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Date : 27.08.2016

TITLE OPINION

To,
M/s. Om Krushcons Joint Venture,
35, Laxmi Park, Above Sargam Dining,
Navi Peth, Pune 411030

Sub. : Title Opinion in respect of the properties bearing
S.Nos.56/1A (pt), 57/2, 57/1B (pt) and 58/1A (pt),
Mouje Ravet, Taluka Haveli, Pune.

Sir,

I have investigated title to the captioned property and I have to
state in my opinion as follows :-

1. LIST OF DOCUMENTS GIVEN FOR MY PERUSAL :

- a] Copies of 7/12 extracts.
- b] Copies of mutation entries.
- c] Copy of Zone Certificate dated 03.02.2010.
- d] Copy of Sale Deed dated 31.03.1976 by Shri Shashikant Shankar Sahastrabuddhe in favour of ABC Farms Pvt. Ltd., registered at the Office of Joint Sub Registrar Haveli No.1 at Sr.No. 613/1976.
- e] Copy of Sale Certificate dated 30.08.1971 in respect of S.No.57/2 in favour of Shri Shashikant Shankar Sahastrabuddhe.
- f] Copy of Sale Certificate dated 06.10.1971 in respect of S.Nos.56/1 and 58/1 in favour of Shri Shashikant Shankar Sahastrabuddhe.
- g] Xerox copy of certified copy of Complaint in R.C.S.No.760/1989.



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- h] Xerox copy of certified copy of Decree dated 06.02.1990.
- i] Copy of Demarcation Plan dated 13.01.2010.
- j] Public Notice by P. M. Khire, advocate in Daily Prabhat and Daily Sakal both on 04.05.2010.
- k] Copy of Commencement Certificate dated 10.02.2011, 18.04.2012 and 09.08.2016.
- l] Copy of Joint Venture cum Development Agreement dated 04.07.2011 between Shri Shashikant Shankar Sahastrabuddhe and another on the one hand and M/s OM Developers (Project Ravet), registered at the Office of Joint Sub Registrar Haveli-1 at Sr. No. 6067/2011.
- m] Copy of General Power of Attorney dated 04.07.2011 by Shri Shashikant Shankar Sahastrabuddhe and another in favour of M/s OM Developers (Project Ravet), registered at the Office of Joint Sub Registrar Haveli-1 at Sr. No. 6068/2011.
- n] Copy of letter dated 05.02.2010 of Tahasildar, Haveli.
- o] Copy of NA order bearing No.PMH/NA/SR/19/2011 dated 13.09.2011.
- p] Copy of Deed of Simple Mortgage dated 19.03.2012.
- q] Copy of Power of Attorney dated 30.8.2011.
- r] Copy of plaint in Sp. CS.No. 887/2010 by Shri. Mukund Madhav Sahastrabuddhe and others against Smt. Shubhada Vijay Sahastrabuddhe and 11 others.
- s] Copy of order dated 04.01.2011 below Ex. 5 in Sp. CS No. 887/2010 by Shri. Mukund Madhav Sahastrabuddhe and others against Smt. Shubhada Vijay Sahastrabuddhe and 11 others.
- t] Copy of plaint in Sp. CS No. 994/2012 by Mrs. Vajayanti Sanjeev Patel and others against Smt. Shubhada Vijay Sahastrabuddhe and 24 others.
- u] Copy of Application of Plaintiff for temporary injunction in Sp. CS No. 994/2012.
- v] Copies of WS by Defendant Nos.1 to 3, and 4 along with counter-claim, and 18 and 25, and 10, 13.



