

a Writ Petition No. 919 of 2016 against MCGM, 3 branches of Hemiben and Raj Arcade.

- 1.27 On the other hand, two branches, who granted development rights to Raj Arcade and the remaining 3rd branch, who granted development rights to Prince Housing by their separate notices dated July 20, 2016 addressed to the respective developers, terminated the respective development agreements and revoked the power of attorney. In response, Prince entered into certain correspondence and also held joint meetings, but the same was not fructified positively. In the meantime, Raj Arcade and Prince Housing executed a Joint Development Agreement dated January 3, 2017 but did not register the same.
- 1.28 On February 2, 2018, Prince Housing filed Commercial Suit No. 811 of 2018 before the Hon'ble High Court of Bombay against all the 3 (three) branches of Hemiben, Raj Arcade and the Parent Society, for declaration that Prince Housing DA dated August 30, 2013 is valid and subsisting and for decree of partition to the extent of 1/3rd undivided share and permanent injunction, against the heirs of Khimchand who granted development rights and monetary claim towards damages and compensation as well as certain interim reliefs.
- 1.29 As Prince Housing was not joined as party to the Writ Petition filed by the Erstwhile Tenants, Prince Housing also filed Intervention Application, by way of Chamber Summons No. 158 of 2018.
- 1.30 On July 6, 2018, the Erstwhile Tenants (except 3) and the then owners filed Consent Terms in Writ Petition No. 911 of 2016 and placed on record having agreed to develop the plot through new developer i.e. M/s. Bali Prabhu. Subsequently, one more tenant agreed with the proposals of new developer. On September 11, 2016, the Hon'ble High Court disposed of the said Writ Petition and the chamber summons vide granting liberty to the Erstwhile Tenants/Petitioners to adopt appropriate civil proceedings.
- 1.31 On October 15, 2018, the Erstwhile Tenants invoked the said liberty by filing Suit No. 1319 of 2018 in the Hon'ble High Court of Bombay against all 3 branches, 2 developers i.e. Raj Arcade and Prince Housing, as well as new one i.e. M/s. Bali Prabhu and also moved for ad interim reliefs, by filing Notice of Motion No. 2306 of 2018. On October 29, 2018, the Hon'ble High Court of Bombay passed an order directing all the parties to maintain the status quo, in respect of the suit Property ("Status Quo Order").
- 1.32 Certain disputes arose between some of the heirs of Khimchand, on the one hand and Prince Housing on the other hand with regards to physical possession of the Property. Prince Housing filed Contempt Petition (L) no.



8164 of 2020, against the 3 (Three) branches. On other hand, heirs of Kapurchand and Manchand invoked Arbitration Clause against Raj Arcade and followed by section 9 Petition No. 368 of 2021 under the provisions of Arbitration and Conciliation Act, 1996 for certain interim measures and Section 11 application for appointment of Arbitrator bearing no. 119 of 2021 in the Hon'ble High Court of Bombay. By an order dated July 8, 2021, the Hon'ble High Court appointed Justice R. G. Ketkar (Rtd.) as an Arbitrator. Accordingly, the Hon'ble Arbitral Tribunal was constituted and passed final order on October 12, 2021 under section 17 of the Arbitration and Conciliation Act, 1996 which is subject to the Status Quo Order passed by the Hon'ble High Court in the Erstwhile Tenants' Suit No. 1319 of 2018 and thereby restrained Raj Arcade from obstructing the Petitioners therein from carrying out construction on the said plot *inter alia* themselves and/or through the developer. The said order was not challenged by Raj Arcade. The heirs of Khimchand filed Commercial Arbitration Application bearing no. 369 of 2021 under the provision of Section 9 and Commercial Arbitration Petition No. 115 of 2021 under the provisions of Section 11 of Arbitration and Conciliation Act, wherein they proceeded against Prince Housing for interim measures.

- 1.33 Thereafter, Bali Prabhu recorded their disinterest in development of the Property by a letter dated February 16, 2022.
- 1.34 By a Release Deed dated August 18, 2022 duly stamped and registered with the Sub-registrar of Assurances at Borivali under serial no. BRL-4/12990/2022, Ketan, Ishan and Jarin, i.e. the heirs and sons of Mukesh Kapurchand Doshi, renounced and released their respective 1/4th undivided share, right, title and interest aggregating to 3/4th undivided share, right, title and interest of Mukesh Kapurchand Doshi in the Property in favour of their mother (and wife of Mukesh Kapurchand Doshi) i.e., Vaishali Mukesh Doshi. Consequently, Vaishali became entitled to the share of late Mukesh Doshi in the Property.
- 1.35 In consequence to the death of various family members of the three branches, the following are the details of the legal heirs having the right, title or interest



in the Property:

