



I N D I A L A W

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To

MahaRERA

Housefin Bhavan,

Plot No. C-21, E-Block,

Bandra Kurla Complex,

Bandra (E), Mumbai 400051.

LEGAL TITLE REPORT

Subject: Title clearance certificate with respect to Sector II-A land approximately admeasuring 37, 880.43 sq. mtrs. situated on part of Old Survey No. 233 (New Survey No. 66), Old Survey No. 235 (New Survey No. 68) and Old Survey No. 256 (New Survey No. 69), lying being and situated at Village Penkarpada (Previously known as Mira), Taluka and District Thane (“Land”).

We have investigated the title of the said Land on the request of Eversmile Properties Private Limited and following documents i.e.: -

- 1) Description of the property. {As mentioned in the Title Search Report dated 10th July 2020}
- 2) The documents of allotment of plot {As mentioned in the Title Search Report dated 10th July 2020}
- 3) Online 7/12 extract dated 11th June 2020 and Mutation Entry Nos. 903, 960 and 185.
- 4) Search report for 30 years from 1990 till 2020.

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Reg. & Head office - INDIALAW LLP, Apeejay Chambers, Ground flr, Wallace St, Fort, Mumbai - 400 001.

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2/- On perusal of the documents and all other relevant documents relating to title of the said Land, as mentioned in the Title Search Report dated 10th July 2020 read with Encumbrances Certificate dated 10th July 2020 along with Addendum dated 2nd March 2021 and 12th March 2021, we are of the opinion that, Eversmile Properties Pvt. Ltd. holds clear, marketable and valid Development rights and interest in respect of the said Land free from encumbrances.

Owners of the land

- (1) Survey No. 233 } *As mentioned in the Title Search Report dated 10th July 2020 read with Encumbrances Certificate dated 10th July 2020 and Addendum dated 2nd March 2021 & 12th March 2021.*
- (2) Survey No. 235 } *As mentioned in the Title Search Report dated 10th July 2020 read with Encumbrances Certificate dated 10th July 2020 and Addendum dated 2nd March 2021 & 12th March 2021.*
- (3) Survey No. 256 } *As mentioned in the Title Search Report dated 10th July 2020 read with Encumbrances Certificate dated 10th July 2020 and Addendum dated 2nd March 2021 & 12th March 2021.*
- (4) Qualifying comments/ remarks if any – NA.

3/- The report reflecting the flow of the title of the promoter on the said Land is enclosed herewith as annexure.

Encl : Annexure.

Yours truly



Shiju P.V.

Senior Partner

INDIALAW LLP

Date: 15th March, 2021

Place: Mumbai.



INDIALAW

ADDENDUM

AS ON 12TH MARCH 2021

TO TITLE CERTIFICATE DATED 10TH JULY 2020

AND

ENCUMBRANCE CERTIFICATE DATED 10TH JULY 2020

SUBMITTED TO

EVERSMILE PROPERTIES PRIVATE LIMITED

This Addendum has been issued by INDIALAW LLP, pursuant to the instructions received from Eversmile Properties Private Limited (“**Eversmile**”), to the Title Certificate dated 10th July, 2020 (“**Original Title**”) and Encumbrance Certificate dated 10th July, 2020 issued by us in respect of the undeveloped and undivided Sector II-A land approximately admeasuring 37, 880.43 sq. mtrs. situated on part of Old Survey No. 233 (New Survey No. 66), Old Survey No. 235 (New Survey No. 68) and Old Survey No. 256 (New Survey No. 69), lying being and situated at Village Penkarpada (previously known as Mira), Taluka and District Thane (“**Land**”).

This Addendum is issued to clarify and amend few points more specifically stated herein below:

As stated in the Original Title, we have conducted search at the Office of the concerned Sub-Registrar of Assurances in respect of the said Land for the period from 2017 to 2020; however, we have also conducted search for the earlier period pertaining to the said Land and the details of the same are as follows:

We have issued Title Search Report dated 17th November, 2017 and as stated therein, we have conducted search *inter alia* in respect of Old Survey No. 235 (New Survey No. 68) and Old

Survey No. 256 (New Survey No. 69) out of the said Land for the period of 30 years i.e. from 1988 to 2017.