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- w] Copy of Public Notice dated 07.09.2013 in daily Sakal by Advocates Shri. Girish C. Shedage and Shri. Dhananjay V. Ashtekar on behalf of Shri. Mukund Madhav Sahastrabuddhe.
- x] Copy of Complaint No. 2246/2014 before CJM, Pune.
- y] Copy of RTS/Appeal No. (not legible)/2014 by Shri. Shashikant Shankar Sahastrabuddhe and another against Shri. Mukund Madhav Sahastrabuddhe and others against Mutation Entry No.8810.
- z] Copies of Title Opinions dated 21.09.2011, 28.04.2012, 13.08.2014, 04.06.2015 and 29.03.2016.
- aa] Search Reports dated 23.06.2011, 27.03.2012, 06.08.2014, 21.05.2015 and 28.03.2016
- ab] Copy of Environment Clearance Certificate dated 05.02.2015
- ac] Copy of Order No.BP/Layout/Ravet/02/2015 and letter by PCMC dated 20.03.2015
- ad] Copy of Order dated 15.09.2014 of Sub Divisional Officer, Haveli, Pune
- ae] Copy of letter dated 28.05.2015 of Advocate Sanjay T. Agarwal
- af] Letter dated 23.08.2016 of Om Krushcons Joint Venture
- ag] Plaint in Sp. C. S. No. 1366/2015 filed by Yashodhan Sharad Admane and others against Shashikant Shankar Sahastrabuddhe and others.
- ah] Application by Plaintiff in the above suit for injunction and orders thereon first dated 27.10.2015 and second dated 18.02.2016.
- ai] Copy of Deed of Release dated 13.07.2016, registered at the office of the Sub Registrar Haveli 1 at Serial No. 4847/2016.
- aj] Copy of Indenture of Mortgage dated 05.08.2016, registered at the Office of the Sub Registrar Haveli 20 at Serial No.5703/2016.

2. DESCRIPTION OF THE PROPERTY :

All that piece and parcel of land and ground totally admeasuring 48426.99 sq. mtr. and comprising (a) a portion admeasuring an area of 3741.02 sq. mtr. from and out of S.No.56/1A, (b) a portion admeasuring 3 Hector 90 Are i.e. 39000 sq. mtr. bearing S.No.57/2,



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(c) a portion admeasuring 2107.73 sq. mtr. from and out of S.No.58/1A, and (d) the Eastern portion admeasuring 3578.24 sq. mtr. from and out of S.No.57/1B, situate within the Registration Sub District Taluka Haveli, District Pune and within the limits of the Pimpri Chinchwad Municipal Corporation and bounded as follows :

- On or towards the East : By S.No.59, 53, 56/2
On or towards the South : By 18 mtrs D.P. Road and
S.No.56/2 and 54
On or towards the West : By S.No.58/1 (part), S.No.57/1/B
(part), and S.No.56/1/A (part)
On or towards the North : By 18 mtrs wide D.P. Road and
S.No.58/2

3. I had given Title Opinions in respect of the captioned property on 21.09.2011, 28.04.2012, 13.08.2014, 04.06.2015 and 29.03.2016 on perusing the documents mentioned therein. The said documents at that time were returned by me along with the said Title Opinion. The said Title Opinion dated 29.03.2016 is now shown to me without however the documents mentioned thereon. Copies of the documents pertaining to the litigation in respect of the captioned property and latest village form number 7/12 for the years 2014/15 and 2015/16 are only now shown to me. I am therefore giving this Opinion in furtherance to my Title Opinion dated 29.03.2016 and relying on the same.

4. It is seen from the copy of letter dated 05.02.2010 of Tahasildar, Haveli that as the records are not available the 7/12 extracts in respect of the captioned lands, for the years 1955 to 1960 could not be issued. However, mutation entries tracing the title since 1934 are available.

5. It is seen from the Mutation Entries bearing Nos.423, 424 and 425, all dated 06.10.1934, that there was Phalari measurement and lands bearing S.No.56/1, 57/1 and 58/1 were held by Shri Trimbak



Vinayak Ranade and S.No.56/2, 57/2 and 58/2 were held by Shri Purushottam Vinayak Ranade, respectively.

6. It is seen from Mutation Entry No.829 dated 19.02.1957 that upon an application of Shri Shankar Ganesh Sahastrabuddhe names of Shri Shankar Ganesh Sahastrabuddhe, Shri Sharad Shankar Sahastrabuddhe, Shri Vijay Shankar Sahastrabuddhe and Shri Shashikant Shankar Sahastrabuddhe, were mutated as tenants in other rights of 7/12 record of S.Nos.56/1, 56/2, 57/1, 57/2, 58/1 and 58/2, alongwith some other lands and that he having left cultivating the said lands his name be deleted, the name of Shri Shankar Ganesh Sahastrabuddhe as tenant was deleted from the revenue records by the aforesaid mutation entry.

7. It is seen from Mutation Entry No.858 dated 27.09.1953 that upon an application of Shri Ramchandra Trimbak Ranade and a Declaration dated 20.09.1953 by (1) Shri Trimbak Vinayak Ranade, (2) Mrs. Rukhminibai Trimbak Ranade and (3) Shri Hemachandra Trimbak Ranade that lands bearing S.Nos.56/1, 57/1 and 58/1 were given to the share of Shri Ramchandra Trimbak Ranade the name of Shri Trimbak Vinayak Ranade was deleted and the name of Shri Ramchandra Trimbak Ranade was mutated in 7/12 record thereof by the said mutation entry.