Legal Heirs of Kapurchand -

Lalit Kapurchand Doshi	}	
Nalini Hasmukh Doshi	}	
Ketki Jas Sanghavi	}	
Janavi Hasmukh Doshi	}	1/3 rd Share
Vaishali Mukesh Doshi	}	
Mamta Pravin Sheth	}	

(hereinafter collectively referred to as "Legal Heirs of Kapurchand")

Legal Heirs of Manchand -

Harshad Manchand Doshi	}	
Harsha Pradeep Doshi	}	
Chirag Pradip Doshi	}	1/3 rd Share
Kinjal Jigar Shah	}	
Prakash Manchand Doshi	}	

(hereinafter collectively referred to as "Legal Heirs of Manchand")

Legal Heirs of Khimchand -

Jayendra Khimchand Doshi	}	
Bhavana Kaushal Shah	}	
Prafulla Pankaj Doshi	}	
Manali Pankaj Doshi	}	
Harshika Pankaj Doshi	}	1/3 rd Share
Niranjana Ramesh Doshi	}	



Hemangini Minesh Shah	}
Hetu Amrish Shah	}
Hemal Manish Doshi	}

(hereinafter collectively referred to as "Legal Heirs of Khimchand")

- 1.36 The Legal Heirs of Kapurchand, Legal Heirs of Manchand and Legal Heirs of Khimchand were then desirous of transferring/assigning their respective right, title and interest in the Shares and its leasehold rights in the Land and the ownership rights in the Tenanted Building (now demolished), to the Owner/Developer.
- 1.37 Vide an application dated August 21, 2022, the Legal Heirs of Kapurchand, Legal Heirs of Manchand and Legal Heirs of Khimchand applied to the Parent Society requesting for the transfer of the Shares held by them in favour of the Owner/Developer and the assignment of the leasehold rights with respect to the Land (being part of the estate belonging to the Parent Society) in favour of the Owner/Developer.
- 1.38 Pursuant to the application, the Parent Society, vide its letter dated August 23, 2022 bearing reference no. 92/131/2022-23, gave its no objection to the transfer of Shares held by the Legal Heirs of Kapurchand, Legal Heirs of Manchand and Legal Heirs of Khimchand in favour of the Owner/Developer and the assignment of the leasehold rights with respect to the Land in favour of the Owner/Developer subject to the terms and conditions mentioned therein.
- 1.39 Vide a Deed of Cancellation dated August 23, 2022, executed by and between the Legal Heirs of Kapurchand, Legal Heirs of Manchand, Raj Arcade and the Owner/Developer (*as the Confirming Party*) ("**Raj Arcade Cancellation Deed**"), the Parties terminated the registered Raj Arcade DA along with the Raj Arcade POA, in lieu of the Owner/Developer refunding expenses incurred by Raj Arcade. All the development rights of Raj Arcade in the Property stand terminated and extinguished.
- 1.40 Vide a Deed of Cancellation dated August 23, 2022 registered with the Sub-Registrar of Assurances at Borivali No. 6, bearing serial no. BRL-6/17873/2022, executed by and between the Legal Heirs of Khimchand, Prince Housing and the Owner/Developer (*as the Confirming Party*), the Parties terminated the registered Prince Housing DA along with the Prince Housing POA, in lieu of the Owner/Developer refunding expenses incurred by Prince Housing. All the development rights of Prince Housing in the



Property stand terminated and extinguished.

- 1.41 Although the Raj Arcade Cancellation Deed was executed on August 23, 2022 by the Legal Heirs of Kapurchand, Legal Heirs of Manchand, Raj Arcade and the Owner/Developer, it was however duly registered with the Sub-Registrar of Assurances at Borivali No. 6, under serial no. BRL-6/17870/2022, only by the Legal Heirs of Kapurchand, Legal Heirs of Manchand and the Owner/Developer. Considering one of the directors of Raj Arcade, authorised to execute the Raj Arcade Cancellation Deed, was in the judicial custody at the time of registration of the Raj Arcade Cancellation Deed, Raj Arcade could not be present at the office of the Sub-Registrar at the time of registration of the Raj Arcade Cancellation Deed. Consequently, due to the delay in the appearance of the Developer before the Sub-Registrar, the Sub-Registrar rejected the registration of the Raj Arcade Cancellation Deed.
- 1.42 Further, vide a Deed of Assignment dated August 23, 2022, duly registered with the Sub-registrar of Assurances at Borivali No. 6, bearing serial no. BRL-6/17878/2022 ("Deed of Assignment"), the Legal Heirs of Kapurchand, Legal Heirs of Manchand and Legal Heirs of Khimchand demised their respective estate, right, title and interest, easements, appurtenances together with all the benefit in respect of the leasehold Land along with ownership rights to the Tenanted Building and the Shares and their ownership rights in the following 9 (Nine) rooms/tenements occupied by them in the Tenanted Building unto the Owner/Developer on the terms and conditions and for the consideration as set out therein:

