

SANJAY B. BORKAR

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Advocate High Court

OFF. : VAIBHAV APARTMENT A01- 4th floor, Near Collector Office, Tembhinda Thane - (W) - 400 601.
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To,
Messrs. Priya Constructions,
302-303, Abhiman II,
Near Damani Estate, Teen Hath Naka,
L.B.S. Road,
Thane (West) - 400 602.

OPINION ON TITLE

Re: All that piece and parcel of land bearing CTS Nos.29(part), 31 and 559(part) all together admeasuring in the aggregate 7,672.51 square metres or thereabouts all situate, lying and being at Village Chembur, Tilak Nagar, Chembur "M" Ward, Mumbai District, Mumbai-400 089.

*We have prepared this Opinion on Title in respect of the said Property (as defined hereunder) on the basis of copies of (i) certain documents of title; (ii) revenue records; (iii) Search Reports dated 20th January, 2018, 3rd January 2020 and 1st October, 2020 issued by Mr. Rakesh Shinde, Search Clerkin respect of the searches carried out in the Office of the Sub-Registrar of Assurances in respect of said Property; (iii) Search Report dated 1st October 2020 issued by Ms.Jinal Dawda, Company Secretary as regards searches conducted in the Central Registry of Securitisation Asset Reconstruction and Security Interest of India in respect of the said Property; (iv) Legal Audit Report dated 29th September 2020, issued by Cubictree Technology Solutions Private Limited in respect of litigation filed by or against the Messrs. Priya Constructions ("**Developer**") and (iv) the Declaration cum Indemnity dated 7/10/2020 given by Developer through its partner, Mr. Haresh Gurbux Doulatani as furnished to us. On perusal thereof, we note as under:*



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A. Title Flow:

1. On perusal of a copy of the Property Register Card ("**PRC**") issued on (i) 26th August, 2020 in respect of City Survey ("**CTS**") No.29 admeasuring 14,845.5 square meters and CTS No.559 admeasuring 19,207.7 square meters; (ii) 21st January, 2020 in respect of CTS No.31 admeasuring 540.6 square meters; all together admeasuring in the aggregate 34,593.8 square meters or thereabouts, all situate, lying and being at Village Chembur, Tilak Nagar, Chembur "M" Ward, Mumbai District Mumbai-400 089, we note that Maharashtra Housing and Area Development Authority ("**MHADA**") is recorded as the holder thereof . This Opinion on Title is restricted to all that piece and parcel of land bearing CTS Nos.29(part), 31 and 559(part) all together admeasuring in the aggregate 7,672.51 square meters or thereabouts all situate, lying and being at Village Chembur, Tilak Nagar, Chembur "M" Ward, Mumbai District Mumbai-400 089 and more particularly described in the **First Schedule** hereunder written forming part of the aforesaid larger property ("**Property**") held by MHADA.
2. On perusal of the Annexure -II dated 7th November 1997 bearing reference no. SRA/Addl. Coll/Annex-II/Raj-Rajeshwari/1299 issued by the Additional Collector, Slum Rehabilitation Authority ("**SRA**") in respect of the said Property, we note that the said Property is a censused slum and that there are 356 slum dwellers on the said Property.
3. The slum dwellers on the said Property formed themselves into a co-operative society by the name 'Shree Raj Rajeshwari Co-Operative Housing Society Limited (proposed)' ("**Society**").
4. On perusal of the Development Agreement dated 19th September 2009 executed between the Society and the Developer (*as detailed in clause 8 hereunder*), it appears that:
 - 4.1 In the general body meeting of the Society held on 1st July 1997, one Messrs. Shree Tirupati Developers, a partnership firm was appointed as the developer to undertake a Slum



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Rehabilitation Scheme ("**SRA Scheme**") on the said Property.

4.2 Pursuant thereto, a Development Agreement dated 23rd March 1999 was executed by the Society in favour of Messrs. Tirupati Developers.

4.3 Messrs. Tirupati Developers was mutually dissolved and one of the partner of Messrs. Tirupati Developers being Poonamchand Nenshi Shah took over the entire of business of Messrs. Tirupati Developers as sole proprietor in the name of Om Tirupati Developers.

4.4 On account of the dissolution of Messrs. Tirupati Developers, the Development Agreement dated 23rd March 1999 executed by the Society in favour of Messrs. Tirupati Developers was terminated as also the individual agreements entered into in that behalf by the members of the Society with Messrs. Tirupati Developers by its Letter dated 27th January 2002.

4.5 The Society unanimously appointed Poonamchand Nenshi Shah sole proprietor of Om Tirupati Developers and issued an appointment letter dated 5th February 2002, in respect thereof.

5. By and under a notarized Agreement dated 8th February 2002 executed by and between (i) Hemant Yashwant More, (ii) Amareson Radhakrishnan Naikkar, (iii) Kannan Ayoti, (iv) Vasant Yashwant Sosthe, (v) Ganesh Rangnath Ransheware, (vi) Ganesh Rangaswamy Udayar, (vii) Ganesh Sundaram Pillai, (viii) Ganesh Peruswami Munian, (ix) Arundas Muniyan Keshawan, (x) Sharad Tukaram Bijagare, (xi) Zahidabee Duniyadar Shaikh, (xii) Rekha Pundalik More, (xiii) Jayshree Ashok Rokde, and (xiv) Goraknath Nana Avhad all being the Promoters of the Shree Raj Rajeshwari Co-operative Housing Society Limited (proposed), therein referred to as the Society of the One Part and Poonamchand Nenshi Shah being the sole proprietor of Om Tirupati Developers, therein referred to as the