8. It is seen from Mutation Entry No.873 dated 02.05.1954 that Personal Inams were abolished with effect from 01.08.1953 as appearing from the Order of Collector bearing No.WTN/509/53 dated 23.06.1953 and of Tahasildar bearing No.WS/II/3041/53 dated 23.10.1953. The said mutation entry is mentioned in 7/12 record of S.Nos.56/1, 57/2 and 58/1 alongwith some other lands. However there does not appear any mention in 7/12 extracts as to any inam.

9. It is seen from Mutation Entry No.899 dated 11.01.1956 that Shri Ramchandra Trimbak Ranade was the owner of S.Nos.55, 56/1, 57/1

and 58/1 and that (1) Shri Shankar Ganesh Sahastrabuddhe, (2) Shri Sharad Shankar Sahastrabuddhe, (3) Shri Vijay Shankar Sahastrabuddhe and (4) Shri Shashikant Shankar Sahastrabuddhe were ordinary tenants thereof as per Section 3A.

10. It is seen from Mutation Entry No.1003 dated 25.03.1956 that upon an application of (1) Shri Sharad Shankar Sahastrabuddhe, (2) Shri Vijay Shankar Sahastrabuddhe and (3) Shri Shashikant Shankar Sahastrabuddhe that they were possessing and tilling separately lands belonging to Shri Ramchandra Trimbak Ranade and Shri Purushottam Vinayak Ranade their names were separately mutated as under :-

<u>S.No.</u>	<u>Area</u> <u>H=Are</u>	<u>Names</u>
54	13=24	Sharad Sahastrabuddhe
56/2	6=35	Sharad Sahastrabuddhe
56/2	1=29	Sharad Sahastrabuddhe
55	3=27	Vijay Sahastrabuddhe
57/1	9=26	Vijay Sahastrabuddhe
56/1	15=28	Shashikant Sahastrabuddhe
56/1	9=25	Shashikant Sahastrabuddhe
57/2	9=22	Shashikant Sahastrabuddhe

11. It is seen from Mutation Entry No.1070 dated 17.10.1959, that the names of Shri Vijay Shankar Sahastrabuddhe, Shri Shashikant Shankar Sahastrabuddhe and Shri Shankar Ganesh Sahastrabuddhe were deleted from other rights of 7/12 record of S.Nos.54, 55, 56/1, 56/2, 57/1, 57/2, 58/1, 58/2 as they were not found in possession thereof for more than two consecutive years. It is further seen that thereby the name of only Shri Sharad Shankar Sahastrabuddhe continued as a tenant in respect of S.Nos.54, 56/2 and 58/2. It is seen from Mutation Entry No. 1071 dated 17.10.1959, that the names of Shri Sharad Shankar Sahastrabuddhe, Shri Shashikant Shankar Sahastrabuddhe and Shri Shankar Ganesh Sahastrabuddhe, were



deleted from other rights of 7/12 record of S.Nos.54, 55, 56/1, 56/2, 57/1, 57/2, 58/1, 58/2 as they were not found in possession thereof for more than two consecutive years. It is further seen that thereby the name of only Shri Vijay Shankar Sahastrabudhe continued as a tenant in respect of S.Nos.55 and 57/1. It is seen from Mutation Entry No.1072 dated 17.10.1959, that the names of Shri Sharad Shankar Sahastrabudhe, Shri Vijay Shankar Sahastrabudhe and Shri Shankar Ganesh Sahastrabudhe, were deleted from other rights of 7/12 record of S.Nos.54, 55, 56/1, 56/2, 57/1, 57/2, 58/1, 58/2 as they were not found in possession thereof for more than two consecutive years. It is further seen that thereby the name of only Shri Shashikant Shankar Sahastrabudhe continued as a tenant in respect of S.Nos.56/1, 57/2 and 58/1.

12. It is seen from Mutation Entry No.1123 dated 01.01.1963 that Shri Purushottam Vinayak Ranade expired on 07.09.1961 leaving behind him son Vasant, wife Smt. Radhabai and 2 married daughters namely - Sou. Shakuntala Anant Karmarkar and Sou. Ranjana Sharad Puranik as his only heirs and the name of Manager of Joint Family Vasant was mutated in 7/12 record of S.Nos.54, 57/2, 58/2 and 56/2.

