

Date:10.06.2015

TITLE CERTIFICATE

Property :- All that piece and parcels of the land bearing survey No.120, Hissa No.14, admeasuring 0-21-0(H-R-P) of village Kolshet, Thane, within the limits of Thane Municipal Corporation, Taluka and District Thane, within the limits of Thane Municipal Corporation, bounded as under :

On or towards East : Property bearing S.No.120/15
On or towards West : Ritu Towers
On or towards South : Property bearing S.No.120/19
On or towards North : Property bearing S. No.120/12
Which property is hereinafter referred to as the Said Property.

I have perused the Documents of Title mainly the 7/12 extract and the mutation entries in respect thereof. I have also gone the record of the court proceedings. I have also caused the search to be taken from the office SRO Thane, for last 30 years. I have also issued the public notice in Thane Vaibhav which was published on 3/3/2015.

It is observed that at all the relevant time, one Mr Balwantrao Yashwant Ovekar was the absolute and lawful owner of the property, bearing survey No.120, Hissa No.14, admeasuring 0-21-0 (H-R-P), equivalent to 2100 sq. meters, lying, being and situate at village Kolshet, Taluka and District Thane, within the limits of Thane Municipal Corporation (hereinafter referred to as 'SAID CORPORATION') and Registration and Sub-District Thane.

It is further observed that the said Mr Balwantrao Yashwant Ovekar died on 11/2/1929, leaving behind his wife Smt. Saraswatibai Balwantrao Ovekar and his step mother, Smt. Satyabhamabai Yashwant Ovekar; and, accordingly, their names came to be recorded in the records of rights vide M.E.No.112 on 6/9/1929, certified on 3/1/1930.

It is further observed that the said legal heirs, i.e. Smt. Saraswatibai Balwantrao Ovekar and Smt. Satyabhamabai Yashwant Ovekar; executed a mortgage in respect of the said property without possession for Rs.600/- on 5/7/1930 in favour of one Hira Hari Nakhwa and Mahadev Hari Nakhva and the entry to that effect was recorded in the records of rights vide M.E.No.126 on 16/9/1930; certified on 12/1/1931.

It is further observed that the said Smt. Saraswatibai Balwantrao Ovekar and Smt. Satyabhamabai Yashwant Ovekar repaid the said mortgage amount to Hira Hari Nakhva and Mahadev Hari Nakhva on 2/12/1931; and, accordingly, the said mortgage was released vide M.E.No.141 on 10/2/1932, certified on 2/5/1932.

It is also observed that the said property was then held by one Rukminibai Dinanath Mantri, however, the said property was in fact in possession of one Mr. Janya Rama and his name was recorded in the records of rights vide M.E.No.354 on 31/1/1956 as protected tenant and was certified on 27/3/1956.

It is also observed that one Prabhakar Dinanath Mantri has purchased the said property from Smt Rukmnibai Dinanath Bhaskar Mantri, Shaligram Dinanath Mantri, Gangadhar Dinanath Mantri vide sale deed dated 8/4/1954, and the entry to that effect was recorded in the records of rights vide M.E.No.359 on 1/6/1956, certified on 28/10/1956.

It is also observed that there was remark of 'mortgage without possession' of Smt. Mankubai Mahadev Sakharam Devhare; however, the said remark being very old one and therefore, by the order of ALT, Thane, the said remark of mortgage without possession was removed and the entry to that effect was taken in revenue records vide M.E.No.756 on 30/9/1962, certified on 4/8/1963.

It is also observed that the abovementioned protected tenant Mr. Janya Rama Wad initiated the proceedings under section 32G of the B.T. & A.L. Act; and, accordingly, the said property was purchased by him vide order dated 15/6/1962 passed by ALT, Thane in proceedings No.16 and mutation entry to that effect was recorded in the records of rights vide M.E.No.869 on 19/10/1963, certified on 27/9/1966; and as such, the said Janya Rama Wad became the owner of the said property and was entitled to sell the said property to any third party subject to obtainment of permission under section 43 of B.T. & A.L. Act.

It is further observed that one Ragho Tukaram Gulvi had purchased the said lands, from said Dharma Janu Wad, son of the original tenant Assignee/Developers (before the commencement of Maharashtra Land Revenue Code and Tenancy Laws, (Amendment) Act, 1974), on 25/06/1973 for Rs.5,000/- and accordingly mutation entry no.1334 dated 19/07/1973 was entered which was certified on 25/03/1974.

It is further observed that when the said Manik Ragho Gulvi started development activities on the said property, one Shri Madhukar Girma Dalvi, Sadashiv Girma Dalvi and Hirubai Kisan Chaudhary raised their objection vide application dated 27/7/2012; and, accordingly, challenged the development/sale permission which was issued in the name of Manik Ragho Gulvi dated 10/4/2013.