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- Developer of the Other Part, the Society granted development rights in favour of Poonamchand Nenshi Shah being the sole proprietor of Om Tirupati Developers, to undertake development of the said Property at or for the consideration and on the terms and conditions contained therein.
6. Pursuant to the aforesaid Agreement dated 8th February 2002, by and under a notarized Irrevocable General Power of Attorney dated 8th February 2002 (i) Hemant Yashwant More, (ii) Amareson Radhakrishnan Naikkar, (iii) Kannan Ayoti, (iv) Vasant Yashwant Sosthe, (v) Ganesh Rangnath Ransheware, (vi) Ganesh Rangaswamy Udayar, (vii) Ganesh Sundaram Pillai, (viii) Ganesh Peruswami Munian, (ix) Arundas Muniyan Keshawan, (x) Sharad Tukaram Bijagarc, (xi) Zahidabee Duniyadar Shaikh, (xii) Rekha Pundalik More, (xiii) Jayshree Ashok Rokde, and (xiv) Goraknath Nana Avhad, all being the Promoters of the Shree Raj Rajeshwari Co-operative Housing Society Limited (proposed) nominated, constituted and appointed Poonamchand Nenshi Shah being the proprietor of Om Tirupati Developers to do all acts, deeds, matters and things in respect of the said Property as more particularly set out therein.
 7. On perusal of the Development Agreement dated 19th September 2009 executed between the Society and the Developer (*as detailed in clause 8 hereunder*), it appears that Om Tirupati Developers was unable to complete the development of the said Property and in view thereof, the Society in its general body meeting held on 15th August 2009, *inter alia* appointed Messrs. Priya Constructions, the sole proprietary firm of Manasi Avchar Gala ("**Mr. Gala**") as developer to undertake the SRA Scheme on the said Property. The aforesaid minutes further record that it shall be the responsibility of the Developer to obtain the no-objection from Messrs. Tirupati Developers and Om Tirupati Developers.
 8. By and under a notarized Development Agreement dated 19th September 2009 executed by and between Shree Raj Rajeshwari Co-Operative Housing Society Limited (proposed),



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therein referred to as the Proposed Society of the One Part and Messrs. Priya Constructions, therein referred to as the Developer of the Other Part, the Society granted in favour of Messrs Priya Constructions, through its proprietor Mr. Gala development rights to undertake development on the said Property at or for the consideration and on the terms and conditions contained therein.

9. Pursuant to the aforesaid Development Agreement dated 19th September 2009, a notarized Irrevocable General Power of Attorney dated 19th September 2009 was executed by (i) Hemant Yashwant More; (ii) Amareson Radhakrishnan Naikkar; (iii) Usha Shard Bijagre; (iv) Peruswami Munia; (v) Muttanal Sunderam Pillai; (vi) Vatsala Vasant Sosthe; (vii) Vijay R Ransheware; (viii) Arundas Muniyan Keswan; (ix) Rangaswamy Ganeshan; (x) AyotiIkoni being the Committee Members of the Society, nominating, constituting and appointing Mr. Gala being the sole proprietor of Messrs. Priya Constructions as their attorney to do all act, deeds, matters and things in respect of the said Property as more particularly contained therein.
10. By and under a notarized Agreement of Assignment dated 27th April 2010 executed between Poonamchand Nenshi Shah being the proprietor of Messrs. Tirupati Developers, therein referred to as the Assignor of the First Part and Mr. Gala being the proprietor of Messrs. Priya Constructions, therein referred to as the Assignor of the Second Part and Shree Raj Rajeshwari Co-Operative Housing Society Limited (proposed), therein referred to as the Consenters of the Third Part, Messrs. Tirupati Developers assigned, transferred, assured and confirmed unto Messrs. Priya Constructions all their right and benefits under the Development Agreement 8th February 2002 (*as detailed aforesaid*) 'on as is where is basis' at or for the consideration and on the terms and conditions contained therein. On perusal of the aforesaid Agreement of Assignment dated 27th April 2010 we note that the Assignors rights and benefits shall stand assigned only after the realization of the entire consideration contained therein. The Developer has confirmed that the entire consideration payable under the aforesaid Agreement of



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Assignment has been duly paid and there is no outstanding therein.

11. On perusal of the aforesaid Agreement of Assignment, we note the following:

11.1 The aforesaid Agreement of Assignment records Poonamchand Nenshi Shah as being the proprietor of Messrs. Tirupati Developers instead of Om Tirupati Developers, however, by and under the said Declaration, the Developer has confirmed that the reference to Poonamchand Nenshi Shah being the proprietor of Messrs. Tirupati Developers is incorrect and that the same should be read as Om Tirupati Developers.

11.2 Mr. Gala being the proprietor of Messrs. Priya Constructions has been defined in the name clause as being 'the Assignor' however the signature clause records Mr. Gala being the proprietor of Messrs. Priya Constructions as being the 'Assignee'. By and under the said Declaration, the Developer has confirmed that Mr. Gala being the proprietor of Messrs. Priya Constructions is the 'Assignee' under the aforesaid Agreement of Assignment and the reference as 'Assignor' in the name clause is a typographical error.

11.3 The Society and the Assignee shall not claim any amounts which the Mumbai Metropolitan Regional Development Authority ("**MMRDA**") shall pay to the Assignor in lieu of MMRDA acquiring a portion of the said Property. By and under the said Declaration, the Developer has confirmed that no compensation has been received by Messrs. Priya Constructions from MMRDA till date.

12. By and under a notarized Deed of Assignment of Development Rights dated 5th May 2010 executed between Messrs. Shree Tirupati Developers through its partners (i) Vijay Poonamchand Shah; (ii) Bhawarlal Fujmal Jain and (iii) Paras Gunvantlal Shah, therein referred to as the Assignor of the First Part and



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Messrs. Priya Constructions, through its sole proprietor Mr. Gala, therein referred to as the Assignee of the Second Part and Priya Infraprojects Private Limited ("**Priya Infraprojects**"), therein referred to as the Assignees of the Third Part, the Assignor therein with the consent of the Society granted, conveyed, transferred and assigned unto the Assignee therein, exclusive and uninterrupted development rights under the Development Agreement dated 27th August 1997 executed in respect of the said Property along with all the right, title, interest and obligations contained therein at or for the consideration and on the terms and conditions contained therein. We have neither been furnished with the aforesaid Development Agreement dated 27th August 1997 executed between the Society and Messrs. Tirupati Developers nor with the Irrevocable Power of Attorney of even date as referred to in the aforesaid Deed of Assignment of Development Rights. By and under the said Declaration, the Developer has confirmed that the aforesaid Deed of Assignment of Development Rights dated 5th May 2010 erroneously refers to Messrs. Shree Tirupati Developers as being the Assignors instead of Messrs. Tirupati Developers and that any reference to Messrs. Shree Tirupati Developers should be read as reference to Messrs. Tirupati Developers and further that the date of the Development Agreement executed between the Society and Messrs. Tirupati Developers is erroneously recorded as dated 27th August 1997 instead of 23rd March 1999 and the same should be read as dated 23rd March 1999.

