



INDIALAW

**TITLE SEARCH REPORT**

**AS ON 11 JULY 2017**

**SUBMITTED TO**

**M/S. KALPATARU + SHARYANS**

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## 1. INTRODUCTION

- 1.1 This title search investigation has been conducted by INDIALAW LLP pursuant to the instructions received from M/s. Kalpataru + Sharyans (hereinafter referred to as "Kalpataru"), a registered partnership firm, having its registered office at 101, Kalpataru Synergy, Opp. Hotel Grand Hyatt, Santacruz (East), Mumbai- 400 055, to investigate the title of Kalpataru to the said Land described hereunder.
- 1.2 Kalpataru is the Owner of all those pieces and parcels of land bearing Final Plot Nos. 284 (part), 458, 459, 495, 497 and 498 in all admeasuring 90,645 square meters, as per Town Planning Scheme No. I Panvel, situated at Village Panvel, Taluka Panvel and District Raigad and within the limits of Panvel Municipal Council ("said Land"). From the said Land, Kalpataru is developing parcels of land bearing Final Plot Nos. 497 (part) and 498 (part) of the Town Planning Scheme No.1 (First Variation), corresponding to Survey No. 442 (part) and Survey No. 771 (1A and 2B) admeasuring 5,783.00 Square Meters ("the said Land under Development").
- 1.3 We have issued this Title Search Investigation Report, in furtherance to and relying on the Title Certificate dated 2<sup>nd</sup> December, 2014, issued by Advocate Pravin Dhage in respect of the said Land under Development ("Title Report").
- 1.4 We have also conducted search and have gone through the available Index-II Registers maintained in the Office of Sub-Registrar of Panvel 1 to 5 for the period from 2014 till date (4 Years), to ascertain the latest status of the said Land under Development for the purpose of issuing this title report.

## 2. DOCUMENTS REVIEWED

- 2.1 We are relying on the below mentioned documents for issuance of this Report in respect of the said Entire Land and the said Land mentioned herein:
  - i. Title Certificate dated 2<sup>nd</sup> December, 2014 issued by Advocate Pravin Dhage.
  - ii. Search Report dated 7<sup>th</sup> November, 2014 issued by Mr. Mangesh S. Naik for the period of 1994 to 2014.



- iii. Search Report dated 12<sup>th</sup> June 2017 issued by our Search Clerk for the period 2014-2017 carried out vide Receipt No. 4923 dated 31<sup>st</sup> May 2017.
- iv. Latest 7/12 extract dated 30<sup>th</sup> May 2017 issued by the Talathi Saja, Panvel-1.
- v. Photocopy of Indenture dated 25<sup>th</sup> July 1995.

### 3. TITLE HISTORY

3.1 Based on the review of the documents provided to us and perusal of the aforesaid Title Report, we understand the following:

3.1.1 On perusal of the Recitals of Indenture dated 25<sup>th</sup> July 1995 executed between (1) Adamji Yahyabhai Jasdhanwala, (2) Shirinbai A. Mamujee, (3) Tarabai Essaji Vahanvati, (4) Bilquis M. Noorudin, (5) Khairunnissa I. Nagree, (6) Zaibunissa Y. Jasdhanwala, (7) Faizullahbai A. Jasdhanwala, (8) Batulbai Moshin Roowalla and (9) Arshad A. Jasdhanwala (as Vendors therein), Adamji Yahyabhai Jasdhanwala in his capacity as the sole Executor and Trustee of the last Will of late Yahyabhai Adamji Jasdhanwala (First Confirming Party therein), Faizullahbai Abdullahbai Jasdhanwala and Mosinbai Husainibhai Contractor, both in capacity as Executors and Trustees of the last Will and Codicil of late Abdullahbai Adamji Jasdhanwala (Second Confirming Party therein), Adamji Yahyabhai Jasdhanwala and Faizullahbai Abdulabhai Jasdhanwala both in their capacity as the Executors and Trustees of the last Will of late Gulamali Adamji Jasdhanwala (Third Confirming Party therein) and Kalpataru (as Purchaser therein), it is observed that:-

- (a) By and under a Conveyance dated 27<sup>th</sup> April 1944 entered into between Ganpat Janu Shirdhonker (Vendor) and Gulamali Adamji Jasdhanwala (Purchaser), Ganpat Janu Shirdhonker sold granted and conveyed to Gulamali Adamji Jasdhanwala, all those pieces and parcels of land at Panvel bearing Survey No.4540A-21(1), 440A-2A (2) more particularly defined in the schedule therein.
- (b) By and under an Agreement for Sale dated 14<sup>th</sup> June 1946 entered into between Kaikhushru Maneckshaw Talyarkhan (Vendor) and Yehyabhai Adamji Jasdhanwala (Purchaser), Kaikhushru Maneckshaw Talyarkhan agreed to sell all those pieces and parcels of land at Panvel as defined in the schedule thereunder for consideration and terms and conditions as therein mentioned. As per the said agreement Yehyabhai



Adamji Jasdanwala paid the full consideration to Kaishushru Maneckshaw Talyarkhan and the sale of the lands as per the schedule therein was completed Yehyabhai Adamji Jasdanwala was put in possession of the said lands on 1<sup>st</sup> May 1947.