Further, we have also issued Title Search Report dated 21st June, 2019 and as stated therein, we have conducted search *inter alia* in respect of Old Survey No. 233 (New Survey No. 66) out of the said Land for the period of 30 years i.e. from 1990 to 2019.

This Addendum is issued in pursuance of the said Original Title and Encumbrance Certificate both dated 10th July, 2020 and shall be read and construed in accordance with the same, for all times and purposes, along with the Title Search Report dated 17th November, 2017 and Title Search Report dated 21st June, 2019.

Yours truly



Shiju P.V.

Senior Partner

INDIALAW LLP

Date: 12th March, 2021

Place: Mumbai



INDIALAW

ADDENDUM

AS ON 2ND MARCH 2021

TO TITLE CERTIFICATE DATED 10TH JULY 2020

AND

ENCUMBRANCE CERTIFICATE DATED 10TH JULY 2020

SUBMITTED TO

EVERSMILE PROPERTIES PRIVATE LIMITED

This Addendum has been issued by INDIALAW LLP, pursuant to the instructions received from Eversmile Properties Private Limited (“**Eversmile**”), to the Title Certificate dated 10th July, 2020 (“**Original Title**”) and Encumbrance Certificate dated 10th July, 2020 issued by us in respect of the undeveloped and undivided Sector II-A land approximately admeasuring 37, 880.43 sq. mtrs. situated on part of Old Survey No. 233 (New Survey No. 66), Old Survey No. 235 (New Survey No. 68) and Old Survey No. 256 (New Survey No. 69), lying being and situated at Village Penkarpada (Previously known as Mira), Taluka and District Thane (“**Land**”).

As stated in the said Original Title, Notice dated 5th February, 2008 (“**Notice**”) was issued by the Competent Authority to Swati Saiprasad Pradhan, Saihas Pradhan and Sneha Shrinath Pradhan to handover 39,647.95 sq. mtrs. of land in Old Survey No. 231, 232, 233, 235 and 240/2 to Maharashtra Housing and Area Development Authority (“**MHADA**”).

Eversmile along with Sneha Shrinath Navalkar and Saihas Pradhan (for self and as only legal heir of Late Smt. Swati Saiprasad Pradhan) filed Writ Petition No. 929 of 2008 before the Hon’ble

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Bombay High Court against the Additional Collector and the Competent Authority, Thane & Ors. challenging the said Notice.

In pursuance of the aforesaid Writ Petition, Judgement dated 17th March, 2020 was passed by the Hon'ble High Court of Bombay allowing the petition and quashing and setting aside the impugned notice dated 5th February, 2008. The Judgement holds that, Section 21 of the Urban Land (Ceiling and Regulation) Act, 1976 is not saved under the Urban Land (Ceiling and Regulation) Repeal Act, 1999 and hence the petitioners are not required to handover the land admeasuring 39,647.95 sq. mtrs. to Government as it does not vest with the State Government.

Thereafter, Special Leave Petition (Civil) No. 9492 of 2020 was filed before the Hon'ble Supreme Court of India Civil Appellate Jurisdiction by MHADA against Sneha Navalkar & Ors. to grant special leave to appeal against Order dated 17th March, 2020 passed by the Hon'ble High Court of Bombay in Writ Petition No. 929 of 2008. In pursuance of the same, Order dated 8th February, 2021 was passed by the Hon'ble Supreme Court of India dismissing the Special Leave Petition (Civil) No. 9492 of 2020 without inclining to interfere in the Judgment dated 17th March 2020 passed by the Hon'ble Bombay High Court.

This Addendum is issued in pursuance of the said Original Title and Encumbrance Certificate both dated 10th July, 2020 and shall be read and construed in accordance with the same, for all times and purposes.