It is further observed that accordingly, the appeal was preferred bearing Sale Permission Appeal S.R.No.76/2012 by Manik Ragho Gulvi before S.D.O., Thane; and, accordingly, the objection raised by Dalvi family was rejected; the said Manik Ragho Gulvi was allowed to carry out development activities as per sale permission granted to him by an order dated 10/4/2013 issued by S.D.O., Thane.

It is further observed that the said Madhukar Girma Dalvi also filed RCS No.221 of 2011 against Manik Ragho Gulvi for the relief's of declaration and injunction and in the said suit, the injunction was granted against the said Manik Ragho Gulvi; restraining him from developing the said property and/or creating third party interest by and order dated 10/11/2011 passed by 9th Jt. Civil Judge (S.D.) Thane.

It is further observed that being aggrieved by the said order passed below Exh.5 in RCS No.221 of 2011, the said Manik Ragho Gulvi preferred MCA No.152 of 2011 in the Court of District Judge, Thane, which was allowed and the order passed below Exh.5 dated 10/11/2011 was set aside.

It is further agreed that being aggrieved by the order of the Hon'ble District Court, Thane, the said Madhukar Girma Davli and others have filed writ petition No.7290 of 2012 in the Hon'ble High Court of Judicature at Bombay, in which by order dated 2/5/2013, the application for stay filed by the Petitioners therein was rejected.

Therefore, in the meantime some revenue proceedings were initiated which culminated in some different decisions, which were challenged by Mr. Manik Ragho Gulvi from courts to Court, including the Hon'ble High Court by way of writ petition, the Hon'ble High Court, which initially granted stay on 13/09/2000 & finally vide its order dated 6/3/2013 the Hon High Court upheld the decision of ALT dated 26/03/1980 whereby Manik Ragho Gulvi became absolute owners of the said property.

It is further observed that the application dated 11/6/2012 from Manik Ragho Gulvi in detail has given summary of ULC proceedings that have been followed and copy of letter from Additional Collector & Competent Authority (ULC) dated 21/6/2012 endorses Manik Ragho Gulvi's contentions.

It is further observed that in the meantime, by an agreement for sale and development dated 23/12/2011 duly registered in the office of S.R.O., Thane - 5 at Doc.Sr.No.TNN-5/1536/2011, (hereinafter referred to as 'SAID REGISTERED AGREEMENT'), the said Mr. Manik Ragho Gulvi has absolutely assigned the rights of development of the said property and has ultimately agreed to sell the same to one M/S MAGNITUDE BUILDERS, a partnership firm, of Thane, hereinafter referred to as the 'SAID FIRM', for the consideration and upon the terms and conditions, more particularly mentioned therein.

It is further observed that in pursuance to the said registered agreement, the said Mr. Manik Ragho Gulvi has also executed an irrevocable power of attorney of even date to and in favor of the said firm, thereby vested all the powers and authorities in respect of the said property; which is duly registered in the office of S.R.O., Thane -5 at Doc. Power No.667/2011 on 23/12/2011.

It is further observed that the wife and other family members of said Mr. Manik Ragho Gulvi, viz. Smt. Barkubai Manik Gulvi, Smt. Tarabai Namdev Patil, Ramakant Manik Gulvi, Kishor Manik Gulvi, Jagdish Manik Gulvi executed another power of attorney on 11/1/2012 to and in favor of the said firm, thereby vested all the powers and authorities in respect of the said property; which is duly registered in the office of S.R.O., Thane -5 at Doc. Power No.40/2012 on 11/1/2012.

It is further observed that the other family members of said Mr. Manik Ragho Gulvi, viz. Smt. Hirubai Bhaskar Patil, Smt. Manda Madhukar Patil, Jaywant Manik Gulvi executed another power of attorney on 28/2/2012 to and in favor of the said firm, thereby vested all the powers and authorities in respect of the said property; which is duly registered in the office of S.R.O., Thane -5 at Doc. Power No.183/2012 on 28/2/2012.

It is further observed that simultaneously with the Execution of the Deed the Landlords Mr. Manik Ragho Gulvi with the consent of the other family members of the said Mr. Manik Ragho Gulvi, has put the said firm in possession of the property & to protect the property the said firm has caused survey to demarcate the boundaries & has erected a Compound wall to the property; and as such the said Manik Ragho Gulvi has placed

the said firm into actual, lawful and physical possession of the said property and the said firm has protected the possession thereof by putting up the compound wall surrounding the said property.

It is further observed that the said firm has paid the total amount of the agreed consideration to said Mr Manik Ragho Gulvi and accordingly Mr. Mainik Ragho Gulvi and others have executed conveyance of total 2100 sq. mtrs property to and in favour of the said firm on 21.10.2014 which Deed of Conveyance which is registered in the office of S.R.O., Thane at Sr.No.TNN-9/6701/2014; and therefore, the said firm has become the absolute and lawful owner of the said property admeasuring 2100 sq.mtrs.

