

TO WHOMSOEVER IT MAY CONCERN

SUB: PLOT NO.14 ADMEASURING 3680 SQ.MTS, LYING BEING AND SITUATE AT SECTOR 50, NERUL, NAVI MUMBAI.

M/S. METRO DEVELOPMENT, a partnership firm, duly registered under the Indian Partnership Act, 1932, having its place of business at – The Ambience Court, Unit No. 301, 302, on 3rd Floor, Plot No. 2, Sector 19 D, Vashi, Navi Mumbai – 400 703, hereinafter referred to as **“THE BUILDERS”** have placed in our hands the files and papers relating to the above subject plot. On perusing the said papers and files we have to state as under:

A. WHEREAS:

- I. The Government of Maharashtra having being satisfied that it was expedient in the public interest that an area reserved and designated on the regional plan be developed as a 'Site' for New Town of Navi Mumbai (New Bombay).
- II. After the publication of the Notification under Section 113(1), of the Maharashtra Regional Town planning Act (“MRTP Act”) the

State Government by another Notification designated City & Industrial Development Corporation of Maharashtra Limited (CIDCO) as a New Town Development Authority for the purpose of acquiring, developing & disposing of land in the area of Navi Mumbai under the provisions of Section 113(2) & 113(3-A) of the MRTP Act;

- III. The state Government has acquired the land in and around Navi Mumbai for the purpose of development of New Town of Navi Mumbai and vested the same in the CIDCO for carrying out its object as mandated by Section 114 of the MRTP Act.
- IV. The Government of Maharashtra by G.O. dated the 6th March, 1990 promulgated the scheme properly known as 12.5% scheme whereby the right to get the allotment of plot equivalent to the 12.5% of the land acquired has come to be vested in the projected affected person.
- V. As under the scheme dated the 6th March, 1990 the allottee of the plot under 12.5% scheme was disabled from transferring the same for a period of 10 years, the Government, by another G.O dated the 28th September, 1998 removed the bar on transfer for 10 years

and allowed the allottees to transfer the land so allotted at any time they wished to.

B. AND WHEREAS:-

- I. One Shri. Vyankatrao Manjunath Kaikini was seized and possessed of or otherwise well and sufficiently entitled to certain pieces and parcel of lands bearing Survey Nos. 237, 208/3, 209/5, 208/3, 110, 244, 238 & 239, 129, 245/1, 322/2, 322/3 etc. admeasuring 66-22-12 A-G-As or thereabout, lying, being and situate at Village – Shahabaz, Belapur, District – Thane hereinafter referred to as the “said lands”. The said lands were acquired by Government of Maharashtra by an Award passed in Unit Case No. 468.
- II. By division of the property and partition from time to time Dr. Vyankatrao Manjunath Kaikini became entitled to 37 acres 7 gunthas and 10 ars out of the total land of 66 acres 22 gunthas and 12 annas.
- III. In exercise of power vested into it u/s. 113A of the MRTP Act, the Government of Maharashtra commenced the acquisition of lands falling within the territory of the New

Town of Navi Mumbai. The lands of Dr. Vyankatrao Kaikini also came to be acquired and vested into CIDCO.

- IV. During the pendency of the said acquisition, the owner of the said pieces of the land Dr. Vyankatrao Kaikini died intestate leaving behind him, his widow Ahilyabai Vyankatarao Kaikini and four daughters viz. i) Miss. Pratibha Vyankatarao Kaikini, ii) Miss. Maya Vyankatarao Kaikini, iii) Smt. Yashodara Madhav Kamat, iv) Smt. Shakuntala Gajanan Kulkarni.
- V. Miss. Pratibha Vyankatrao Kaikini, one of the daughters of late Dr. Vyankatrao Kaikini, died on about 17th September, 1978 and Mrs. Ahilyabai Vyankatrao Kaikini, wife of late Dr. Vyankatrao Kaikini died on or about 12th March, 1981.
- VI. All the benefits of the acquired land including allotment of land under 12.5% Scheme devolved upon the three surviving daughters of Dr. Vyankatrao Kaikini viz. i) Smt. Yashodhara Madhav Kamat, ii) Smt. Shakuntala Gajanan Kulkarni and iii) Miss. Maya Vyankatarao Kaikini equally.