Yours truly



Shiju P.V.
Senior Partner
INDIALAW LLP

Date: 2nd March, 2021

Place: Mumbai



INDIALAW

TITLE SEARCH REPORT

AS ON 10th JULY 2020

SUBMITTED TO

M/S. EVERSMILE PROPERTIES PRIVATE LIMITED

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1. INTRODUCTION:

- 1.1 This title search / investigation has been issued by INDIALAW LLP pursuant to the instructions received from Eversmile Properties Private Limited (hereinafter referred as '**Eversmile**'), a company, incorporated under the Companies Act, 1956 and having its registered office at 75-Old Block Factory, Sector-I, Srishti Housing Complex, Penkarpada, Mira Road, Thane, Maharashtra - 401104.
- 1.2 This title Certificate is issued in respect of the undeveloped and undivided Sector II-A Land which is part of the Larger Land (as described herein below). The said Sector II-A Land admeasuring 37,880.43 Sq. Mtrs. approx. is situated on part of Old Survey No. 233(New Survey No. 66), Old Survey No. 235(New Survey No. 68) and Old Survey No. 256 (New Survey No. 69)(hereinafter referred as the said '**Developable Land**').
- 1.3 All those parts and parcels of undivided land bearing Old Survey No. 233 (New Survey No. 66) admeasuring 34,320 Sq. Mtrs., Old Survey No. 235 (New Survey No. 68) admeasuring 34,930 Sq. Mtrs. and Old Survey No. 256 (New Survey No. 69) admeasuring 2430 Sq. Mtrs., totally admeasuring 71,680 Sq. Mtrs. or thereabouts, all lying, being and situated at Village Penkarpada (previously known as Mira), Taluka and District of Thane; shall be hereinafter referred to as the said '**Larger Land**'. The said Larger Land in turn forms a part of Entire Land, as defined below.
- 1.4 All those parts and parcels of land bearing Old Survey Nos. 75/2, 207, 217, 218, 219, 220, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240/2, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 255, 256, 257 and 258 and corresponding New Survey No. 19/2, 39, 49, 50, 51, 52, 60, 61, 62, 63, 65, 66, 67, 68, 71, 74, 76, 64/2, 12, 11, 9, 77, 7, 8, 10, 13, 14, 16, 15, 78, 69 70 and 75 respectively totally admeasuring approx. 8,56,727.00 Sq. Mtrs. i.e. about 211

Acres or thereabouts, lying, being and situated at Village Penkarpada (previously known as Mira), Taluka and District of Thane shall be hereinafter referred to as the said '**Entire Land**'.

1.5 We have been informed that the Entire Land is divided into seven sectors for the purpose of phase wise development including Sector II-A i.e the Developable Land.

2. DOCUMENTS REVIEWED:

2.1 We have reviewed following documents; ("Due Diligence Information"):

- i. Mutation Entry No. 903 dated 15th November 1965, Mutation Entry No. 960 dated 4th January 1969, and Mutation Entry No. 185 dated 30th January 2017.
- ii. Articles of Agreement dated 22nd January, 1980 executed by and between (1) Shrinath Sunderrao Navalkar (since deceased), (2) Atulchandra Shrinath Navalkar, (3) Smitchandra Shrinath Navalkar, (4) Smt. Swati Saiprasad Pradhan & (5) Saihas Saiprasad Pradhan and Eversmile.
- iii. Supplemental Agreement dated 13th May, 1980 executed by and between (1) Shrinath Sunderrao Navalkar (since deceased), (2) Atulchandra Shrinath Navalkar, (3) Smitchandra Shrinath Navalkar, (4) Smt. Swati Saiprasad Pradhan and (5) Saihas Saiprasad Pradhan and Eversmile.
- iv. Articles of Further Supplemental Agreement dated 6th February 1984 executed between (1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar, (4) Smitchandra Shrinath Navalkar, and (5) Sneha Shrinath NavalkarWd/o. Shrinath Navalkar and Eversmile.
- v. Declaration under Section 21 (1) of the Urban Land (Ceiling and Regulation) Act, 1976 bearing Case No. ULC/TA/F-63/SR-144 dated 11th April, 1984 issued by The Collector and Competent Authority No.3, Urban Agglomeration, Thane in favor of Sneha Shrinath Navalkar.