Sr. No.	Name of the Owner	Room No.
1.	Lalit Doshi	4
2.	Jayendra Doshi	10
3.	Ramesh Doshi	11
4.	Manchand Doshi	12
5.	Lalit Doshi	13
6.	Pradip Doshi	15
7.	Prakash Doshi	16
8.	Lalit Doshi	17
9.	Pankaj Doshi	18

- 1.43 Simultaneously, the Consent Terms dated August 23, 2022 were filed in



Commercial Suit No. 811 of 2018 in the High Court of Judicature at Bombay ("Prince Housing Consent Terms"), amongst Prince Housing (being the plaintiff therein) and the Legal Heirs of Kapurchand, Legal Heirs of Manchand, Legal Heirs of Khimchand, Raj Arcade, Parent Society and the Owner/Developer (being the defendants therein), the parties withdrew all their respective legal proceedings filed by them and the parties further unconditionally authorized the Owner/Developer to withdraw, settle, enter into compromise, do any other acts, etc. as may be required to conclude/complete any and all disputes with respect to the present suit properties.

- 1.44 Consequently, the Hon'ble High Court of Judicature at Bombay passed an order dated August 29, 2022 in the Commercial Suit No. 811 of 2018 with Suit No. 1319 of 2018 and connecting proceedings thereto, whereby the Hon'ble Court, *inter alia*, disposed of the Suit No. 811 of 2018 and decreed in accordance with the Prince Housing Consent Terms and further took on record that the Tenant's suit i.e., Suit No. 1319 of 2018 shall be settled separately by way of vacating the Status Quo Order. It was clarified that the Status Quo Order shall not come in the way of the parties executing the Prince Housing Consent Terms.
- 1.45 Accordingly, the Legal Heirs of Kapurchand, Legal Heirs of Manchand and Legal Heirs of Khimchand along with the Owner/Developer approached the Erstwhile Tenants and negotiated to put an end to the pending litigation i.e., Suit No. 1319 of 2018. The Erstwhile Tenants agreed to surrender and transfer their tenements along with the tenancy rights in favour of the Owner/Developer.
- 1.46 During the months of November 2022 till March 2023, the tenancy rights to the 12 (Twelve) tenements of the Erstwhile Tenants were transferred and acquired by the partners of the Owner/Developer i.e., (1) Dhruvan Shah and (2) Kamlesh Shah, in the following manner:



Sr. No.	Name of the Old Tenant(s)	Room Nos.	Name of the New Tenant	Details of Transfer
1.	Chakresh Girdharilal Jain	1	Kamlesh Shah	Agreement for Transfer of Tenancy dated February 21, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/3626/2023.
2.	Khimji Vanveer Shah	2	Kamlesh Shah	Agreement for Transfer of Tenancy dated February 17, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/3393/2023.
3.	(1) Tushar Bhatt, (2) Rakesh Bhatt, (3) Kamlesh Bhatt.	3	Kamlesh Shah	Agreement for Transfer of Tenancy dated March 1, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/4310/2023.
4.	Hiren Doshi	5	Dhruman Shah	Agreement for Transfer of Tenancy dated February 23, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/3840/2023.
5.	Khushi Hiren Doshi	6	Dhruman Shah	Agreement for Transfer of Tenancy dated February 1, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/2026/2023.
6.	Jayesh Dahyalal Shah	7	Dhruman Shah	Agreement for Transfer of Tenancy dated January 11, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-1/674/2023.
7.	Kanraj Chouhan	8-A	Dhruman Shah	Agreement for Transfer of Tenancy dated November 24, 2022 registered with the Sub-registrar of Assurances bearing no. BRL-6/23654/2022.
8.	Meenaben Chandulal Shah	8-B	Dhruman Shah	Agreement for Transfer of Tenancy dated January 23, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/1400/2023.



9.	Shankarlal Premchand Jain	9	Kamlesh Shah	Agreement for Transfer of Tenancy dated January 31, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/1857/2023.
10.	Prabodh Poonamchand Shah	14	Dhruman Shah	Agreement for Transfer of Tenancy dated January 20, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/1295/2023.
11.	Jagdish Nandlal Mehta	19	Kamlesh Shah	Agreement for Transfer of Tenancy dated January 25, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/1616/2023.
12.	(1) Vivek Vasant Gudekar; and (2) Sukhada Sunil Dongre	20	Kamlesh Shah	Agreement for Transfer of Tenancy dated January 25, 2023 registered with the Sub-registrar of Assurances bearing no. BRL-6/1615/2023.