13. It is seen from Mutation Entry No.1143 dated 13.10.1963 that in an inquiry held u/s 32 G of the Bombay Tenancy and Agricultural Lands Act purchase price was determined in Case No.ALT/27B/36 dated 09.03.1963 and the name of tenant Shri Shashikant Shankar Sahastrabudhe was mutated as holder in 7/12 record of S.No.57/2 and the name of owner Shri Vasant Purushottam Ranade was mutated in other rights by the said mutation entry. It is seen from Mutation Entry No.1484 dated 04.05.1973 that Shri Shashikant Sahastrabudhe having paid the entire purchase price Shri Shashikant Shankar Sahastrabudhe was issued Sale Certificate u/s 32 M and the name of Shri Vasant Purushottam Ranade was deleted from the other rights by the said mutation entry with a remark that the



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said land was subject to the provisions of Section 43 of the Bombay Tenancy and Agricultural Lands Act.

14. It is seen from Mutation Entry No.1144 dated 13.10.1963 that in an inquiry held u/s 32 G of the Bombay Tenancy and Agricultural Lands Act purchase price was determined in Case No.ALT/25/36 dated 28.02.1963 and the name of tenant Shri Shashikant Shankar Sahastrabuddhe was mutated as holder in 7/12 record of S.Nos.56/1 and 58/1 and the name of owner Shri Ramchandra Trimbak Ranade was mutated in other rights by the said mutation entry. It is seen from Mutation Entry No.1483 dated 04.05.1973 that Shri Shashikant Sahastrabuddhe having paid the entire purchase price Shri Shashikant Shankar Sahastrabuddhe was issued Sale Certificate u/s 32 M and the name of Shri. Ramchandra Trimbak Ranade was deleted from the other rights by the said mutation entry with a remark that the said land was subject to the provisions of Section 43 of the Bombay Tenancy and Agricultural Lands Act. I am informed by you that till date the said proceedings, grant of certificate and mutation entries have not been challenged. I have to presume that proceedings for granting certificate u/s 32M were conducted as per due process of law and that the same were known to all the family members. This opinion is given relying upon the above mentioned certificates u/s 32M and mutation entries recording the name of Shashikant and as thereafter more than 40 years have elapsed.

15. It is seen from the Mutation Entry No.1541 dated 01.03.1974 that on account of arrears due to Irrigation Department from Shri Shashikant Shankar Sahastrabuddhe land bearing S.No 58/1 was attached and a charge thereof was recorded in other rights in 7/12 record by the said mutation entry. It is seen from Mutation Entry No.3026 dated 11.03.1995 that on repayment of the arrears the said charge was deleted from other rights of the 7/12 record by the said mutation entry.



16. It is seen from Mutation Entry No.1600 dated 01.03.1976 that upon an application of Shri. Vijay Shankar Sahastrabuddhe and Shri. Shashikant Shankar Sahastrabuddhe that they were separately possessing portions of various lands the said portions were renumbered as under :

	<u>S.Nos.</u>	<u>Area</u>	<u>Names</u>
a]	56/1A	5=03 0=24 5=27	Shri Shashikant Shankar Sahastrabuddhe
b]	56/1B	1=33 0=08 1=41	Shri Vijay Shankar Sahastrabuddhe
c]	57/1A	2=51 0=04 2=55	Shri Vijay Shankar Sahastrabuddhe
d]	57/1B	1=40 0=01 1=41	Shri Shashikant Shankar Sahastrabuddhe

17. It is seen from Mutation Entry No.1628 dated 25.11.1976 and copy of Sale Deed dated 31.03.1976 that Shri Shashikant Shankar Sahastrabuddhe, with the consent of Shri Vijay Shankar Sahastrabuddhe sold a portion admeasuring 2 Hector 80 Are from and out of S.No.56/1A and a portion admeasuring 2 Hector 67 Are from and out of S. No.56/1A to ABC Farms Pvt. Ltd. The said Sale Deed is registered at the Office of the Sub Registrar Haveli No.1 at Serial No.613/76. By the said mutation entry the portions of land sold were given S.Nos.56/1B and 56/1B and the portions retained by the Vendor continued to bear S. Nos.56/1A and 56/1A.