- vi. Declaration under Section 21 (1) of the Urban Land (Ceiling and Regulation) Act, 1976 bearing Case No. ULC/TA/F-62/SR-142 dated 16th April, 1984 issued by The Collector and Competent Authority No.3, Urban Agglomeration, Thane in favor of Swati Saiprasad Pradhan.
- vii. Articles of Agreement dated 30th March 1988 was executed by and between 1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar (3A) Smt. Akhila Atulchandra Navalkar, (3B) Aniket Atulchandra Navalkar, (4) Smitchandra Shrinath Navalkar (4A) Smt. Swarangi Smitchandra Navalkar and (5) Sneha Shrinath Navalkar and Eversmile.
- viii. Supplemental Agreement dated 2nd September 1993 executed by and between 1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar (3A) Smt. Akhila Atulchandra Navalkar, (3B) Aniket Atulchandra Navalkar, (4) Smitchandra Shrinath Navalkar (4A) Smt. Swarangi Smitchandra Navalkar and (5) Sneha Shrinath Navalkar and Eversmile.
- ix. Power of Attorney dated 2nd September 1993 executed between 1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar (3A) Smt. Akhila Atulchandra Navalkar, (3B) Aniket Atulchandra Navalkar, (4) Smitchandra Shrinath Navalkar (4A) Smt. Swarangi Smitchandra Navalkar and (5) Sneha Shrinath Navalkar and Eversmile & its Directors.
- x. Corrigendum Order bearing Ref. No. ULC/TA/F-62/SR-142,143&144 dated 10th August 1994 issued by the Addl. Collector & Competent Authority, Thane Urban Land Ceiling in favor of Swati Saihas Pradhan, Saihas Pradhan and Sneha Shrinath Navalkar.
- xi. Development Agreement dated 18th October 2007 executed between Eversmile and Azure Tree Townships Pvt. Ltd. with respect to a portion admeasuring 30,880 Sq. Mtrs. forming a part of Old Survey No. 231, 232, 233, 234 & 240.

- xii. Consent Decree dated 27th August 2008 passed by the Second Jt. Civil Judge, S.D. Thane in Special C.S. No. 289/1997 filed by Eversmile against Saihas Saiprasad Pradhan & Others for specific performance of the aforesaid Agreements, which is duly registered by Eversmile under the Affidavit Cum Declaration dated 12th August 2015 before the Sub-Registrar, Thane under Sr. No. 11854/2015.
- xiii. Letters bearing Ref. No. EI/279 & EI/280 both dated 25th February 2009 both issued by The Estate Investment Company Pvt. Ltd. to the Tahsildar, Thane.
- xiv. Notification dated 5th December 2018 issued by Urban Development Department of State of Maharashtra.
- xv. Judgment dated 17th March, 2020 passed by the Hon'ble High Court of Judicature at Bombay Civil Appellate Jurisdiction in Writ Petition No. 929 of 2008 filed by Sneha Shrinath Navalkar & Others Vs State Govt. of Maharashtra & Others.
- xvi. Online extracts of Village Form No. 7/12 dated 11th June 2020.
- xvii. Declaration cum Indemnity dated 10th July 2020 issued by Eversmile in favor of Indialaw LLP.

3. TITLE HISTORY :

- 3.1 Based upon perusal of the aforesaid documents , it appears to us as follows:
 - i. By and under an Indenture of Lease dated 9thFebruary, 1905 executed between The Secretary of State for India in Council and Dinanath Harishchandra, The Secretary of State for India in Council demised unto Dinanath Harishchandra inter alia, all those parts and parcels of land bearing Survey Nos. 75, 190, 194 to 235 and 239 to 255 admeasuring approx. 433 Acres, all lying and situated at Village Mira in the Registration Sub-District of Thane, in the Salsette Taluka of the Thane Collectorate on lease for a period of Nine Hundred and Ninety Nine (999) years commencing from the 12thday of February, 1889 or thereabouts on such terms and

conditions as more particularly contained therein ("**the said Leasehold Lands of Dinanath**").

- ii. Subsequently by and under an Indenture of Lease dated 23rd January, 1915 executed by and between The Secretary of State for India in Council and Sunderrao Dinanath Navalkar, The Secretary of State for India in Council demised unto Sunderrao Dinanath Navalkar inter alia all those parts and parcels of land bearing Survey Nos. 236, 238, 256, 257 and 258, lying and situated at Village Mira, in the Registration Sub-District of Thane, in the Salsette Taluka of the Thane Collectorate on lease for a period of Nine Hundred and Ninety Nine (999) years commencing from the 12th day of February, 1889 ("**the said Leasehold Lands of Sunderrao**").
- iii. The said Dinanath Harischandra died intestate leaving behind him, his son Sunderao Dinanath Navalkar as his sole legal heir and representative, upon whom, the said Leasehold lands of Dinanath Harischandra devolved. Thus, Sunderao Dinanath Navalkar became entitled to the aforesaid portion of the Leasehold Lands of Dinanath along with his own Leasehold lands as mentioned in Para 3.1 (ii) hereinabove.
- iv. The said Sunderao Dinanath Navalkar died intestate on 13th October 1960 leaving behind him, his widow Shantabai Sunderrao Navalkar, his two sons Bolanath Sunderao Navalkar, Shrinath Sunderao Navalkar and his daughter Swati Saiprasad Pradhan as his legal heirs and representatives entitled to succeed his estate, as declared in the Letters of Administration dated 1st July 1963 in Application No. 664 of 1961 filed in the Hon'ble High Court of Bombay. The aforesaid has been reflected in the 7/12 Extract vide Mutation Entry No. 903 dated 15th November 1965.