13. By and under a notarized Deed of Assignment of Development Rights dated 5th May, 2010 executed between Messrs. Shree Tirupati Developers through its partner Shri. Ghamshyam Sawarmal Agrawal, therein referred to as the Assignor of the First Part and Messrs. Priya Construction, through sole proprietor Ms. Mansi Gala, therein referred to as the Assignee of the Second Part and Priya Infraprojects, therein referred to as the Assignees of the Third Part, the Assignor therein with the consent of the Society granted, conveyed, transferred and assigned unto the Assignee therein, exclusive and uninterrupted development rights on 'as is where is basis' under the



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Development Agreement dated 27th August 1997 executed in respect of the Property alongwith all the right, title, interest and obligations contained therein at or for the consideration and on the terms and conditions contained therein. The Developer has confirmed that the aforesaid Deed of Assignment of Development Rights dated 5th May 2010 erroneously refers to Messrs. Shree Tirupati Developers as being the Assignors instead of Messrs. Tirupati Developers and that any reference to Messrs. Shree Tirupati Developers should be read as reference to Messrs. Tirupati Developers and further that the date of the Development Agreement executed between the Society and Messrs. Tirupati Developers is erroneously recorded as dated 27th August 1997 instead of 23rd March 1999 and the same should be read as dated 23rd March 1999.

14. By and under the said Declaration the Developer has confirmed that Priya Infraprojects has no right, title, interest and / or any claim of any nature whatsoever in the said Property and/or in the SRA Scheme being implemented on the said Property and that though the aforesaid Deed of Assignment of Development Rights dated 5th May 2010, mentions the Developer and Priya Infraprojects as the Assignees therein, the Developer alone is solely and exclusive entitled to develop the said Property.
15. By and under the Deed of Partnership dated 5th October 2010 read with the Supplemental Deed of Partnership dated 28th October, 2010 Mr. Gala, proprietor of Messrs. Priya Constructions and Theme Developers Private Limited together constituted a partnership firm under the name and style of 'Messrs. Priya Constructions' to *inter-alia* develop the said Property and all the right title and interest of the sole proprietor, Mr. Gala in the said Property vested in the Developer with effect from 5th October 2010 and the parties therein agreed that the said Property shall be treated as the property of the Developer, by way of his capital contribution to the Developer in the manner contained therein.
16. By and under a Deed of Assignment dated 21st December 2010 executed by and between Messrs. Om Tirupati Developers,



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therein referred to as the Assignor of the First Part, Messrs. Priya Constructions, therein referred to as the Assignees of the Second Part and Messrs. Tirupati Developers, therein referred to as the Confirming Party of the Third Part and Shree Raj Rajeshwari Co-operative Housing Society Limited (proposed), therein referred to as the Confirming Party of the Fourth Part, the Assignor therein assigned, transferred, assured and confirmed unto the Assignee therein all its rights and benefits under the Development Agreement dated 8th February 2002 and Development Agreement dated 19th September 2009, at or for the consideration and on the terms and conditions contained therein. By and under the said Declaration the Developer has confirmed that the balance consideration has been paid by way of post-dated cheques and that the same have been honoured.

B. NOC from the Land-Owning Authority:

17. The Developers have furnished the copy of a letter dated 24th December 1998 bearing reference no. SRA/Raj Rajeshwari/6262/LM issued by MHADA stating therein *inter-alia* that it has no objection to the implementation of the SRA Scheme by the Society on the said Property.

C. Letter of Intent:

18. A Letter of Intent ("**LOI**") dated 23rd November 1998 bearing reference no. SRA/Ch.E/189/MW/MHL/LOI was issued by the SRA in favour of Messrs. Tirupati Developers in respect of the said Property on the terms and conditions contained therein.
19. A provisional LOI dated 13th September, 2010 bearing reference no. MMRDA/SRA/Provisional LOI-67/GL/M-W/2010 was issued by the MMRDA in favour of Messrs. Priya Constructions in respect of CTS Nos. 29, 29/1 to 93(part), 31, 557, 558, 559, 559/1 to 93, 1832 (part) and 1833(part) of Village Chembur Taluka Kurla, Mumbai Suburban District at Amar Mahal Junction, Eastern Express Highway, Tilak Nagar Road No. 3, Chembur,



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Mumbai 400089 including the said Property on the terms and conditions contained therein.

20. On perusal of the LOI Report bearing reference no. MMRDA/SRA Cell/ LOI-/ 2010, issued in pursuance of the aforesaid provisional LOI dated 13th September 2010, we note that MMRDA has been empowered to act as the SRA for the purposes of undertaking slum rehabilitation projects required to be undertaken for the project affected persons of MMRDA Projects under section 17(1) of the MMRDA Act, 1974 and in terms of section 17(3) of the MMRDA Act, 1971 MMRDA is holding the powers of the SRA and thereby all delegated powers of CEO, SRA under the Maharashtra Regional and Town Planning Act, 1966 and MMRDA is the 'Deemed SRA'. In the above circumstances, the LOI has been issued by MMRDA.
21. The Developers have furnished the copy of Letter dated 27th September 2011 bearing reference no. SRA Cell/MMRDA/ Cancellation/ PLOI/ 2011 addressed by the MMRDA to the Developer *inter-alia* cancelling the provisional LOI dated 13th September 2010.
22. The Developers have furnished the copy of the Letter dated 25th March 2013 bearing reference no. MMRDA/SRA Cell/Restoration of LOI/72/2013 addressed by the MMRDA to the Developers stating therein *inter alia* that the LOI dated 13th September 2010 was restored as per the Order dated 13th March 2013 passed by the Hon'ble High Court of Judicature, at Bombay subject to the fulfillment of all the conditions contained therein and further that since MHADA had issued its NOC only in respect of the said Property the approvals shall be granted only in respect of the said Property and the approvals for the remaining portion of the lands under the LOI dated 13th September 2010 shall be issued only after MHADA has granted its necessary NOC in respect thereof.
23. A Revised LOI dated 1st July 2015 bearing reference no. MMRDA/SRA Cell/ LOI-67/GL/M(W)/2015 has been issued by the MMRDA in favour of the Developer in respect of the said



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Property on the terms and conditions contained therein including that the Revised LOI dated 1st July 2015 supersedes the previous LOI dated 13th September 2010.