18. It is seen from Mutation Entry No.1710 dated 02.11.1976 that Shri Shashikant Shankar Sahastrabuddhe and Shri Vijay Shankar

Sahastrabudhe had availed of loan from Bank of Baroda, Shivajinagar Branch against the equitable mortgage of lands bearing S.No.56/1A and 56/1A by way of security and charge thereof was mutated in other rights of the 7/12 record. On repayment of the said loan, the said charge was deleted from 7/12 record vide Mutation Entry No.2796 dated 30.10.1993.

19. It is seen from Mutation Entry No.3027 dated 11.03.1996, xerox copies of certified copies of plaint and decree passed by the Court of 4th Joint Civil Judge Senior Division, Pune in R.C.S.No.750/1989 that on 13.03.1989 Shri Ravishankar Shashikant Sahastrabudhe filed the said suit against his father Shri Shashikant Shankar Sahastrabudhe for partition of various properties including S.No.57 Hissa No.2; that a compromise decree was passed therein on 06.02.1990, whereunder land bearing S.No.57 Hissa No.2 admeasuring 3 Hectare 90 Are was given by Defendant to the ownership of Plaintiff therein and the remaining lands were agreed to continue in the ownership and possession of the Defendant. Accordingly the name of Shri Ravishankar Shashikant Sahastrabudhe was mutated in 7/12 record by the aforesaid mutation entry. It is seen from the copy of the Joint Venture and Development Agreement dated 04.07.2011 that after death of his wife Nilma on 07.11.1976 Shri Shashikant Shankar Sahastrabudhe remarried and was residing with the second wife since 29.01.1978. There were disputes and differences between them and in order to settle the same he had given the said property i.e. S.No.57/2 as a share to his son Ravishankar.

20. It is seen from Mutation Entry Nos.5037, 5038, 5249, 5250, 5744, 5745, 5963 and 5964 that Shri Shashikant Sahastrabudhe and Shri Ravishankar Shashikant Sahastrabudhe had availed of various loans from Bank of India and Kiwale Ravet VKS Society and charges thereof were mutated 7/12 records of S.Nos 56/1A, 57/1B, 56/1A and 57/2, accordingly. It is seen from Mutation Entry Nos.6674, 6675, 6667, 6668, 7671 and 7672 that on account of repayment of

amounts charges in respect of S.Nos.56/1A, 57/1B, 57/2 and 58/1A have been deleted by the said mutation entries.

21. It is seen from the copy of Joint Venture cum Development Agreement dated 04.07.2011 that by Joint Venture cum Development Agreement dated 04.07.2011 Shri Shashikant Shankar Sahastrabuddhe and Shri Ravishankar Shashikant Sahastrabuddhe on the one hand and M/s Om Developers (Project Ravet) agreed to develop (i) a portion admeasuring 3741.02 sq. mtr. out of S.No.56/1 A, (ii) S.No.57/2 admeasuring 3 Hector 90 Are, (iii) a portion admeasuring 2107.73 sq. mtr. out of S.No.58/1A and (iv) the Eastern portion admeasuring 3578.24 sq. mtr. out of S.No.57/1B, as a Joint Venture on Principal to Principal basis in the name and style as "M/s Om Krushcons Joint Venture" to construct buildings thereon comprising of independent units, to enter into agreements of allotment / sale in respect thereof with the prospective purchasers and thereafter to complete the sale in favour of such purchasers. The said Joint Venture Cum Development Agreement is registered at the Office of Sub-Registrar Havell-I at Serial No.6067/2011 on 05.07.2011. Shri Shashikant Shankar Sahastrabuddhe and Shri Ravishankar Shashikant Sahastrabuddhe also executed a General Power of Attorney on 04.07.2011 in favour of M/s Om Developers (Project Ravet) and the same is registered at the Office of Sub Registrar Havell-1 at Sr. No. 6068/2011 on 05.07.2011.

22. A Public Notice in respect of the captioned property was published by me in Daily Prabhat and Daily Sakal both dated 04.05.2010. To the said Public Notices I have not received any objections.

23. You have informed me that Shri Shashikant S. Sahastrabuddhe had not filed statement u/s 6 of the Urban Land (Ceiling and Regulation) Act, 1976 and that the said land was neither acquired nor exempted u/s 20 of the said Act. I am informed by you that affidavit of

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Shri Sahastrabuddhe was accordingly given to the concerned authority for sanction of plans. This opinion is given relying upon the same.