- v. Pursuant to an Oral Partition amongst the family members, after the death of Smt. Shantabai Sunderao Navalkar, which is reflected in Mutation Entry No. 960 dated 4th January 1969 various family members of the said Dinanath Harischandra and Sunderao Dinanath Navalkar became entitled to such portion of lands as mentioned in Para 3.1 (i) to 3.1(iii) which came to their individual shares under the aforesaid Oral Partition. As per the said Mutation Entry No. 960, Old Survey No. 233 admeasuring 8 Acres 19 Gunthas and Old Survey No. 235 admeasuring 8 Acres 25 Gunthas came in the share of Swati Saiprasad Pradhan. Old Survey No. 256 admeasuring 24 Gunthas came in the share of Shrinath Sunderrao Navalkar.
- vi. On perusal of Articles of Agreement dated 22nd January, 1980, we understand that; said Dinanath Harishchandra and Sunderrao Dinanath Navalkar both died intestate and pursuant to the oral partitions that took place amongst their legal heirs, (1) Shrinath Sunderrao Navalkar, (2) Atulchandra Shrinath Navalkar, (3) Smitchandra Shrinath Navalkar, (4) Smt. Swati Saiprasad Pradhan and (5) Saihas Saiprasad Pradhan (hereinafter referred as '**Holders**') became entitled to the leasehold rights and interest for the residue period of Nine Hundred and Ninety Nine (999) years commencing from the 12th day of February, 1889 in respect of the Entire Land.
- vii. By and under an Articles of Agreement dated 22nd January, 1980 (1) Shrinath Sunderrao Navalkar (since deceased), (2) Atulchandra Shrinath Navalkar, (3) Smitchandra Shrinath Navalkar, (4) Smt. Swati Saiprasad Pradhan and (5) Saihas Saiprasad Pradhan agreed to grant development rights in respect of the said Entire Land in favor of Eversmile, for the consideration and on the terms and conditions mentioned therein. Due to unavailability of

Schedule herein, we are relying on the Schedule of Articles of Further Supplemental Agreement dated 6th February 1984.

- viii. Subsequently, a Supplemental Agreement dated 13th May, 1980 was executed between the Holders and Eversmile, in order to record certain modifications in the Articles of Agreement dated 22nd January, 1980.
- ix. The said Shrinath Sunderrao Navalkar died intestate on or about 22nd October 1983 leaving behind him his widow Sneha Shrinath Navalkar and his two sons Atulchandra Shrinath Navalkar and Smitchandra Shrinath Navalkar as his legal heirs and representatives. A portion of the Entire Land devolved upon his Widow Sneha Shrinath Navalkar.
- x. By and under an Articles of Further Supplemental Agreement dated 6th February 1984, executed by and between (1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar, (4) Smitchandra Shrinath Navalkar, and (5) Sneha Shrinath Navalkar Wd/o. Shrinath Sunderrao Navalkar and Eversmile, the Holders confirmed that they had agreed to grant development rights to Eversmile. Certain modifications were made in Articles of Agreement dated 22nd January, 1980 and Supplemental Agreement dated 13th May, 1980 under this Agreement.
- xi. As per Mutation Entry No. 960 and Schedule of said Articles of Further Supplemental Agreement dated 6th February 1984, Smt. Swati Saiprasad Pradhan became entitled to the leasehold rights of Old Survey No. 233 admeasuring approx. 34,320 Sq. Mtrs. and Old Survey No. 235 admeasuring approx. 34,930 Sq. Mtrs. and Shrinath Sunderrao Navalkar (since deceased) held Old Survey No. 256 admeasuring about 2430 Sq. Mtrs.