24. A Revised LOI dated 11th August 2020 ("**Revised LOI**") bearing reference no. MMRDA/SRA/Rev.LOI-67/GL/M(W)/2020 has been issued by MMRDA in favour of the Developer in respect of the said Property on the terms and conditions contained therein including that the Revised LOI supersedes the earlier provisional LOI dated 13th September 2010 and the Revised LOI dated 1st July 2015.
25. We have been furnished with a copy of Annexure II dated 7th November 1997 bearing reference no. SRA/Addl.Coll/Annex-II/Raj-Rajeshwari/1299 read with the Corrigendum dated 23rd December 1997 bearing reference no. SRA/AC/ Corgdm / R.RSCHS/ 97/15/2 both issued by the Additional Collector, SRA in respect of the said Property certifying *inter alia* the list of eligible slum dwellers occupying the said Property and accordingly, out of the total 356 slum dwellers on the said Property, 306 were declared eligible for free alternate accommodation, out of such 306 eligible slum dwellers, 286 were residential, 3 were residential cum commercial and 17 were commercial.

D. Building Permissions:

26. A Commencement Certificate dated 26th October, bearing reference no. MMRDA/OSD/SRA/Rev.LOI-67/IOA-142/GL/M(W) / 2020 has been issued by Mohan G. Sonar, Officer on Special Duty, SRA Cell, MMRDA, with respect to the approved Slum Rehabilitation scheme under Regulation 33(10) of DCPR-2034 on the said Property is granted subject to compliance of conditions mentioned in the said Revised LOI and the last amended plans under number MMRDA/OSD/SRA/Rev.LOI-67/IOA-142/GL/M(W)/2020 dated 31st August, 2020 which is approved under DCPR-2034.



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E. Documents executed between the Developer and the members of the Society:

27. By and under the said Declaration, the Developer has confirmed that out of the total 306 eligible slum dwellers, the Developer has executed Individual Agreement for permanent alternate accommodation with all the eligible slum dwellers. The Developers have been furnished with a copy of a sample notarized Agreement dated 20th August 2009 executed between Messrs. Priya Constructions, therein referred to as the Developer of the First Part, Shree Raj Rajeshwari Co-operative Housing Society Limited (proposed), therein referred to as the Society of the Second Part and Jankabai Nana Avhad and Ramchandra Avhad, therein referred to as the Occupants of the Third Part, whereby the Occupants therein granted their consent for *inter-alia* the implementation of the SRA Scheme on the said Property by the Developers on the terms and conditions contained therein.
28. We have been furnished with a copy of an *undated* Consent notarized on 5th January 2010 executed by 146 slum dwellers in the Society appointing Messrs. Priya Constructions through proprietor Mr. Gala as the developer to undertake SRA Scheme on the said Property.

F. Constitution and Reconstitution Documents of the Developer :

29. We have been furnished with the copy of the Deed of Partnership dated 5th October 2010 and Supplemental Deed of Partnership dated 28th October 2010 in respect of the Developer (collectively referred to as "**Deeds**") and on perusal thereof note that Theme Developers Private Limited and Mr. Galawere the original partners of the Developer.
30. By and under a Deed of Admission cum Retirement dated 1st February 2018 made by and between Mr. Gala, therein referred to as the Retiring Partner of the First Part, Messrs. Priya Constructions through Theme Developers Private Limited,



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therein referred to as the Continuing Partner of the Second Part and Haresh Gurbux Doulatani ("**Mr. Haresh**"), therein referred to as the Continuing Party of the Third Part, the Developer has admitted Haresh Gurbux Doulatani as the incoming partner against the retirement of Mr. Gala as a partner of the Developer at or for the consideration and on the terms and conditions mentioned therein. Certain terms and conditions of the aforesaid Deed of Admission cum Retirement dated 1st February 2018 are as under :

30.1. The Continuing Partner and the Incoming Partner therein shall handover to the Retiring Partner, on ownership basis and free of costs, possession of constructed area admeasuring about 4375 square feet (carpet area) of residential premises in the Free Sale Buildings to be constructed on *inter alia* the said Property with Occupation Certificate within 36 months from issuance of commencement certificate of Phase-I (being the building to be constructed on the said Property) and remaining 5469 square feet (saleable carpet area) in Phase-II of Residential premises in the Free Sale Buildings to be constructed on *inter alia* the said Property with Occupation Certificate within 36 months from issuance of Commencement Certificate of Phase-II (collectively, "**Assigned Premises**") together with allotment of 15 Stilt/Covered Car Parking Spaces to be allotted in proportion to the aforesaid assigned premises by the concerned statutory authorities MCGM/MMRDA/SRA as per the Development Control Regulations in the respective Free Sale Buildings ("**Assigned Car Parking Space**"), to be constructed in the respective Free Sale Building to be constructed in Phase I and Phase - II (Assigned Premises and the Assigned Car Parking Space, unless individually referred to, shall collectively be referred to as the "**Assigned Property**").

30.2. The Developer and/or the Continuing Partner/Incoming Partner shall not create any mortgage, charge, lien, interest, encumbrance, third party rights, claim or



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otherwise in respect of the Assigned Property coming to the share of the Retiring Partner, for any reason whatsoever.