24. a] A layout of the buildings to be constructed on the said land was prepared and the same was approved by the Pimpri Chinchwad Municipal Corporation vide its Commencement Certificate No.BP/Ravet/Layout/05/2011 dated 10.02.2011 which was revised under No.BP/Ravet/Layout/13/2012 dated 18.04.2012 and No.BP/Ravet/60/2016 dated 09.08.2016. It is seen from the copy of order dated 13.09.2011 that the Collector, Pune has granted permission for non agricultural use of a portion admeasuring 49871.16 sq. mtr. comprising S.Nos.56/1A, 57/1B, 57/2 and 58/1A, for residential purpose subject to terms and conditions mentioned in the said order. It is seen from the said order that amount prescribed by rules having been paid the restriction by way of New Tenure Terms is lifted. It is seen from village form no.7/12 for the year 2014/15 that the remark in 7/12 record about new tenure term has been deleted.

b] It is seen from the copy of Environment Clearance Certificate dated 05.02.2015 that clearance was granted subject to terms mentioned therein. It is seen from the copy of Order No.BP/Layout/Ravet/02/2015 and letter by PCMC dated 20.03.2015 that layout plan for S.No.56/1A, 57/1B/2, 58/1A, Plot A, village Ravet, Taluka Haveli, District Pune has been sanctioned subject to conditions mentioned therein.

25. a] It is seen from the copy of Deed of Simple Mortgage dated 19.03.2012, which is registered at the Office of the Sub-Registrar Haveli No.I at Serial No.2532/2012 that (1) Shri Shashikant Sahastrabuddhe, (2) Shri Ravishankar Sahastrabuddhe, (3) Om Development Project Ravet and (4) Om Krushcons Joint Venture had availed of project loan from the HDFC Ltd. and had offered the captioned property as co-lateral security.



b) It is seen from the letter dated 23.08.2016 of Om Krushcons Joint Venture and copy of Deed of Release dated 13.07.2016 that all the dues of HDFC Ltd. has been fully repaid with interest and accordingly Release Deed is executed on 13.07.2016 by HDFC Ltd. which is registered at the Office of the Sub Registrar Haveli No.1 at Serial No.4847/2016.

26. It is seen from the copy of Indenture of Mortgage dated 05.08.2016 that the captioned property is mortgaged by M/s Om Krushcons Joint Venture to India Infoline Housing Finance Limited for a sum of Rs.17,00,00,000/- and Indenture of Mortgage thereof is executed on 05.08.2016 which is registered at the Office of the Sub-Registrar Haveli-20 at Serial No.5703/2016. This opinion is given subject to the said charge.

27. It is seen from the copy of Power of Attorney dated 27.06.2011 that M/s Om Developers Project Ravet through its partner - Mr. Arvind Awati, Mr. Shrikant Nagarkar, Mr. Atul Mahashabde and Mr. Devendra Auti executed Power of Attorney in favour of Mr. Mahendra Ghewarchand Khinwsara, for presentation of flat booking agreements for registration purpose only. The said Power of Attorney is registered at the Office of the Sub Registrar Haveli No.1 at Serial No.7964/2011.

28. After my title opinion dated 28.04.2012 you have given me papers and documents in respect of the captioned property. My observations and views thereon are as follows-

(i) (a) It is seen from copy of Public Notice of Shri. Girish C. Shedge and Shri. Dhananjay V. Ashtekar, Advocates appearing in daily 'Sakar' dated 07.09.2013 on behalf of Shri. Mukund Madhav Sahastrabuddhe that there is a suit pending in the Court of Civil Judge, Senior Division, Pune bearing Special C.S.No.994/2012 and that Shri. Mukund Madhav Sahastrabuddhe, who is Defendant No. 4 therein has filed a Counter Claim in the said suit for partition of lands



bearing S.Nos.54, 56/2, 58/2, 55, 56/1A, 56/1B, 56/1C, 57/1A, 57/1B, 57/2, 58/1A and 58/1B.