- (c) By and under a Conveyance dated 26<sup>th</sup> June 1951 entered into between Kaikhushru Maneckshaw Talyarkhan (Vendor) and Yehyabhai Adamji Jasdanwala (Purchaser), Kaikhushru Maneckshaw Talyarkhan granted conveyed and assured unto Yehyabhai Adamji Jasdanwala the said lands described in the schedule thereunder written.
- (d) By and under a Conveyance dated 30<sup>th</sup> April 1952 entered into between Ambu Mama Savlekar (Vendor) and Yehyabhai Adamji Jasdanwala (Purchaser), Ambu Mama Savlekar granted conveyed and assured unto Yehyabhai Adamji Jasdanwala parcels of land described in the schedule mentioned thereunder.
- (e) Yehyabhai Adamji Jasdanwala and his two brothers viz (1) Abdullabhai Adamji Jasdanwalla and (2) Gulamali Adamji Jasdanwala, had from time to time acquired or purchased several parcels of land with structures thereon all situate at Panvel including the said Land mentioned herein, with intention that all the lands purchased by each of them would be deemed to be purchased by them for and on behalf of all three brothers and would be held by them as tenants in common in equal shares. The lands purchased as mentioned in 3.1.(1)(a) to (d) hereinabove, is the entire property purchased by the Jasdanwalla brothers and the same was included in the Town Planning Scheme Panvel No.1 and also in the draft scheme of Town Planning scheme no.1 Panvel and by the Award dated 26<sup>th</sup> September 1987 by Arbitrator appointed under the Maharashtra Regional Town Planning Act 1966, final plots were carved out of different portions of the entire property of Jasdanwalla Brothers and some final plots were allotted to Yehyabhai Adamji Jasdanwala.
- (f) Yehyabhai Adamji Jasdanwala died on 30<sup>th</sup> March 1980 leaving behind two sons viz (1) Adamji Yehyabhai Jasdanwalla and (2) Abhasbhai Yehyabhai Jasdanwalla, and seven daughters viz (1) Shirinbai. A.



Mamujee (2) Zehrabai Hasanali (3) Khairunnasaa. I. Nagree (4) Tarabai Essaji Vahanvati (5) Bilquis Mohmedali Nooruddin 6) Zaibunnissa Yehyabhai Jasdanwalla and (7) Munira Chaudasama as his only heirs and next of kin. He died leaving his last Will and testament dated 30<sup>th</sup> May 1967 whereby he appointed his son Adamji Yehyabhai Jasdanwalla as the sole Executor and Trustee of his Will and leaving interalia forming part of his estate an undivided 1/3<sup>rd</sup> share in the property defined in the first schedule of the Indenture dated 25<sup>th</sup> July 1995. Adamji Yehyabhai Jasdanwalla filed a petition in High Court Bombay being Petition No.804 of 1981 for grant of Probate of the last Will and Testament of Yehyabhai Adamji Jasdanwalla. The said Petition was contested by his brother and his seven sisters, as a result the Petition was converted into a Testamentary suit bearing suit no.22 of 1984. A consent terms was filed therein on 18<sup>th</sup> June 1987, and in pursuance thereto Probate was issued in favour of Adamji Yehyabhai Jasdanwalla in his capacity as the sole Executor of the estate of Yehyabhai Adamji Jasdanwalla and by the said consent terms it was agreed that as a matter of family arrangement to share the property of Yehyabhai Adamji Jasdanwalla between his two sons and seven daughters as provided in the said consent terms. Accordingly, as provided in the consent terms Adamji Yehyabhai Jasdanwalla distributed the property in accordance with their respective shares as on intestacy i.e. 2/11<sup>th</sup> share of each of the two sons and 1/11<sup>th</sup> share for each of the seven daughters. Adamji Yehyabhai Jasdanwalla as the sole Executor has been administering the estate with consent of his said brothers and said sisters.

- (g) Yehyabhai Adamji Jasdanwalla's brother Gulamali died on 8<sup>th</sup> June 1980, without leaving any lineal descendants and leaving his last Will and Testament dated 3<sup>rd</sup> May 1980 whereby he appointed Adamji Yehyabhai Jasdanwalla (son of his brother Yeshyabhai) and Faizullabhai Abdullabhai Jasdanwalla (son of his brother Abdullabhai) as the Executors of his Will and they are administering the property left by Gulamali. By his Will he had bequeathed his property to Adamji Yehyabhai Jasdanwalla, Faizullabhai Abdullabhai Jasdanwalla, Abbasbhai Yehyabhai Jasdanwalla, Saleem. A. Jasdanwalla and Arshad. A. Jasdanwalla in equal shares.



