limited, through Sahana Sheth has a right to develop the said Property and are entitled to all the benefits, rights and advantages in respect of the sale component in respect of the said Property and that Sahana Sheth is entitled to sell flats, units, premises, etc., of the sale component to be constructed on the said Property.

9. **Disclaimer:**

This Certificate is based on facts, documents, records and information provided and representations given to me by Sahana Sheth. Further, this Title Certificate is based on my understanding of facts and the legal position prevailing as on the date of issue of the opinion.

Yours truly,



Mr. Sunil P. Lahane
Advocate, High Court

Annexure -A

1. First Appeal 963 of 2012 filed by Suresh Chandra Sankar Versus Premnath Shankar Keny and Ors filed before the Hon'ble High Court.
2. Suit 3613 of 2013 filed by Vimal Eknath Koli and Ors Versus Asst. Commissioner F-N Ward of Municipal Corporation of Greater Mumbai before the Bombay City Civil Court.
3. Suit No.823 of 2015 filed by Ratnakar Krishna Shetty Versus Sudhakar Shetty and Anr., before the Hon'ble High Court.
4. Suit No.2106 of 2012 filed by Kankubai Karsan Solanki Versus Municipal Corporation of Greater Mumbai and Anr., before the Bombay City Civil Court.
5. Contempt Petition (L) No. 27392 of 2015 filed by Moreshwar Hasu Patil in Writ Petition No. 9861 of 2015 against Assistant Commissioner and Ward Officer, MCGM, Colony Officer, MCGM, Assistant Officer of Colony Office, MCGM, Sr. Police Inspector, Sion Police Station, Mr. Sudhakar Shetty and Mr. Dinesh Naik.
6. Writ Petition No. 7183 of 2017 filed by Sheth Buildwell Private Limited Versus The Chief Controlling - Revenue Authority & Inspector General Of registration & Controller of Stamps before the Hon'ble High Court.