- 30.3. The Developer and/or the Continuing Partner/Incoming Partner shall not assign the benefits of the Retiring Partner in respect of the Assigned Property to any person by way of security, bequeath or otherwise.
31. On perusal of the aforesaid Deed of Admission cum Retirement dated 1st February 2018, we note that the name of Mr. Haresh has been erroneously recorded as Haresh Gurubruux Doulatani on page 3 of the aforesaid Deed of Admission cum Retirement dated 1st February 2018.
32. By and under a Letter dated 5th February 2018, the Developer has informed the SRA Cell, MMDRA as regards the reconstitution of the Developer *vide* Deed of Admission cum Retirement dated 1st February 2018. The Developers have also furnished a copy of Letter dated 5th February issued by Raj Rajeshwari Co-operative Housing Society (proposed) ("**Society**") to SRA Cell, MMRDA giving its no-objection in respect of aforesaid reconstitution of the Developer and continuance of the Developer for the re-development of the said Property. By and under the said Declaration, the Developer has confirmed that no communication/demand has been issued by SRA Cell MMRDA pursuant to their Letter dated 5th February 2018 and further, the Developer has agreed to pay the fees/premium payable in respect of the aforesaid reconstitution as and when the demand is raised by MMRDA.
33. Further, by and under a Deed of Admission cum Retirement dated 31st March 2020 made by and between Theme Developers Private Limited ("**Retiring Partner**"), therein referred to as the Retiring Partner of the First Part, Mr. Haresh, therein referred to as the Continuing Partner of the Second Part and Theme Residency Private Limited ("**Theme Residency**") therein referred to as the Confirming/Incoming Partner of the Third Part, Mr. Haresh and the Incoming Partner therein



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accepted the retirement of the Retiring Partner at or for the consideration and on the terms and conditions mentioned therein. Certain terms and conditions of the aforesaid Deed of Admission cum Retirement dated 31st March 2020 are as under:

- 33.1. In pursuance of the aforesaid Deed of Admission cum Retirement dated 31st March 2020, the Retiring Partner shall retire from the Developer with effect from 31st March 2020.
- 33.2. That Retiring Partner therein shall be given a goodwill amount of Rs. 4,00,00,000/- (Rupees Four Crore Only) on its retirement from the Firm along with outstanding capital of Rs. 16,03,47,249.50/- (Rupees Sixteen Crore Three Lakh Forty-Seven Thousand Two Hundred and Forty-Nine and Fifty Paise Only), and the Developer shall pay the entire amount as mutually decided between the parties. By and under the said Declaration, the Developer has confirmed that the aforesaid outstanding capital has not been paid, as on date.
- 33.3. That from the date of execution of the aforesaid Deed of Admission cum Retirement dated 31st March 2020, the Retiring Partner is said to have been retired from the Developer for all purpose practically and legally and shall cease to have any right, title, interest or interference with the Developer and its Partnership Business (as defined there under).
- 33.4. That the Firm shall be entitled to develop the entire Slum Landas defined there under including the said Property as mentioned in the various development agreements entered with various Slum Societies, in accordance with the terms and conditions laid down by all the local/statutory authorities at its own cost and expenses. It is clarified that the Retiring Partner therein in no way shall be asked or called upon to bear any of the expenses, liabilities, demands, claims or losses with respect to the



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Partnership Business of the Developer, for any reason whatsoever.

33.5. That the Retiring Partner therein assigned, released and transferred unto the Developer as well as the Continuing Partner all its share, right, title and interest in properties, assets, credits, effects, securities, permits, licenses, quotas, rights, ownership rights, trade name and goodwill and contracts entered into and works executed and work in progress and deposits held and monies and properties in the Developer to hold the same unto Theme Residency and Mr. Haresh absolutely.

33.6. It is agreed by Mr. Haresh and Theme Residency that, in the event, for any reason whatsoever the contract for redevelopment of the Slum Land including the said Property is cancelled due to any financial problems or construction permission cancelled by Authority for default of existing partner or non-payment of premium or non-performance of work on site in second phase, then in that event, Mr. Haresh and the Incoming Partner or any of their assigns shall, jointly and severally compensate the Retiring Partner for all the losses and damages caused to the Retiring Partner.

G. Mortgage:

34. By and under an Indenture of Mortgage dated 11th May 2018 registered with the Office of Sub-Registrar of Assurances under Serial No.KRL-1/5679 of 2018 executed by and between Priya Constructions, therein referred to as the Mortgagor of the First Part, IDBI Trusteeship Services Limited, therein referred to as the Debenture Trustee/Trustee/Mortgagee of the Second Part and Spenta Habitat Private Limited, therein referred to as the Company/Issuer of the Third Part ("**IDBI Mortgage**"), the Mortgagor granted, transferred and assured by way of a first ranking exclusive mortgage on *inter alia* the said Property together with building and structures constructed/to be



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constructed thereon in favour of Debenture Trustee for securing the amounts on the terms and conditions mentioned therein.

H. Revenue Records:

35. We have been furnished with a copy of the Property Register Cards ("PRC") in respect of the said Property and on perusal thereof we note as under:

Sr. No.	CTS No.	Date of Property Register Card	Area (square metres)	Holders Column	Tenure
1.	29	26 th August, 2020	14845.5	Maharashtra Housing Board	'H-I' (Land held by MHADA)
2.	31	21 st January 2020	450.6	Maharashtra Housing Board	'H-I' (Land held by MHADA)
3.	559	26 th August 2020	19207.7	Maharashtra Housing Board	'H-I' (Land held by MHADA)

36. On perusal of PRC in respect of CTS Nos. 29 and 31, it appears that (i) by an Order dated 7th September 1970 bearing reference no. L.N.D.B No. 168 passed by the Sub-Divisional Officer, Mumbai permission was granted for non-agricultural use of the land bearing CTS Nos. 29 and 31; and (ii) an amount of Rs.3,905.30/- (Rupees Three Thousand Nine Hundred and Five and Thirty paise only) is payable as assessment. By and under the said Declaration, the Developer has confirmed that the same has been duly paid and there is no outstanding in respect thereof.