VII. Ms. Maya V. Kaikini, Mrs. Yashodhara V. Kamath and Mrs. Shakuntala G. Kulkarni, the surviving legal heirs of deceased Dr. Vyankatrao Manjunath Kaikini, therefore, applied to CIDCO for the allotment of three plots of land in the individual names of each of them dividing the entire entitlement of Dr. Vyankatrao Manjunath Kaikini under the 12.5% scheme.

C. AND WHEREAS:

- I. By Allotment Letter dated the 11th May, 2004 bearing No. CIDCO/Land/12.5%/Scheme/Belapur/2004/391 the City and Industrial Development Corporation of Maharashtra Limited (CIDCO) allotted to Miss Maya Vyankatrao Kaikini, a piece of the land being Plot No. 14, admeasuring 3680 Sq. Mts. Lying being and situate at Sector -50, Nerul, Navi Mumbai which plot is more particularly described in the schedule hereunder written (hereinafter referred to as "the said plot").
- II. Meanwhile the Allottee Miss. Maya Vyankatarao Kaikini died and her sister Smt. Shakuntala Gajanan Kulkarni & Smt. Yashodhara Kamat filed Miscellaneous Application No. 460

of 2005 before the Hon'ble Civil Judge (S.D.), Thane for the grant of the Heirship Certificate vis-a-vis the said plot under the provisions of Bombay Regulation Act. The Hon'ble Court was pleased to declare Smt. Shakuntala Gajanan Kulkarni as the legal heir of Miss. Maya Vyankatarao Kaikini in respect of the said plot by its order dated the 31st August, 2007.

D. AND WHEREAS:

- I. On the compliance of the terms and conditions of the said allotment, by an Agreement to Lease dated the 25th November, 2008 entered by and between CIDCO, referred to as "the Corporation" therein and Smt. Shakuntala Gajanan Kulkarni (as heir and legal representative of late Miss Maya V. Kaikini) (therein referred as the Licensee & hereinafter referred to as the **"ORIGINAL LICENSEE"** for the sake of brevity) the former agreed to grant to the later, the lease of the said plot. The said Agreement to Lease dated 25th November, 2008, was duly registered at the Office of Sub Registrar Assurance-Thane – Document no. 7374/2008. The Physical possession of the said plot was handed over to Smt. Shakuntala Gajanan Kulkarni for

the purpose of development and construction of building thereon.

III. By virtue of the Agreement to Lease dated the 25th November, 2008 the Original Licensee became seized and possessed of or otherwise well and sufficiently entitled to the said plot.

E. AND WHEREAS:

- I. By a Tripartite Agreement dated the 28th July, 2010 executed by and between CIDCO, the Original Licensee and one M/s. Yash Developers, a unit of Vikrant Vikas Raikar (H.U.F), through their Karta Shri Vikrant Vikas Raikar, (therein referred to as "New Licensee"), the Original Licensee assigned all her rights, title and interests in and upon the said plot to the New Licensee and handed over to the later, possession of the said plot. The said Tripartite Agreement dated 28th July, 2010, was duly registered at the Office of Sub Registrar Assurance- Thane 3 – Document No. TNN – 3 – 5094/2010 on 31st July, 2010.
- II. The Corporation by its letter bearing reference no. CIDCO/VASAYAT/SATYO/NERUL/B 436 (1)/6166, dated the 2nd August, 2010, intimated to M/s. Yash Developers that their name had been

recorded as “the New Licensee” in respect of the said plot pursuant to the Tripartite Agreement dated the 28th July, 2010.

III. By another Tripartite Agreement dated the 14th September, 2012, executed by and between the Corporation, New Licensee - M/s. Yash Developers and M/s. Fine Arts Project Management Consultants Private Limited (“the subsequent licensee”). M/s. Yash Developers transferred and assigned all their rights title and interest in the said plot to M/s. Fine Arts Project Management Consultants Private Limited and handed over to the later the possession of the said plot. The said Tripartite Agreement dated the 14th September, 2012 was duly registered with the Office of Sub Registrar of Assurance – Thane 3at document no. TNN – 11 – 2882 / 2012, dated 14th September, 2012.

IV. Thereafter by a Tripartite Agreement dated the 11th February, 2015, executed by and between the CIDCO, (“the Subsequent Licensee”) and the Builders herein (therein referred to as “the Subsequent New Licensee”), M/s. Fine Arts Project Management Consultant Private Limited transferred and assigned all their rights, title and interest in the said plot to the Builders herein and handed over the possession of the said plot to them. The said Tripartite Agreement dated the

11th February 2015 was duly registered with the Office of Sub Registrar of Assurance – Thane 3 at document no. TNN – 6-829/2015, dated 12th February, 2015.