It is further observed that the area admeasuring 500 sq. meters out of the said entire property has been reserved under the ULC Act. It is further observed that after noticing the said error, the said firm and the said Manik Ragho Gulvi and others have executed the deed of rectification on 25.02.2015, which is also registered in the office of S.R.O., Thane at Doc.Sr.No.tnn-9-1338/2015, to the said deed of conveyance dated 21/10/2014; coupled with the another Deed of Rectification dated 28.04.2015 registered in the office of S.R.O.Thane, at Doc. Sr. No. TNN-9 2970/2015, thereby correcting the area of 2100 sq. meters to 1600 sq. meters and valuation in the said conveyance; and therefore the said firm has become the absolute and lawful owners of the said property adm.1600 sq.mtrs.

It is further observed that the said firm obtained the Permission under Sec.63 of the BTAL Act, 1963 vide Ref. No. TD/T-6/KUV/SEC.63/SR-11/2015 dated 30.04.2015 from the office of S.D.O.Thane, whereby the said firm was allowed to purchase and get mutated the said Land in the name of the said firm.

It is further observed that accordingly the name of the said firm has been recorded in the 7/12 extract of the said property as the owners thereof, vide M.E. No.2927 certified on 25.05.2005.

It is further observed that pending the said purchase transaction of the said firm from the Manik Ragho Gulvi, the said firm has agreed to sell the said property admeasuring 1600 sq.mts, out of the total property of 2100 sq.mtrs to one M/S FORTUNE (RPJ) DEVELOPERS, a partnership firm, constituted and registered under the provisions of Indian Partnership Act, 1932, having its office at - 1st floor, Rathod Bhavan, Tembhi Naka, THANE - 400 601, through its partners, 1) SHRI RAMNIK JUGRAJ RATHOD, aged about 48 years, 2) SHRI PRAKASH RANGRAJ JAIN, aged about 49 years, and 3) SHRI JAGDISH BABULAL JAIN, hereinafter referred to as 'SAID PURCHASERS'; for the consideration and upon the terms and conditions, by an Agreement for Sale dated 21.05.2015, duly registered in the office of S.R.O. Thane at Doc. Sr. No. TNN-9-3482-2015; The said Purchasers have paid full stamp duty on the full agreement value of the said property.

It is further observed that in pursuance to the said registered agreement for Sale, the said firm also has executed an irrevocable power of attorney to and in favour of the said Purchasers on 21.05.2015, which is also registered in the office of S.R.O. Thane at Doc. Sr. No. TNN-9-3483-2015; on the even date.

It is further observed that the said firm and the family of the Manik Ragho Gulvi, has granted the rights of the development of the said property admeasuring 500 sq.mts, out of the total property of 2100

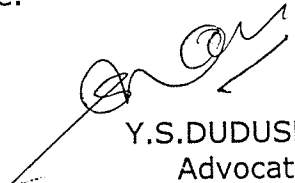
sq.mtrs to one M/S FORTUNE (RPJ) DEVELOPERS, for the consideration and upon the terms and the conditions, by an Agreement for Assignment of Development Rights 21.05.2015, duly registered in the office of S.R.O. Thane at Doc. Sr. No. TNN-9-3484-2015;

It is further observed that in pursuance to the said registered agreement for Assignment of the Development Rights, the said firm also has executed an irrevocable power of attorney in respect of the said 500 sq.mtrs property out of S.No.120/14 to and in favour of the said Purchasers on 21.05.2015, which is also registered in the office of S.R.O. Thane at Doc. Sr. No. TNN-9-3485-2015; on the even date.

Therefore the said M/S FORTUNE (RPJ) DEVELOPERS are also entitled to develop the said property of 1600 sq.mtrs and also an area of 500 sq.mtrs, in compliance with the said ULC Order.

It is observed that Though an objection was raised through Madhukar Girma Davli & two others, the same was pertaining to the alleged possession of said Shri Dalvi, without substantiation with the documents, in respect of which RCS No.221 of 2011 has been filed. As stated earlier, there is no injunction against the owners of the said property and/or against the said Developers.

Therefore, in my opinion the title of the said firm, i.e. Magnitude Builders to the property admeasuring 1600 sq. meters out of said survey No.120, Hissa No.14 is clear, marketable and free from encumbrances. However, the said M/S FORTUNE (RPJ) DEVELOPERS are entitled to develop the said property OF 2100 SQ.MTRS AND and entitle to sell the premises that may be constructed thereon, subject to compliance of the ULC order in respect of 500 sq.mtrs out of the same.


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