I. Searches to be conducted in the Central Registry of Securitisation Asset Reconstruction and Security Interest of India:



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37. We have caused searches to be carried out on the portal of Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) in respect of the said Property and we have been furnished with Search Report dated 1st October, 2020 issued by Ms. Jinal Dawda, Practicing Company Secretary ("**CERSAI Report**"). On perusal thereof, we note that a charge has been created with respect to Flat No.1003, 10 A, Wing F of Building, situate at Amar Mahal Junction, Ghatkopar E, Chembur, 400089, CTS No. 29 (Pt.) TP 183 admeasuring 995 square feet by Jaya Gajanan Shirodkar in favour of L&T Housing Finance Limited, Mumbai Branch. By and under the said Declaration, the Developer has confirmed that the aforesaid charge is not in respect of the said Property or any part thereof.

J. Litigation Searches :

38. We have caused litigation searches to be taken online in respect of litigations filed by or against the Developer and in pursuance thereof, we have been furnished with Legal Audit Report dated 29th September, 2020 issued by Cubictree Technology Solutions Private Limited in respect of the Developer i.e. Messrs. Priya Construction. By and under the said Declaration, the Developer has confirmed that no Litigations that affect the said Property or any part thereof and further that there are no suit/s or any proceeding/s or litigations or any *lispendens* in respect of the said Property or any part thereof and that there is no prohibitory order, adverse order, impediment, restraint or injunction passed by any Court of Law or by any Revenue Body or Authority or Tribunal restraining the transfer and / or development of the said Property or any part thereof or otherwise dealing with the said Property or any part thereof.

K. General Observations:

39. M/s Dhaval Vussonji & Associates, Advocates & Solicitors have published advertisement in the Free Press Journal in the English language and in the Navshakti in the Marathi language on 27th



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September, 2020 inviting claims in respect of the said Property ("**Public Notice**"). They have received the following objections, in respect of the said Pubic Notice:

39.1. Letter dated 6thOctober, 2020 issued by Amar Khanna, Advocate & Solicitor for and on behalf of Mr. Gala ("**Letter 1**") received pursuant to the said Public Notice.

39.2. Letter dated 7thOctober, 2020 issued by Vimla & Co., Advocates & Solicitors for and on behalf of Priya Infraprojects ("**Letter 2**") received pursuant to the said Public Notice.

40. With respect to the said Letter 1, by and under the said Declaration, the Developer has accepted and confirmed that Mr. Gala is entitled to the Assigned Property under Deed of Admission cum Retirement dated 1st February, 2018 (which has been recorded hereinabove).

41. With respect to the said Letter 2, by and under the said Declaration, the Developer has confirmed that Mr. Gala has made a sub-reservation from the Assigned Property for Priya Infraprojects. The Developer has further furnished us with the following documents with regard to the said Letter 2:

41.1. Letter dated 5th February, 2018 issued by Mr. Gala to Priya Infraprojects, where under Mr. Gala has placed on record that certain area out of the Assigned Property has been reserved in the name of Priya Infraprojects by the Developers.

41.2. Letter dated 7th February, 2018 issued by Priya Infra Projects Private Limited to Priya Constructions, where under Priya Infraprojects has placed on record that Mr. Gala has created a sub-reservation on certain area out of the Assigned Property in favour of Priya Infraprojects.

41.3. Letter dated 6thMarch, 2018 issued by Shree Tirupati Group to M/s. Priya Infraproject Private Limited, whether



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Shree Tirupati Group has confirmed that certain area out of the Assigned Property has been reserved in the name of Priya Infraprojects as the consideration for the same has been adjusted with Mr. Gala pursuant to Deed of Admission cum Retirement dated 1st February, 2018.

42. By and under a Letter dated 23rd January, 2020, Brihanmumbai Mahanagar Palika has issued no-dues certificate to the Developer in respect of the said Property recording therein *inter alia* that the property taxes are paid upto the period of 31st March, 2020, subject to finalization of Capital Value. On perusal of the Property Tax bill on the portal of Brihanmumbai Mahanagar Palika in respect of the same property account number as mentioned in the aforesaid Letter dated 23rd January, 2020.
43. By and under a Letter dated 8th March, 2019 issued by Adani Electricity to the Developer, Adani Electricity agreed to provide electricity services in the said Property on the terms and conditions mentioned therein.
44. By and under a Letter dated 9th August, 2018, Airport Authority of India has granted its no-objection to the Developer for height clearance in respect of proposed structures to be constructed on *inter alia* the said Property on the terms and conditions mentioned therein.
45. We have been furnished with the copy of Intimation of Approval dated 25th May, 2018 issued by MMRDA to the Developer in respect of the project to be undertaken on the said Property stipulating the stage wise terms and conditions to be met before construction of the structure on the said Property.
46. By and under a Letter dated 2nd June, 2015, MMRDA has specified the stages for recovery of land premium in respect of project to be undertaken on the said Property as under:

Sr. No.	Stage	Percentage Payable
1.	After approval, but before issue of LOI	15%.



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2.	Before issue of IOA of Rehab Building	25%
3.	Before issue of CC to sale building	60%
	Total	100%

47. On perusal of the aforesaid Letter dated 2nd June, 2015, we note that (i) an area of 2179.95 square metres forming part of the said Property, has been handed over as Santacruz-Chembur Link Road (SCLR) Set Back area and the same is developed by MMRDA and (ii) the total amount payable towards land premium in respect of the said Property is Rs.3,47,40,442/- (Rupees Three Crore Forty Seven Lakhs Forty Thousand Four Hundred and Forty Two only) on the basis of Ready Reckoner rate of the year 2010 and the area of 2179.95 square meters forming part of the said Property, handed over as Santacruz-Chembur Link Road (SCLR) is excluded from the calculation thereof. The Developers have been furnished with a copies of (i) Receipt dated 4th June, 2015 issued by MMRDA to the Developer in respect of an amount of Rs.52,11,100/- (Rupees Fifty Two Lakhs Eleven Thousand and One Hundred only) and (ii) Receipt dated 19th March, 2018 issued by MMRDA to the Developer in respect of an amount of Rs.1,15,58,300/- (Rupees One Crore Fifteen Lakhs Fifty Eight Thousand and Three Hundred only) paid towards land premium for proposed SR Scheme on *inter alia* the said Property.