(b) It is seen from the copy of Complaint of Special CS No. 994/2012 that the same is filed by Mrs. Vijayanti Sanjeev Patel, Mrs. Rupali Vikram Joshi and Shri. Mahesh Sharad Sahastrabudhe against Smt. Shubhada Vijay Sahastrabudhe and 24 others. Shri. Shashikant Shankar Sahastrabudhe and Shri. Ravi Shashikant Sahastrabudhe are joined as Defendant Nos. 10 and 13 respectively to the said suit. The said suit is in relation to lands bearing S. Nos. 39, 80/5, 80/7 and a house admeasuring 800 Sq. ft. on S.No.8/1/1/2, all of Mouje Kivale, Taluka Haveli, District Pune, for partition and permanent injunction.

(c) It is seen from the copy of Complaint of Special CS No. 887/2010 that the same was filed by Shri. Mukund Madhav Sahastrabudhe, Smt. Vidya Vilas Khadilkar, Mrs. Vijaya Victor Massey and Mrs. Meena Sanjay Somapurkar against Smt. Shubhada Vijay Sahastrabudhe and 11 others. Shri. Shashikant Shankar Sahastrabudhe and Shri. Ravi Shashikant Sahastrabudhe were joined as Defendant Nos. 7 and 12 respectively. The above mentioned properties also were the subject matter of the said suit and the suit was for partition and permanent injunction.

(d) It is stated in Sp. CS No. 994/2012 and Special CS No.887/2010 that Shri. Shankar Ganesh Sahastrabudhe was personally cultivating suit properties since 1937. It is further stated that he was having 4 sons namely – Madhav, Sharad, Vijay and Shashikant and 4 married daughters and that he, his wife and sons were residing together in joint family in the house at Kivale. It is further contended that on Tiller's Day he and his 4 sons were residing together and personally cultivating the suit properties and other landed properties at Kivale and Ravet as tenant therein. Shri. Shankar Ganesh Sahastrabudhe expired on 21.08.1977 and his 4 sons became joint owners each having 1/4th undivided shares in suit properties. After 1970 all brothers started residing separately however

they were cultivating the suit properties together and as on date of filing of the suit they are in joint possession. It is stated that suit properties are not partitioned by metes and bounds. There is a copy of Will of Shri. Shankar Ganesh Sahastrabuddhe dated 25.03.1974. It is stated that Madhav has voluntarily and against wish of his father left his house and is separately doing his business and therefore he is not given any properties under the said Will. Similarly Shri. Sharad Shankar Sahastrabuddhe is also not given any property. There is no mention or reference to S.Nos.56, 57 and 58 of Mouje Ravet. It is not even mentioned that any other properties left out shall go to any or all his heirs.

(e) It appears that there was some settlement in respect of Special CS No. 887/2010 between some of the Plaintiffs, some Defendants and Transferees on 12.03.2012 and the Plaintiffs waived, abandoned and gave up their claims against the purchasers and some of the Defendants. Shri. Shashikant Shankar Sahastrabuddhe and Shri. Ravi Shashikant Sahastrabuddhe are not parties to the said settlement. It is seen from the Order below Ex. 1 of Special CS No. 887/2010 that by Pursis at Ex. 97 the suit was compromised and the Court disposed of the same as withdrawn on 12.03.2012.

(f) Mrs. Vajjayanti Sanjeev Patel and 2 others have filed Special CS No. 994/2012 against Smt. Shubhada Vijay Sahastrabuddhe and others, including Shri. Ravi Shashikant Sahastrabuddhe and Shri. Shashikant Shankar Sahastrabuddhe, for partition of same properties as in Special CS No.887/2010. The averments about the jointness of property are same as in earlier suit. It appears to be case of misrepresentation as averred by Shri. Mukund Madhav Sahastrabuddhe Defendant No.4 of the present suit in his Counter Claim. He has filed his counter claim in this suit by adding lands bearing S.Nos.55, 56, 57 and 58 to the properties in suit contending that the same also are joint family properties. There is mention that there were 2 leases dated 16.06.1952 and 28.07.1952 in favour of Shri. Shankar Ganesh Sahastrabuddhe and his 4 sons. It is

order thereof. The valuation of said lands therefore has to be in accordance with the lands being non-agricultural lands. The Joint Venture Agreement by Defendant Nos.10 and 13 with Defendant No.25 clearly discloses its value as Rs. 4,86,00,000/-, which was the market value in 2011 and it is that value which will attract Court fees.

