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Advocates
(R.L.A.D./U.P.C./COURIER)

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Ref. No.

Date: 8/9/2012

CERTIFICATE OF TITLE

Schedule of property

1. All that piece or parcel of land or ground bearing plot No.CD-71, RSC -23 admeasuring 1205.844 sq. meters or thereabouts, survey number 120 (P), CTS No.1374/B/179 and all that piece or parcel of land or ground bearing plot No.CD-72, RSC-25 admeasuring 1314.51 sq. meters or thereabouts being S.120 (P) CTS No. 1374/B/171 situate at Versova Andheri (w) Mumbai- 400 053 in the registration Sub-district of Bandra, Mumbai, the part of the property of **Maharashtra Housing And Area Development Authority** a statutory Corporation duly constituted under the Maharashtra Housing And Area Development Act, 1976 (Mah. XXVII of 1977) having its office at **Griha Nirman Bhavan, Kala Nagar, Bandra (East), Mumbai - 400 051** (hereinafter referred to as 'the Authority')
2. The buildings, allowed to be reconstructed on the above plots.

Documents referred to

- (1). Lease Deed dated 7th day of September, 1993 between the **Authority** of the **ONE PART** and **Versova Andheri Sahnivas Co-operative Housing Society Limited**, a society duly registered under the **Maharashtra Co-operative Societies Act, 1960**, having registration number as **BOM(W) K(West)HSG (TO)/ 7284/ 1992-93** Dated **23/03/1993** of the **OTHER PART** and also Lease Deed dated 15th October, 1993 between the **Authority** of the **ONE PART** and **Versova Andheri Prabhat Co-operative Housing Society Limited**, a society duly registered under the **Maharashtra Co-operative Societies Act, 1960**, having registration number as **BOM(MHADA)/HSG (TO)/ 7327/ 1993-94** Dated **8/4/1993** of the **OTHER PART**

(2). Certificate of registration of **Versova Andheri Sahnivas Co-operative Housing Society Limited**, issued on 23/03/1993 and **Versova Andheri Prabhat Co-operative Housing Society Limited**, issued on 8/4/1994

(3). P. R. Card in respect of property CTS No. 1374/B/179 and CTS No. 1374/B/171.

3. "The Authority" was constituted with effect from 5th December, 1977 under Government Notification in the Public works and Housing Department of Government of Maharashtra No. ARD-1077 (1), Desk-44 dated 5th December, 1977. **Mumbai Housing And Area Development Board** is a part of 'the Authority'.

4) From the Lease Deed dated 7th September, 1993 it is clear that "the Authority" had allotted S. No. 120, Plot No. CD-71, CTS No. 1374/ B/ 179, RSC-23, situate at Versova-Andheri (W) Mumbai 400 058 to **Versova Andheri Sahnivas Co-operative Housing Society Limited** on lease for 90 years from 7th September, 1993, similarly From the Lease Deed dated 15th October, 1993 it is clear that "the Authority" had allotted S. No. 120, Plot No. CD-72, CTS No. 1374/ B/ 171, RSC-25, situate at Versova- Andheri (W) Mumbai 400 058 to **Versova Andheri Prabhat Co-operative Housing Society Limited** on lease of 90 years from 7th September, 1993

5) I have investigated the title of **Versova Andheri Sahnivas Co-operative Housing Society Limited** AND **Versova Andheri Prabhat Co-operative Housing Society Limited** on the basis of the documents mentioned above. 'Search' was not required because the land belongs to "The **Maharashtra Housing And Area Development Authority**" which is a statutory Corporation duly constituted under the **Maharashtra Housing And Area Development Act, 1976**. In the Property Card it is specifically mentioned that under the orders of different authorities like Collector and City Survey Offices the holder of property including the plots in question is **Mumbai Housing and Area Development Board, Mumbai**.

My findings are as under:

1) after perusing the above Records I am satisfied that the **Versova Andheri Sahnivas Co-operative Housing Society Limited** is holding the said plot of land validly and legally. They are the owners of the cluster houses constructed on the

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respective plots, therefore, would be the owners of the building which is being constructed by the developer hence the Society has clear and marketable title..