- xii. Declaration under Section 21 (1) of the Urban Land (Ceiling and Regulation) Act, 1976 bearing Case No. ULC/TA/F-63/SR-144 dated 11th April, 1984 was issued by The Collector and Competent Authority No.3, Urban Agglomeration, Thane permitting Sneha Shrinath Navalkar to hold vacant land in excess of the ceiling limit to an extent of 9193.14 Sq. Mtrs. out of total area of 1,50,547.16 Sq. Mtrs. bearing Survey No. 175, 187, 236, 238, 239, 244, 255, 256, 257 & 258, for construction of houses for the weaker section of the society, on the terms and conditions as more specifically mentioned therein.
- xiii. Declaration under Section 21 (1) of the Urban Land (Ceiling and Regulation) Act, 1976 bearing Case No. ULC/TA/F-62/SR-142 dated 16th April, 1984 was issued by The Collector and Competent Authority No.3, Urban Agglomeration, Thane permitting Swati Saiprasad Pradhan to hold vacant land in excess of the ceiling limit to an extent of 76,199.50 Sq. Mtrs. out of total area of 2,06,717.70 Sq. Mtrs. bearing Survey No. 231, 232, 233, 234, 235 & 240/2, for construction of houses for the weaker section of the society, for certain terms and conditions as more specifically mentioned therein.
- xiv. Further an Articles of Agreement dated 30th March 1988 was executed between 1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar for self and as Karta & Manager of Atulchandra Shrinath Navalkar HUF comprising of his wife (3A) Smt. Akhila Atulchandra Navalkar, minor son (3B) Aniket Atulchandra Navalkar represented through his natural guardian Atulchandra, (4) Smitchandra Shrinath Navalkar for self and as Karta & Manager of Smitchandra Shrinath Navalkar HUF, comprising of his wife (4A) Smt. Swarangi Smitchandra Navalkar and (5) Sneha Shrinath Navalkar Wd/o. Shrinath Navalkar and Eversmile, thereby recording changes in the consideration amount and modifying other terms as specifically mentioned therein.

- xv. Thereafter, by virtue of a Supplemental Agreement dated 2nd September 1993 registered before the Sub-Registrar, Thane-2 under Sr. No. 310/1993, 1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar(3A) Smt. Akhila Atulchandra Navalkar, (3B) Aniket Atulchandra Navalkar, (4) Smitchandra Shrinath Navalkar (4A) Smt. Swarangi Smitchandra Navalkar and (5) Sneha Shrinath Navalkar confirmed that they have received all the dues / consideration from Eversmile and that the possession of the Entire Land belonged to Eversmile.
- xvi. As per the Schedule of the above said Articles of Agreement dated 30th March 1988, and Supplemental Agreement dated 2nd September 1993, Old Survey No. 233 & 235 belonged to Swati Saiprasad Pradhan and Old Survey No. 256 belonged to Sneha Shrinath Navalkar.
- xvii. However, Mutation Entry No. 185 dated 30th January 2017 records Shrinath Sunderrao Navalkar's death on 20th October 1983 and mutates the New Survey No. 69 (Old Survey No. 256) and New Survey Nos. 70, 75, 77, 78 in the joint names of his two sons Atulchandra Shrinath Navalkar and Smitchandra Shrinath Navalkar. It appears that after the death of Sneha Shrinath Navalkar, the revenue records in respect of Survey No.256 were directly mutated in the name of her sons Atulchandra Shrinath Navalkar and Smitchandra Shrinath Navalkar.
- xviii. Subsequently, a Power of Attorney dated 2nd September 1993 has been executed by 1) Smt. Swati Saiprasad Pradhan, (2) Saihas Saiprasad Pradhan (3) Atulchandra Shrinath Navalkar (3A) Smt. Akhila Atulchandra Navalkar, (3B) Aniket Atulchandra Navalkar, (4) Smitchandra Shrinath Navalkar (4A) Smt. Swarangi Smitchandra Navalkar and (5) Sneha Shrinath Navalkar thereby appointing Eversmile and its four Directors 1) Shri. Mofatraj P.