(c) The 7/12 extracts of the year 1950 onwards show the names of Shri. Shankar Ganesh Sahastrabuddhe, Shri. Sharad Shankar Sahastrabuddhe, Shri. Vijay Shankar Sahastrabuddhe and Shri. Shashikant Shankar Sahastrabuddhe as tenants and they were possessing and cultivating the said lands separately, according to which they were purchased under Section 32 G and Certificates of Sale were issued to them separately with consent of the others, under Section 32 M of the BTAL Act. The payment of purchase price also was made by respective purchasers, separately. Names of respective purchasers were accordingly mutated in separate 7/12 records. The present Defendant No.4 had neither joined in the proceedings u/s 32-G, nor challenged the orders passed therein. He is, therefore, estopped from challenging the same in any form. His Counter Claim implicitly challenges the said proceedings and orders therein passed, which he can not do so now.

I am therefore, of the opinion that there is no substance in Sp. CS No. 994/2012 and the Counter Claim of Defendant No. 4 and the same is liable to be dismissed. In fact an application under Order 7 Rule 11 of the CPC can be made for rejection of Counter Claim as barred by any legal provision i.e. Order II Rule 2 of CPC. However as the suit is pending this opinion is given subject to final decision in the said suit.

It is seen from Mutation Entry No. 8610 dated 02.08.2013 that Shri. Mukund Madhav Sahastrabuddhe has registered a notice of lis pendens and a remark to that effect is mentioned in other rights of 7/12 records by the said mutation entry. It is seen from the copy of RTS/Appeal/____/2014 that Shri. Shashikant Shankar Sahastrabuddhe and another have filed the said appeal before the

Sub Divisional Officer, Haveli, Pune against the said mutation entry since registration of notice of lis pendens does not create any interest of the person registering the same in the property which is the subject matter of a lis within the meaning of Section 146 of the Maharashtra Land Revenue Code, 1966 is therefore not liable for mutation. It is seen from Mutation Entry No.9044 dated: 15.11.2014 and copy of Order of Sub Divisional Officer Haveli, Pune dated: 15.09.2014 in Case No.164/2014 that appeal was allowed and Mutation Entry No.8610 was cancelled. It is seen from the village form no.7/12 of the year 2014/15 that as per the said order by Mutation Entry No.9044 the remark recording pendency of suit was deleted.

(d) Complaint No.2246/2014 before CJM, Pune, the same is filed by Maharashtra Pollution Control Board against M/s OM Developers and the same is pending.

(e) Sp. C. S. No.1365/2015 – The said suit is filed by Shri Yashodhan Sharad Admane and others against Shashikant Shankar Sahastrabuddhe and others including OM Developers. The Plaintiffs filed application for injunction for stopping transfer of property and development work of the scheme. By order dated 27.10.2015 ex-parte injunction was given. After hearing of the said application by Order dated 16.02.2016 ad-interim injunction against Shashikant Sahastrabuddhe was continued but injunction against OM Developers was vacated. Shri Shashikant Sahastrabuddhe is filing appeal against the said order. The said suit is still pending.

I have given this opinion subject to final decisions in the above mentioned pending cases.

29. a) It is seen from the letters dated 23.08.2016 of Om Krushcons Joint Venture that except for the project loan availed from the India Infoline Housing Finance Ltd. by executing a Mortgage Deed on 05.08.2016, it has not created any encumbrance / mortgage on the said property or on the remaining flats in the said building/s.



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P. M. KHIRE
Advocate

b] It is further seen from the said letters that except the above mentioned pending cases the said property or part thereof is not the subject of any dispute in any Court or authority or tribunal and this opinion is given relying upon the same

c] It is further seen from the said letters that Om Krushoons Joint Venture has agreed to sell various units in the proposed buildings to various purchasers, details of the same mentioned in the list annexed to the said letter.

30. I caused the search of Index No. II registers at the office of the Sub-Registrars for the last 30 years in respect of the captioned property and no document evidencing any subsisting mortgage, charge or encumbrance was found recorded from the available registers. On the basis of the same and on the basis of the documents given for my perusal and subject to whatever stated hereinabove, I am of the opinion that the title of (1) Shri Shashikant Shankar Sahastrabuddhe, (2) Shri Ravishankar Shashikant Sahastrabuddhe as owners and development rights of M/s Om Krushoons Joint Venture to the captioned property, subject to the final decisions in the above mentioned pending cases including in Sp. CS No.994/2012 and Sp. CS No.1366/2015 and charge of India Infoline Housing Finance Ltd., are clean, clear and marketable without any encumbrance whatever.

All the documents are returned herewith.

Yours faithfully,


(P. M. KHIRE)
ADVOCATE