- (h) Abdullabhai Adamji Jasdanwalla died on 15<sup>th</sup> September 1982 leaving his last Will and Testament dated 14<sup>th</sup> August 1973 and a Codicil thereto dated 30<sup>th</sup> September 1977 hereby he appointed Ebrahim Hassanali Roopwala, Faizullabhai Abdullabhai Jasdanwalla and Mohsin Husainbhai Contractor as his Executors and interalia left an undivided 1/3<sup>rd</sup> share right in the property more particularly described in the First Schedule of the Indenture dated 25<sup>th</sup> July 1995. He left behind his son Faizullabhai and a daughter Batulbai as his only legal heir and next of kin. By the said Will Abdullabhai bequeathed 1/3<sup>rd</sup> of his estate to his niece Zebunisa and remaining 2/3<sup>rd</sup> thereof to his son Faizullabhai and his daughter Batulbai in proportion of 4/9<sup>th</sup> and 2/9<sup>th</sup> share respectively.
- (i) Ebrahim Hassanali Roopwala died on 7<sup>th</sup> August 1986 and thereupon Faizullabhai Abdullabhai Jasdanwalla and Mohsin Hussainibhai Contractor as surviving executors of Will of Abdullabhai entered into estate of Abdullabhai and have been administering the same.
- (j) Notwithstanding the Award dated 26<sup>th</sup> September 1987 referred to herein in 1(e) above, the entire property was always held by said Yehyabhai, said Abdullabhai and said Gulamali as absolute owners thereof and as tenants in common in equal shares. They and their respective successors in title as mentioned herein above have been in open exclusive continuous uninterrupted occupation and possession of the entire property since the respective dates of purchases/acquisitions thereof by them.
- (k) After death of Yehyabhai and Gulamali, the executors of their respective Wills and Abdullabhai in his individual capacity under Conveyance dated 28<sup>th</sup> April 1881 executed between Adamji Yehyabhai Jasdanwalla & Ors. and New Consolidated Construction Co. Ltd., sold conveyed in favour of New Consolidated Construction Co. Ltd., several pieces of land including a portion of land admeasuring 1676.46 sq. mtrs. or thereabouts out of the land bearing final plot no.284 of Town Planning Scheme No. I Panvel with structures thereon, as described in the schedule thereunder written.



- (l) By and under the Family Arrangement dated 20<sup>th</sup> September 1990 entered into between Adamji Yahyabhai Jasdawala, Shirinbai A. Mamujee, Tarabai Essaji Vahanvati, Bilquis M. Noorudin, Khairunnissa I. Nagree, Zaibunissa Y. Jasdawalla, Faizullabhai A. Jasdawalla, Batulbai Moshin Roowalla, Arshad A. Jasdawalla, Abbasbhai Yehyabhai Jasdawalla, Zehrabai Hasanai, Saleem Abbhasbhai Jasdawalla and Munira Chudasama the said entire property situate at Panvel admeasuring 1,28,342 sq. mtrs or thereabouts forming part of estates of Yehyabhai, Abdullabhai and Gulamali was partitioned amongst respective heirs beneficiaries and legatees and said Abbasbhai Yehyabhai Jasdawalla, Zehrabai Hasanai, Saleem Abbhasbhai Jasdawalla and Munira Chudasama in shares as provided therein.
- (m) As per the said Family Arrangement dated 20<sup>th</sup> September 1990 Adamji Yahyabhai Jasdawala, Shirinbai A. Mamujee, Tarabai Essaji Vahanvati, Bilquis M. Noorudin, Khairunnissa I. Nagree, Zaibunissa Y. Jasdawalla, Faizullabhai A. Jasdawalla, Batulbai Moshin Roowalla and Arshad A. Jasdawalla are absolutely seized and possessed of the property allotted to them under the said arrangement being the being the property described in the second schedule in the Indenture dated 25<sup>th</sup> July 1995.
- (n) Thus Adamji Yahyabhai Jasdawala, Shirinbai A. Mamujee, Tarabai Essaji Vahanvati, Bilquis M. Noorudin, Khairunnissa I. Nagree, Zaibunissa Y. Jasdawalla, Faizullabhai A. Jasdawalla, Batulbai Moshin Roowalla and Arshad A. Jasdawalla were the Original owners ("Original Owners") of all those pieces and parcels of land bearing Final Plot Nos. 452, 284 (part), 458, 459, 495, 497 and 498 in all admeasuring 96,386 sq. mtrs as per Town Planning Scheme No. I, Panel. ("said Larger Land").
- (o) From the said Larger Land Adamji Yahyabhai Jasdawala, Shirinbai A. Mamujee, Tarabai Essaji Vahanvati, Bilquis M. Noorudin, Khairunnissa I. Nagree, Zaibunissa Y. Jasdawalla, Faizullabhai A. Jasdawalla, Batulbai Moshin Roowalla and Arshad A. Jasdawalla agreed to sell to