Munot, 2) Shri. Krishna K. Goenka, 3) Shri. Shivkumar Dalmia and 4) Shri. Suresh Gandhi as their Constituted Attorney, for the acts and deeds as more particularly mentioned therein with respect to the said Entire Land.

- xix. Corrigendum Order bearing Ref. No. ULC/TA/F-62/SR-142,143&144 dated 10th August 1994 issued by the Addl. Collector & Competent Authority, Thane Urban Land Ceiling (“**Competent Authority**”) in favor of Smt. Swati Saihas Pradhan, Mr. Saihas Pradhan and Smt. Sneha Shrinath Navalkar, thereby amalgamating and modifying all the previous Declarations made under Sec 21(1) of the Urban Land (Ceiling and Regulation) Act (“**ULC Act**”). Therefore, the re-computation of the excess vacant land was done as follows:-

Total holding	5,77,063.71 sq. mtrs.
Area exempted from acquisition	2,29,571.72 sq. mtrs.
Land to be surrendered to MHADA	93,222.20 sq. mtrs.
Already surrendered to MHADA	53,574.25 sq. mtrs.
Balance to be surrendered	39,647.95 sq. mtrs.

- xx. The total land to be surrendered to MHADA was 93,222.20 square metres out of which 53,574.25 sq. mtrs. of land had already been handed over to Government by Eversmile in the year 1985 and the balance land of 39,647.95 sq. mtrs remained in possession of Eversmile. Thereafter, the ULC Act was repealed vide the Urban land (Ceiling and Regulation) Repeal Act, 1999 which was adopted by the Maharashtra State Legislature on 29th November 2007 and came into force with effect from 6th December 2007. Section 21 of the ULC Act was not saved under the Repeal Act.

- xxi. By and under a Development Agreement dated 18th October 2007 registered before the Sub-Registrar, Thane under Sr. No. TNN-1/6063/2007, Eversmile has granted development rights to Azure Tree Townships Pvt. Ltd. with respect to a portion admeasuring 30,880 Sq. Mtrs. forming a part of Old Survey No. 231, 232, 233, 234 & 240, for the consideration and on the terms & conditions mentioned therein.
- xxii. Declaration cum Indemnity dated 10th July 2020 is issued by Eversmile in favor of Indialaw LLP, thereby confirming that the portion of land falling in Old Survey No. 233 under the above mentioned Development Agreement is not the same portion of land in Survey No.233 comprising the Developable Land.
- xxiii. On 5th February 2008, a notice was issued by the Competent Authority to Swati Saihas Pradhan, Saihas Pradhan and Sneha Shrinath Navalkar to hand over 39,647.95 sq. mtrs. of land in Old Survey No. 231, 232, 233, 235 & 240/2 to MHADA. Eversmile along with Sneha Shrinath Navalkar & Saihas Pradhan challenged the said Notice dated 5th February 2008 which was issued despite the Repeal Act, by filing Civil Writ Petition No. 929 of 2008 against the Competent Authority & Others before the Hon'ble Bombay High Court. Vide Judgment dated 17th March, 2020 the Hon'ble Bombay High Court allowed the Petition thereby quashing and setting aside the impugned Notice dated 5th February, 2008. The Judgment further holds that Section 21 of the Urban Land (Ceiling and Regulation) Act, 1976 is not saved under the Urban Land (Ceiling and Regulation) Repeal Act, 1999 and hence the Petitioners are not required to handover the land admeasuring 39,647.95 sq. mtrs. to the Government.

- xxiv. By and under a Decree dated 27th August 2008 passed by the Hon'ble Court, S.D. Thane in Special Civil Suit No. 289/1997 filed by Eversmile, against SaihasSaiprasad Pradhan & Ors for specific performance of the aforesaid Agreements, the Court declared that the Agreements dated 22nd January 1980, 13th May 1980, 6th February 1984, 30th March 1988 and 2nd September 1993 were binding upon the defendants. The Consent Decree dated 27th August 2008 was duly adjudicated by Collector of Stamps Thane on 7th May 2015 and thereafter the consent Decree was registered by Eversmile under the Affidavit Cum Declaration dated 12th August 2015, with the Joint Sub-Registrar of Assurances Thane-10 under Serial No. 11854 of 2015.
- xxv. Vide Notification dated 5th December 2018 issued by Urban Development Department of State of Maharashtra inter alia holding that considering the Order dated 11th March 2015 passed in Writ Petition No. 1178 of 2014 except for the land/tenements acquired by the Government, the excess land exempted under Section 21 have gone out of the purview of the ULC Repeal Act. The said Notification also states that to develop/redevelop such lands, NOC of the Competent Authority is not required. In order to develop such land, the concerned Planning Authority should take further steps after considering the provisions of the Development Control Regulations.