- 1.47 Hence, in lieu of the above, the Erstwhile Tenants transferred their tenancy rights in favour of the partners of the Owner/Developer and as a result whereof, the dispute with the Erstwhile Tenants i.e., the Suit No. 1319 of 2018 was settled.
- 1.48 Consequently, the partners of the Owner/Developer i.e., (1) Dhruman Shah and (2) Kamlesh Shah, filed an interim application bearing lodging no. IAL/4074/2023 in Suit No. 1319 of 2018 dated February 10, 2023, before the Hon'ble High Court of Judicature at Bombay, to substitute themselves in place of the Erstwhile Tenants as plaintiff in order to settle the Suit No. 1319 of 2018.
- 1.49 Vide an order dated March 8, 2023, passed by the Hon'ble High Court of Judicature at Bombay in interim application bearing lodging no. IAL/4074/2023 in Suit No. 1319 of 2018, the Hon'ble High Court, *inter alia*, (i) disposed of the Suit No. 1319 of 2018 as withdrawn and accordingly, (ii) the Status Quo Order, in respect of the Property does not survive and accordingly status quo in respect of the Property was vacated and (iii) the interim applications, if any, filed, were disposed of accordingly.
- 1.50 Thereafter, on April 24, 2023, the Owner/Developer applied to the Parent Society for transfer and assignment of the right, title and interest in the Land in its favour. Subsequently, the Parent Society, vide its managing committee



meeting dated June 04, 2023 approved the admission of (i) Mr. Dhruvan Shah and (ii) Mr. Kamlesh Shah (*partners of the Owner/Developer*) to the membership and transfer and assignment of the right, title and interest in the Land and Shares. Accordingly, the Shares in respect of the Land were duly endorsed in their name on the share certificate on June 04, 2023. Hence, the Owner/Developer became a member of the Parent Society and was recognised as the lessee with respect to the Property, forming part of the estate of the Parent Society. The Parent Society informed the Owner/Developer vide its letter dated June 10, 2023 bearing reference no. 32/131/2023-24.

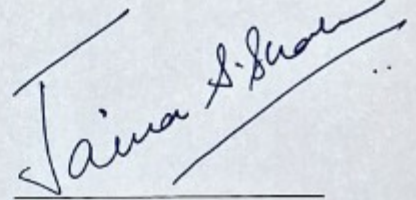
- 1.51 The Property Register Cards of the Land are duly updated vide mutation entry bearing no. 1696 dated September 06, 2023 and stands in the name of the Owner/Developer as the lessee of the Land.
- 1.52 Furthermore, with respect to the Raj Arcade Cancellation Deed, under the Raj Arcade Cancellation Deed, the Owner/Developer agreed to pay to Raj Arcade an amount of INR 63,00,000/- (Indian Rupees Sixty-Three Lakhs Only) towards the refund of the earnest money received by the Legal Heirs of Kapurchand and Legal Heirs of Manchand under the Raj Arcade DA as well as towards the full and final settlement of expenses incurred by Raj Arcade till date of the Raj Arcade Cancellation Deed. Accordingly, the stamp duty was computed on the Raj Arcade Cancellation Deed and paid to the concerned authorities. However, considering Raj Arcade did not appear before the Sub-Registrar, the Owner/Developer did not pay any amounts to Raj Arcade under the Raj Arcade Cancellation Deed. Hence, it was then agreed to execute and register a deed of confirmation whereby Raj Arcade would confirm the registration of the Raj Arcade Cancellation Deed and the Owner/Developer would pay the amounts due thereunder.
- 1.53 Consequently, vide a Deed of Confirmation dated December 12, 2023 duly registered with the Sub-registrar of Assurances at Borivali No. 6, under serial no. BRL-6/26172/2023 ("**Deed of Confirmation**"), executed by and between Legal Heirs of Kapurchand, Legal Heirs of Manchand, Raj Arcade and the Owner/Developer, Raj Arcade admitted and confirmed *inter alia* that (i) by virtue of Raj Arcade Cancellation Deed, the Raj Arcade DA and the Raj Arcade POA stands lawfully and mutually revoked, terminated and cancelled (ii) Raj Arcade received the amount of INR 63,00,000/- (Indian Rupees Sixty-Three Lakhs Only) as agreed under the Raj Arcade Cancellation Deed and (iii) by virtue of the Deed of Confirmation, Raj Arcade confirmed and admitted the registration of Raj Arcade Cancellation Deed. Further, in lieu of the stamp duty paid on the Raj Arcade Cancellation Deed, the Deed of Confirmation did



not bear any stamp duty.

2. The Owner/Developer has procured the following approvals of the development of the Property:
- (a) Letter of Intent dated August 19, 2024 bearing no. P-S/PVT/0111/20240301/LOI issued by Slum Rehabilitation Authority; and
 - (b) Intimation of Approval dated 24th September 2024 bearing no. P-S/PVT/0111/20240301/AP/S.

Date: October 24, 2024



ADV. JAINA SHAH
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