48. By and under a Government Resolution dated 22nd September, 2020 bearing reference no. 2008/P.K.236/2019/jopsu-1 and unique code 202009241128535509, the Government of Maharashtra, Housing Department has laid down a decision that in view of the difficulties faced by the private developers due to Covid-19 the following revised structure for stage wise recovery of land premium in respect of slum rehabilitation projects was valid till 31st March, 2021:

Sr. No.	Stage	Percentage Payable
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1.	After approval, but before issue of LOI	10%
2.	After issuance of IOD	10%
3.	After issuance of O.C	80%
	Total	100%

49. By and under the said Declaration, the Developer has confirmed that it has already paid an aggregate of Rs. 1,67,69,400/- (Rupees Once Crore Sixty-Seven Lacs Sixty-Nine Thousand Four Hundred Only) which is approximately 48.27% of the premium payable, therefore no further premium is payable as on date and that the remaining amount of Rs. 1,79,71,042/- (Rupees One Crore Seventy-Nine Lacs Seventy-One Thousand Forty-Two Only) is payable at the time of issuance of occupation certificate.
50. By and under the said Declaration, the Developer has confirmed that payment of premium is correlated to the stage of construction of the said Property and that the entire premium payable by them as on date on the basis of the construction undertaken on the said Property has been duly paid and they shall pay the further premium as and when the same becomes due. Further, the Developer has also confirmed that no objection of MHADA was obtained as regards the Ready Reckoner rates considered for the calculation of the land premium in respect of the SR Scheme to be undertaken on the said Property.
51. By and under the said Declaration, the Developers has confirmed that a project known as "JADE" is proposed to be constructed on the said Property and the Developer have obtained Commencement Certificate bearing no.MMRDA / OSD/ SRA / Rev.LOI-67/IOA-142/GL/M (W) / 2020 dt.26th October 2020 and commenced the development thereof.
52. The Developers have furnished the electronically generated Development Plan 2034 Remarks dated 24th April, 2019 and the Development Plan in respect of the CTS Nos.29 and 31 forming part of the said Property. On perusal of the same, we note that



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CTS Nos.29 and 31, forming part of the said Property (i) fall within the residential zone; (ii) a portion is affected by proposed road 18.3 meters, proposed road widening 18.3 meters and proposed road 27.45 meters; (iii) a portion is affected by municipal maternity home as regards in respect of CTS No.29 admeasuring 6580.88 square meters; (iv) abuts the road bearing EP No. EP-MW 32; and (v) the land under reference falls with 45 meters of Eastern Express Highway Buffer and Eastern Express Highway and therefore, specific remarks have to be obtained from concerned authority.

53. We have been furnished with the electronically generated Development Plan 2034 Remarks dated 26th August, 2020 in respect of, *inter-alia*, CTS No.559 forming part of the said Property. On perusal of the same, we note that CTS No.559, forming part of the said Property (i) falls within the residential zone; (ii) a portion is affected by proposed road 18.3 meters (2 nos.) and proposed road widening 18.3 meters; (iii) abuts the reservation of Police Station; (iv) Electricity Transmission & Distribution Facilities and Railway Facilities including Tracks are the existing amenities affecting the land and (v) the land under reference falls with 45 meters of Eastern Express Highway Buffer and Eastern Express Highway and therefore, specific remarks have to be obtained from concerned authority.
54. We have inspected the documents provided by the developers in respect of the said Property more particularly described in the **Second Schedule** hereunder written. By and under the said Declaration, Developer has confirmed that save and except the documents listed in the **Second Schedule** hereunder written, all other original documents of title in respect of said Property are in the possession of IDBI Trusteeship Services Limited.
55. For the purposes of this Opinion on Title, we have made certain assumptions which are set out in the **Third Schedule** hereto.
56. The Developer has confirmed that technical diligence has been undertaken in respect of the said Property and by and under the said Declaration the Developer as confirmed that the



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development of the said Property is in compliance with all building permissions/approvals gained in respect thereof.

57. By and under the said Declaration, the Developer has *inter alia* confirmed the following:

57.1 Save and except the IDBI Mortgage and Mr. Gala as regards the Assigned Property no other person or persons or party has any share, right, title, interest, benefit, claim or demand of any nature whatsoever into, over or upon the said Property or any part thereof by way of sale, mortgage, charge, exchange, gift, trust, bequest, caretaker, leave and license, lien, lease, tenancy, sub-tenancy, inheritance, maintenance, possession, partnership, agreement or otherwise howsoever.

57.2 There are no litigations affecting the said Property and/or any part thereof.

57.3 Save and except IDBI Mortgage Deed, no third-party rights, charge, encumbrance, mortgage has been created on the said Property or any part thereof.

57.4 No notice for the acquisition or requisition of the said Property or any part thereof has been received from any governmental and/or any other authority.

57.5 All taxes including non-agricultural assessment, charges, premiums, rents, demands, claims, revenue, cesses, penalties, and all other dues and outstanding towards any municipal authority, the government and/or any other entity including but not limited to water, electricity, municipal charges, etc. in respect of the said Property have been paid in full as on the date hereof and there are no arrears in respect thereof.

57.6 The partnership firm of Messrs. Priya Construction is subsisting and dissolution of the Developer has not been initiated/processed by any person in any court of law.



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57.7 Revised Letter of Intent dated 11th August, 2020 bearing reference no. MMRDA/SRA/Rev.LOI-67/GL/M(W)/2020 is valid and subsisting and in full force and in effect and the Developer has not breached any of its terms and conditions.

57.8 No notice has been issued for breach/violation of any of the conditions of Revised Letter of Intent dated 11th August, 2020 bearing reference no. MMRDA/SRA/Rev.LOI-67/GL/M(W)/2020.

57.9 Developer is in possession of the said Property.

L. Conclusion:

In view of the above and subject to the aforesaid, Messrs. Priya Constructions is the Letter of Intent holder and entitled to develop the said Property in terms of the Revised Letter of Intent dated 11th August, 2020 bearing reference no.MMRDA/SRA/Rev. LOI-67/GL/M(W)/2020.