- V. Since the name of one of the partners of the Builders was incorrectly written in the Index 2 as “Mr. Hitesh Champalal Jain instead of “Hitesh Suresh Jain. The parties executed a Deed of Rectification dated the 13th February, 2015 before the Sub-Registrar of Assurances-Thane-6, under Sr. No.850/2015.
- VI. The CIDCO by their letter bearing No. CIDCO/Vasayat/Satyo/Belapur 436 (1)/ 2015/ 2546, dated the 16th February, 2015 recorded that the said plot stood transferred in their records in the name of the Builders.
- VII. The Physical possession of the said plot has been handed over to the Builders for the purpose of development and construction of building thereon.

F. AND WHEREAS:

- I. In the meanwhile one Shri Hemang Dayashankar Koppikar filed a Testamentary Petition in the Hon'ble High Court, Bombay being Testamentary Petition No.1015 of 2006 for grant of probate of will

alleged to have been executed by late Smt. Maya Vyanktrao Kaikini bequeathing her entire property both movable and immovable including the said plot in his favour.

- II. Smt. Shakuntala Gajanan Kulkarni and Smt. Yashodhara Kamat, two of the sisters of Miss Maya Vyanktrao Kaikani filed Caveats to the said Petition whereupon the same was converted into a suit being Testamentary Suit No.26/2007.
- III. Issues were required to be framed. The said suit came up for hearing on the 23rd September, 2009 when both the respondents remained absent, the Hon'ble Court therefore, did not frame issues but directed its office to take further steps as per law. The office of Prothonotary and Senior Master issued a Probate on the 16th November, 2010.
- IV. Being aggrieved by the said Order, Smt. Shakuntala Gajanan Kulkarni filed a Miscellaneous Petition No. 59/2011 before the Hon'ble High Court for setting aside the Order granting the Probate. The Hon'ble High Court by its Order dated the 17th October, 2012 was pleased to revoke the Probate and framed issues in the Testamentary Suit No.26/2007. The said suit is pending adjudication.

- V. Dr. Hemang Koppikar meanwhile filed an Application before the Hon'ble Civil Judge (S.D), Thane being M.A. No.118 of 2008 for revocation of the Heirship Certificate granted by the Hon'ble C.J.S.D., Thane which is adverted to supra in Clause C.II.
- VI. Dr. Hemang Koppikar also took out an interim application in the said proceeding praying that the Respondent i.e. Smt. Shakuntala Gajanan Kulkarni be restrained from creating any third party rights in respect of the said plot pending the hearing and final disposal of the Misc. Appl. No. 118 of 2008. The said Interim Application (Ex5) came to be rejected by the Hon'ble Civil Judge (S.D) by his Order dated the 19th October, 2010.
- VII. Thereafter Dr. Hemang Koppikar filed Special Civil Suit being Spl. C. S. No.610/2009 for direction to CIDCO to allot the said Plot to him and for injunction restraining CIDCO from executing the Agreement to Lease in favour of Smt. Shakuntala Gajanan Kulkarni and the legal heirs of Yashodhara Kamat. The said suit was transferred before the Hon'ble Civil Judge (J.D), Vashi and renumbered as R.C.S. No.140 of 2012. In the said suit Dr. Koppikar impleaded M/s. Yash Developers as Defendants No.5

and M/s. Fine Arts Project Management P. Ltd as Defendant No.6 and CIDCO as the Defendant No.7. Thereafter he took out two applications for interim reliefs which came to be rejected by Order dated the 26th November, 2013 by Civil Judge (J.D), Vashi. Aggrieved by the said order Dr. Koppikar filed Appeal being Misc. Civil Appeal No.233/2013 which also came to be rejected by the Hon'ble Appellate Court by its Order dated the 19th April, 2014. Thereafter he preferred Writ Petition No.5669/2014 before the Hon'ble High Court, Bombay which also came to be rejected by order dated the 5th November, 2014. Dr. Koppikar thereafter preferred a Special Leave Petition before the Hon'ble Supreme Court of India being SLP No.35118 of 2014 impugning the order passed by the Hon'ble Court in W.P. No. 5669/2014. The Hon'ble Apex Court however did not interfere with the Order of the Hon'ble High Court but expedited Testamentary Suit No.26/2007.

