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S.M. KARNIK

B. A. LL.B

ADVOCATE

(Enrollment No. MAH/1569/1985)

AJAY YADAV

B.Com. LL.B.

ADVOCATE

(Enrollment No. MAH/4008/2011)

Re. All those pieces and parcels of N.A. plot land or ground situated and lying at villages Chitalsar Manpada and Majiwade, Taluka - Thane, bearing Gut Nos. 43/1, 43/2, 52/7, 52/8, 52/9, 52/10, 52/11, 52/12, 52/13, 52/14, 56/6(Pt.), 45 of village - Chitalsar-Manpada and Survey/Hissa No. 166(Pt.), 166/1-A(Pt.), 342(Pt.), 166/1(Pt.) of village Majiwade having an aggregate area of about 1,52,974.80 sq.mtrs. together with Transferable Development Rights in lieu of lands admeasuring 4,859.92 sq.mtrs. surrendered to the Thane Municipal Corporation for Road Widening (the said First Property) and Gut No. 47/1Pt. of Village – Chitalsar-Manpada area admeasuring about 1568.125 sq.mtrs. (the said Second Property).

We have investigated the title of the above said First and Second Property, we have to state as under :-

1) W.G. Forge and Allied Industries Limited (hereinafter referred to as the said First Owners) were the Owners of the said First Property situate at Villages Majiwade and Chitalsar-Manpada and one Mr. Madhukar Joma Wadekar and others (hereinafter referred to as the said Second Owners) were the Owners interalia the said Second Property situate at Village Chitalsar - Manpada as more particularly referred hereinabove.

2) The Court Receiver, High Court, Bombay, was appointed as "the Receiver" in Bombay High Court, Misc. Petition No. 475 of 1984 filed by Industrial Finance Corporation of India and another against the said First Owners in respect of the assets and moveable and

immoveable properties of the said First Owners, including the said First Property. The Court Receiver, pursuant to the directions given by the Hon'ble Court, put up interalia the said First Property for sale.

3) Accordingly, the Auction sale of the assets of the said First Owners, including the said First Property was held and the Hon'ble Court vide its Order dated 11th December, 2002 confirmed the sale in favour of M/s. Anand Agarwal and Associates and its nominees. The Hon'ble Court took on file the Affidavit of the said M/s. Anand Agarwal and Associates dated 10th December, 2002 in the Appeal No. 617 in said Misc. Petition No. 475 of 1984, nominating Hiranandani Properties Pvt. Ltd. a Company registered and incorporated under the provisions of Companies Act, 1956, having its office at – 514, Dalamal Towers, Nariman Point, Mumbai – 400 021 (the Developers) as the Purchasers of the said First Property.

4) The Court Receiver, since then has received full purchase price payable under the said Auction Sale from the said M/s. Anand Agarwal and Associates and its nominees. The Court Receiver on 15th March, 2003, placed the Developers in peaceful possession of the said First Property as recorded vide Possession Receipt dated 15th March, 2003.

5) Vide letter dated 9th April, 2003 issued to various authorities, including The Municipal Commissioner, Thane, The City Engineer, Thane, The Collector, the Secretary Revenue Department, Additional Collector and Competent Authority, Thane and 8 K.M. Peripheral Area etc., the Court Receiver, High Court Bombay, recorded the said fact of the Developers being the Auction Purchasers of said First Property and confirmed that the Developers are entitled to submit plans, proposals and applications for Development / sale /



transfer of the said First Property and to utilize the full development potential thereof as may be available now and in future including TDR at their costs.

6) By and under Agreement for Sale dated 25.10.1990 made and executed by the said Second Owners in favour of one M/s Kirti Gaurav Builders and Developers Pvt. Ltd. (the First Company), confirmed the same by Mr. Rajdaksha Mahendra Sharma and Mr. Kapil Mahendra Sharma (the said Sharma Brothers), as the Confirming Party thereof, the said Second Owners agreed to sell interaila the said Second Property to the First Company, further by and under an Agreement dated 17.09.1994 executed by the First Company in favour of M/s. Nexus Builders and Developers Pvt. Ltd. (the Second Company) the First Company agreed to sell or otherwise assign the development rights interalia in respect of the said Second Property to the Second Company which also confirmed by the said Sharma Brothers as the Confirming Party thereof, further by and under Development Agreement dated 13.04.2004 duly registered with the Sub-Registrar of Assurances, Thane - 5 under Sr. No. 2806/2004 on 13.04.2004 executed by the Second Company in favour of M/s. Hiranandani Properties Pvt. Ltd., i.e. the Developers, the Second Company having the substituted Powers, have transferred and assigned the development rights in respect of the said Second Property to the Developers subject to the terms and conditions therein recorded. In pursuance of the said Development Agreement dated 13.04.2004, the said Second Company has also granted to the nominees of the Developers the Irrevocable Power of Attorney dated 13.04.2004 interalia allowing, authorizing the said Attorneys to do, perform and carry out various acts, deeds, matter, things, privileges, rights and authorities which are in details contained therein.



7) Further, we have gone through the copies of the various permissions granted by the Competent Authorities under Urban Land (Ceiling and Regulation) Act, 1976 (since repealed), the non-agricultural use permission granted by the Collector, Thane and 'No Objection' given the Labour Commissioner Govt. of Maharashtra, Mumbai in respect of the said First Property, revenue records and Search Reports given by search clerk Shri Suresh S. Shewale and further we have gone through 'Public Notice' dated 29.05.2006 in daily 'Thane Vaibhav' published by Sub-Divisional Officer, Thane, Division - Thane, wherein given property description interalia village - Chitalsar-Manpada, and Majiwade for which mentioned about acquisition of the land by the Govt. under Indian Forest Act, 1927 and Maharashtra Private Forest Act 1975 for acquisition of the lands found the said First and Second Property not mentioned therein and the permission issued by Thane Municipal Corporation under Permission/Commencement Certificate bearing V. P. No. 2003/07/TMC/TDD/84 dated 12.05.2010 and V. P. No. 2003/07/TMC/TDD/239 dated 09.02.2015 in the respect of the said First and Second Property, interalia allowing construction on the portion of lands referred above to, the Thane Municipal Corporation permitted the Developers to construct the building namely 'IRIS' being building no. 15. Ms Sharmistha Mukerjee-Shinde, Architect of the Developers has issued certificate dated 12.07.2017 to that effect.

8) Subject to the above and the search of Index II is taken by us with help of Search Clerk Shri. Suresh S. Shewale and Adv. (Mrs.) Sharda P. Kadam in the office of Sub-Registrar of Assurances Thane in respect of the said First and Second Property found no adverse entry, thus we have found the title of the First and Second Owners to the said First and Second Property is clear and marketable with the said Hiranandani Properties Pvt. Ltd., subject to pending for final hearing of Writ Petition No. 9230 of 2007 filed before Hon'ble



High Court, Bombay filed by the Developers against the Additional Collector and Competent Authority (U.L.C.), Thane Urban Agglomeration and two others, wherein Hon'ble High Court granted ad-interim relief as prayed for and matter is pending for final hearing and further subject to creation of mortgage interalia in respect of lands referred above to created by Developers in favour of St. Helen's Nominees India Pvt. Ltd. (Security Trustee – Standard Chartered Bank) vide Deed of Mortgage cum Charge dated 10.04.2017 bearing Document No. 5831/2017 registered with office of Sub-Registrar Kurla-1, Mumbai.

Thane.
Date : 13.07.2017


S. M. KARNIK
ADVOCATE


AJAY S. YADAV
ADVOCATE