THE FIRST SCHEDULE HEREINABOVE REFERRED TO

(Description of the Property)

All that piece and parcel of land bearing CTS Nos.29(part), 31 and 559(part) all together admeasuring in the aggregate 7672.51 square metres or thereabouts situate, lying and being at Village Chembur, TalukaKurla, Mumbai Sub-urban District at Amar Mahal Junction, Eastern Express Highway, Tilak Nagar, Chembur "M" Ward, Tilak Nagar Road No. 3, Chembur, Mumbai 400089 and bounded as follows:

On towards the North: By CTS No.29(part);
On towards the South: By Road and Indira Slum;
On towards the East : By BSES Sub-Station; and
On towards the West : By Eastern Express Highway.

THE SECOND SCHEDULE HEREINABOVE REFERRED TO



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(Documents of Title)

1. Development Agreement dated 19th September, 2009 executed by and between the Society and Messrs. Priya Constructions.
2. Power of Attorney dated 19th September, 2009 executed by the Committee Members of the Society in favour of Manasi Avchar Gala being the sole proprietor of Messrs. Priya Constructions.
3. Undated Consent notarized on 5th January, 2010 executed by various members of the Society.
4. Agreement of Assignment dated 27th April, 2010 executed between Poonamchand Nenshi Shah being the proprietor of Messrs. Tirupati Developers and Manasi Avchar Gala being the proprietor of Messrs. Priya Constructions and the Society.
5. Deed of Assignment of Development Rights dated 5th May, 2010 executed between Messrs. Shree Tirupati Developers through its partners (i) Vijay Poonamchand Shah; (ii) Bhawarlal Fujmal Jain and (iii) Paras Gunvantlal Shah, and Messrs. Priya Constructions, through sole proprietor Manasi Avchar Gala.
6. Deed of Assignment of Development Rights dated 5th May, 2010 executed between Messrs. Shree Tirupati Developers through its partner Ghamshyam Sawarmal Agrawal and Messrs. Priya Constructions, through sole proprietor Manasi Avchar Gala.
7. Deed of Assignment dated 21st December, 2010 executed by and between Messrs. Om Tirupati Developers, Messrs. Priya Constructions and Messrs. Tirupati Developer and the Society.
8. Provisional Letter of Intent dated 13th September, 2010.
9. Letter dated 27th September, 2011 addressed by the MMRDA the cancelling the provisional Letter of Intent dated 13th September, 2010.



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10. Letter dated 25th March, 2013 addressed by the MMRDA restoring the provisional Letter of Intent dated 13th September, 2010.
11. Revised Letter of Intent dated 1st July, 2015.
12. Notarized true copy of the Minutes of the General Body Meeting of the Society held on 15th August, 2009.
13. Notarized true copy of the Minutes of the General Body Meeting of the Society held on 1st July, 2010.
14. Deed of Admission cum Retirement dated 1st February, 2018 made by and between Manasi Avachar Gala, therein referred to as the Retiring Partner of the First Part, Messrs. Priya Constructions, therein referred to as the Continuing Partner of the Second Part and Haresh Gurbux Doultani, therein referred to as the Continuing Party of the Third Part.
15. (i) Receipt dated 4th June, 2015 issued by MMRDA to the Developer in respect of an amount of Rs.52,11,100/- (Rupees Fifty Two Lakhs Eleven Thousand and One Hundred only); and (ii) Receipt dated 19th March, 2018 issued by MMRDA to the Developer in respect of an amount of Rs.1,15,58,300/- (Rupees One Crore Fifteen Lakhs Fifty Eight Thousand and Three Hundred only) paid towards land premium for proposed SR Scheme on *inter alia* the said Property.

THE THIRD SCHEDULE HEREINABOVE REFERRED TO

(Assumptions)

1. *This Opinion on Title is based only on the information given to us pursuant to the documents and statements submitted, furnished and produced before us from time to time during the course of our due diligence.*
2. *While conducting our due diligence exercise, we have assumed the genuineness of all signatures, the authenticity and completeness of all documents submitted to us and the*



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conformity with the originals /certified copy of all documents supplied as copies. In addition, we have assumed and have not verified the accuracy as to factual matters of each document we have reviewed.

- 3. This Opinion on Title is confined and limited to the state of affairs as on the date hereof.*
- 4. This Opinion on Title is limited to the matters expressly set forth herein and no comment is implied or may be inferred beyond the matters expressly stated herein. This Opinion on Title is based only on the documents made available for our examination and subject to correctness of information provided to me as stated above. Matters expressed herein are limited to reflect the state of the law applicable to the particular facts herein contained only as on the date hereof.*
- 5. We express no opinion as to the consequence or application of any law existing and applicable after such date, and expressly decline any continuing obligation to advise after the date of this Opinion on Title of any changes in the foregoing or any changes of circumstances of which we may become aware that may affect our observations contained herein.*
- 6. As regards any statements and / or information specified in this Opinion we have relied on the representations, declaration and confirmation made by Declaration cum Indemnity dated 7/10/2020 given by Messrs. Priya Constructions through its partner Mr. Haresh Gurbux Doulatani and have not independently verified the same.*
- 7. As regards the litigation matters, we have not independently verified the said information and have relied on the information provided to us by the Developer in this regard. Further, we have not carried out any independent searches in any of the Court offices regarding the pendency of any litigation.*
- 8. For the purpose of this Opinion on Title, we have perused the receipt clauses specified in the agreements and have presumed*



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that consideration amount specified therein were the only amounts payable to the respective vendors of the properties and the signatories to the receipt have received the said amount from the purchaser. Further, we have presumed that no other commercials were involved in the transaction.

9. *For the purpose of this Opinion on Title, we have not independently verified the powers of attorney or the authority under which the individuals have signed the document of title as Constituted Attorney.*
10. *We assume that technical diligence in respect of the said Property as regards the requisite permissions and approvals in respect of the SRA Scheme being undertaken on the said Property, physical surveys, reservations, development permissions, etc. have been duly completed.*
11. *This Opinion on Title is for the limited purpose of expressing our opinion on the matters mentioned herein and should not be relied upon by any other person or persons or for any purpose other than the aforesaid.*
12. *We expressly disclaim any liability, which may arise due to any decision taken by any person or persons, on the basis of this Opinion on Title.*

Dated this 28th day of October, 2020

Yours faithfully,


SANJAY B. BORKAR
ADVOCATE