4. REVENUE RECORDS:

- i. The online extracts of Village Form No. 7/12 dated 11th June 2020 record Swati Saiprasad Pradhan to be the Occupant Class-I of Old Survey No. 233 (New Survey No. 66) admeasuring 34,320 Sq. Mtrs. and Old Survey No. 235 (New Survey No. 68) admeasuring 34,930 Sq. Mtrs. Name of Eversmile has been recorded as Developer in the other rights column.

- ii. The online extracts of Village Form No. 7/12 dated 11th June 2020 record Atulchandra Navalkar and Smitchandra Navalkar both sons of Late Shrinath Sunderrao Navalkar to be the Occupant Class-I of Old Survey No. 256 (New Survey No. 69) admeasuring 2430 Sq. Mtrs. Name of Eversmile has been recorded as Developer in the other rights column. However, as per the agreements as mentioned hereinabove and declarations, Corrigendum Order dated 10th August 1994 issued by the Competent Authority under ULC Act, the said Old Survey No. 256 (New Survey No. 69) was issued in the name of Sneha Shrinath Navalkar, after the death of Shrinath Navalkar.
- iii. We have been informed by Client that Sneha Navalkar has expired. Moreover, as per the Family Tree provided to us, it appears that Swati Saihas Pradhan also died on 16th October 1999. It is also observed that the revenue records pertaining to Old Survey No. 233 (New Survey No. 66) and Old Survey No. 235 (New Survey No. 69) are yet to be updated after the death of Swati Pradhan, since the latest online extracts of Form 7/12 still records her name as Occupant.
- iv. Eversmile vide Declaration cum Indemnity dated 10th July 2020 has confirmed and indemnified Indialaw LLP that the records of death of Sneha Navalkar and Swati Pradhan are unavailable, however the same does not hamper or restrict their rights over the said Developable Land. Further, Eversmile has confirmed that the aforesaid updation of the records, has no bearing on their title and they hold valid development rights in respect of the said Developable Land and their name has been recorded in other rights column of extracts of Village Form 7/12.

5. LITIGATION:

We have been informed by Eversmile that, there is no litigation with respect to Old Survey Nos. 235 and 256 of the Larger Land, whereas following litigations are observed with respect to Survey No. 233 of the Larger Land.

i. Regular Criminal Case No. 651 of 2009

State of Maharashtra Vs. 1) Kishorebhai Mohanlalji Rathod, 2) Dilip Mohanlalji Rathod, 3) Jayprakash Mohanlalji Rathod, 4) Vijayraj Mohanlalji Rathod & 5) Bharat Mohanlalji Rathod.

The aforesaid private Criminal Complaint has been filed against Kishorebhai Mohanlalji Rathod & Others for the offences of criminal trespass and forgery, as more particularly mentioned therein. The charges have been framed against the Accused and the matter is pending before the Addl. Chief Magistrate Thane.

6. SRO SEARCH:

We have conducted search at the Office of Sub Registrar, Thane 1 to 12 vide Search Receipt dated 15th June, 2020 bearing GRN No. MH001242036202021E, MH001242552202021E, MH0012428252021E for the period from 2017 till 2020 (3 Years) and did not observe any encumbrances or adverse entries, registered with these offices for the said period, with respect to the Developable Land.

7. ROC SEARCH:

We have conducted search at the website of Ministry of Corporate Affairs, vide Search Receipt No. U66511809 dated 10th June 2020 and did not observe any active charges registered in the name of Eversmile with respect to the said Developable Land.

8. **OPINION:**

Based on the perusal of documents made available and subject to what is stated hereinabove, we are of the view that Eversmile Properties Pvt. Ltd. holds clear, marketable and valid development rights and interests in respect to the above referred Developable Land.

Yours Truly,



Sneha Dubey,
Associate Partner
INDIALAW LLP