VIII. Since the Plot has been transferred to the Builders by virtue of Tripartite Agreement dated the 11th February, 2015 the Builders filed an application before the Hon'ble C.J.J.D, Vashi for being impleaded as Party Defendants in R.C.S. No. 140/2012 which application was allowed and the Builders were impleaded as Party Defendants. The Builders thereafter filed their Written Statement

and reply to the Interim Application on the 20th October, 2016. The Builders have on the same date taken out an application for rejection of Plaint under Section 9A r/w Order VII Rule 11 of the Code of Civil Procedure which is pending.

G.AND WHEREAS:

- I. The Navi Mumbai Municipal Corporation, (NMMC) granted the Development Permission and issued Commencement Certificate dated 2nd July, 2015 bearing Reference No. NMMC/TPD/BP/CASE NO. A-19510/3208/2015 dated 02/07/15 and approved the building plan for the construction of residential building on the said plot.
- II. The Builders are carrying out building operations on the said plot under the project named "THE PALMS" as per the Plans and Specifications approved and the development permission granted by the NMMC including such addition, modification, revisions, alterations, therein if any, from time to time as may be approved by the Planning/Authorities.
- III. Having completed the construction of the Plinth as per the Commencement Certificate dated the 2nd July, 2015, the Builders through their Architect's letter dated 5th May, 2016 gave notice of

the same to the Municipal Commissioner. The Town Planner, then by their letter dated 26th May, 2016 certified the plinth work and granted permission for further construction as per the sanctioned Plans.

H. AND WHEREAS:

- I. The Builders approached us for the issuance of the title certificate in respect of the said plot.
- II. The Builders also placed in our hands the letter dated the 2nd January, 2015 issued by Advocate Samidha K. Thakur stating that pursuant to the public notice issued by her calling for objections to the transfer of the said plot to Builders and that she did not receive any objections.
- III. We got public notice issued in the newspapers 'Vashi Times' in its weekly edition dated November 21 - 27, 2015 as also in other newspapers, inviting objections, if any from the general public relating to the title of the said plot. One Mr. Ketan Chugh through his Advocate 's letter dated the 28th November, 2015 registered his objection.
- IV. On inquiries, we learnt that one Mr. Ketan Chugh has filed a suit being Spl.C.S. No.673/2015 before the Civil Judge (S.D), Thane

against one Shri Sunil Bhanushali & ors. for direction to the Defendants for delivering the said plot to him and other reliefs. The Builders, who are the Defendants No.6 in the said suit have filed an Application under Section 9A read with Order 7 Rule 11 of the Code of Civil Procedure on the ground that the suit is barred by the Law of Limitation and further for rejection of Plaint as it does not disclose cause of action. The said Application was partly allowed by the Hon'ble Court and matter is kept for leading evidence on the 16th November, 2016.

I. AND WHEREAS:

- I. M/s. Indian Overseas Bank, had agreed to provide construction finance in respect of the said project. To secure the repayment of the loan, the Builders had mortgaged the said plot with the said Bank by executing the Mortgage Deed dated the 22nd January, 2016. We have now been informed that the Builders having repaid the said loan, M/s. Indian Overseas Bank executed a Reconveyance Deed dated the 23rd September, 2016 under which the Bank reconveyed the said plot and the flats to the Builders.
- II. We have been further informed that the Builders have now availed the construction loan from the HDFC Ltd., and have vide Unilateral Indenture of Mortgage dated the 13th October, 2016

mortgaged the flats mentioned therein in the building “**The Palms**” being constructed on the said plot.

We, therefore, state that the title of the Builders in respect of said plot is Prima - facie clear and marketable subject to their complying with terms and conditions of Agreement to Lease dated the 25th November, 2008 and the Terms and Condition of the Unilateral Indenture of Mortgage dated 13th October, 2016 and subject to whatever has been stated hereinabove. The Opinion is solely based on the papers produced before us.

THE SCHEDULE ABOVE REFERRED TO:

All that piece and parcel of land admeasuring 3680.00 M² bearing Plot No. 14, lying being and situate at Sector - 50, Nerul, Navi Mumbai, Tal & Dist-Thane.

On or towards the North by	:	Reserve Plots.
On or towards the South by	:	11.0 M. wide Road.
On or towards the East by	:	Plot No. 17.
On or towards the West by	:	11.0 M. wide Road.

Dated this 12th day of November, 2016

For M. Tripathi & Co.,


(Advocates)