Kalpataru all those pieces and parcels of land bearing Final Plot Nos.284 (part), 458, 459, 495, 497 and 498 in all admeasuring 90,645 square meters, as per Town Planning Scheme No. I, Panvel, situated at Village Panvel, Taluka Panvel and District Raigad being ("said Land"). The said Land agreed to be sold to Kalpataru has reservations as mentioned in the Indenture dated 25<sup>th</sup> July 1995.

- 3.1.2 By way of Indenture of Conveyance dated 25<sup>th</sup> July, 1995 registered before the Sub-Registrar of Assurances at Mumbai under Sr. No. R-2 BBM/3283/95 dated 26<sup>th</sup> July 1995, the Original Owners have granted, transferred and conveyed all their shares, rights, title and interest in respect of the said Land in favour of Kalpataru for the consideration and other terms and conditions agreed therein.
- 3.1.3 As such by virtue of the aforesaid Indenture of Conveyance dated 25<sup>th</sup> July, 1995, Kalpataru has become the Owner of the said Land. Kalpataru is proposing to develop a part portion of the said Land being the said Land under Development herein.

#### 4. LITIGATIONS:

##### 4.1 Status of Pending Litigations:

##### A. Regular Civil Suit No. 207/2007 before the Court of Civil Judge Junior Division Panvel.

Mr. Shankar Rama Shelar and his family members have filed this civil suit against Mr. Yahyabhai Adamji Jasdanwala and others in respect of lands bearing Survey Nos. 422/A/3/A, 422/A/3/B, 427/A/2+3, 771/2/B, 772/0, 441/1, 441/2 and 441/3 having corresponding Final Plot Nos. 452, 458, 459, 497 and 498 of Village Panvel, Taluka Panvel, District Raigad, seeking certain reliefs, as particularly mentioned therein. There is no adverse order passed against Kalpataru in respect of the said property. The Suit will come up for hearing on 24<sup>th</sup> July, 2017 for hearing on Interim Application.





**B. Lis Pendens Notice No. PVL-1/3696/08**

During the pendency of the abovementioned suit at Sr. No.1, Shankar Rama Shelar has filed and registered Lis Pendens Notice under registered No. PVL-1/3696/08.

**C. Criminal Case No. 238 of 2008 before the Court of Judicial Magistrate Panvel & Criminal Revision Application No. 743 of 2011 before the Hon'ble Bombay High Court.**

Mr. Shankar Rama Shelar & Ors. have filed a criminal case bearing Criminal Case No. 238 of 2008 in the Court of Judicial Magistrate Panvel against the Original owners under SC & ST, 'Act, 1989'. Kalpataru is not a party to the present case. Though, the process was issued on 2<sup>nd</sup> January 2009 the same was stayed by the Hon'ble Bombay High Court in Criminal Revision Application No. 743 of 2011 on 23<sup>rd</sup> January 2013. As per website of Hon'ble Bombay High Court, the Criminal Revision Application will come up for hearing in due course.

**D. One Complaint is filed before MCZMA in respect of certain alleged violations of CRZ for project constructed and developed on adjoining Plot 'A' and also relating to the present ongoing project on the Said land. The matter was heard on 28th June 2017 and 30th June 2017 and is pending for directions/orders on the said complaint. There is no adverse order passed in the matter.**

**5. SEARCH**

5.1 We have conducted a search in the office of the Sub-Registrar of Assurances at Panvel-1 to 5 vide Search Receipt No. 4923 dated 31<sup>st</sup> May, 2017 for the period 2014-2017 (4 Years), and have observed no encumbrances in respect of the said Land under Development.

5.2 We have procured the latest 7/12 extract dated 30<sup>th</sup> May 2017 issued by Talathi Saja, Panvel-1 and have found name of Kalpataru is to be mutated in the revenue records. However, the process for mutation of the name of Kalpataru in the revenue records, is in process.



**6. OPINION:**

Based on the title search investigation conducted by us and the documents referred to herein perused by us, we are of the opinion that M/s. Kalpataru + Sharyans has a clear, valid, right, marketable title and interest in respect of the said Land under Development as Owner thereof subject to what is stated hereinabove.

Yours truly,

For Shiju PV

Partner

**INDIALAW LLP**