II) I have referred to the Development Agreement between **Versova Andheri Sahnivas Co-operative Housing Society Limited** and **M/s. Orbit Heights Pvt. Ltd** having address as 115, 4th floor, Development Credit Bank Building, Crawford Market, Mumbai 400 001, executed on the 20th day of September, 2009. This Development Agreement has been registered with the Sub-registrar of Assurances, Andheri-2 Under registration number as BDR4/00276 of 2010 dated 7/1/2010. This agreement is executed between all 28 members of the Society and M/s. Orbit Heights Pvt. Ltd. Under this development agreement. The Society has conferred upon the Developer, the rights of construction of the Society's new building as per the approved plan. The developer has described the nature of construction of new building of the Society that they would construct the composite building with stilt plus podiums plus 22 storied building on the scheduled property. Obviously they would make a provision of flat for original 28 members and sale the remaining flats in the open market. I have also referred to the Development Agreement between **Versova Andheri Prabhat Co-operative Housing Society Limited** and **M/s. Orbit Heights Pvt. Ltd** having address as 115, 4th floor, Development Credit Bank Building, Crawford Market, Mumbai 400 001, on the 20th day of September, 2009. This Development Agreement has been registered with the Sub-registrar of Assurances, Andheri-2 Under registration number as BDR4/00222 of 2010 dated 6/1/2010. This agreement is executed between all 31 members of the Society and M/s. Orbit Heights Pvt. Ltd. Under this development agreement. The Society has conferred upon the Developer, the rights of construction of the Society's new building as per the approved plan. The developer has described the nature of construction of new building of the Society that they would construct the composite building with stilt plus podiums plus 22 stored building on the scheduled property. Obviously they would make a provision of flat for original 31 members and sale the remaining flats in the open market.

III) I have referred to the other following documents:

- a) Offer letter No. CO/MB/Arch/NOC/F-106/5075/2009 dated 26/10/2009 whereby existing buildable area of 1599.11 sq. Meters + additional buildable 4100.065 sq. meters for residential use granted
- b) The M.C.G.M. issued I.O.D. in favour of the Society being CE/9690/WS/AK/ dated 16th February, 2010 to construct building on the Society's plot.
- c) Commencement Certificate No. CE/9690/WS/AK dated 13/10/2010 which is valid up to 12/10/2011
- d) Revised Offer letter issued on 30-12-2011 by MHADA under No. CO/MB /Arch/ NOC/F-106/7838/2011.
- e) Intimation under No. CE/9690/WS/AK dated 2nd, January, 2012 to the Architect of the Society by Executive Engineer Building Proposal (WS) H & K Ward of MCGM
- f) NOC by the C.F.O. for the proposed High Rise residential building dated 9/3/2012
- g) Receipt of payment of Rs, 11,60,53,495/- to MHADA on 30/12/2011, the same is acknowledged by the MHADA under Receipt No.463185 and Voucher No.178.
- h) No-Dues Certificate issued on 26/4/2012 under No. DYCO/W/MB/2224 /12, and No. DYCO/W/MB/2223 /12, in favour of the Versova, Andheri Sahnivas Chs. Ltd and Versova Andheri Prabhat Chs. Ltd, in respect of plot No. 71, and 72 respectively .
- i) Intimation under number CE/9690/WS/AK dated 2nd January, 2012 to the architect of the society that the MCGM had no objection for carrying out the work as per amended plan for the development of plot No. CD 71 and CD 72.
- j. Fresh Certificate of Incorporation Consequent upon Change of name from M/s Orbit Heights Private Limited to Neminath Homes Private Limited, issued on 20/1/2012 by the Government of India-Ministry of Corporate affairs, Registrar of Companies Maharashtra, Mumbai.

There is nothing on the record to show that the said Re-Development Agreements were ever rescinded. The Developer accordingly is entitled to construct and complete the building as per

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the C.C. and approved plans. The Developer has absolute authority to sell the additional flats in the building of the societies under construction.

I have observed from the records mentioned above that is letters from/noc/permissions from MHADA, MCGM and CFO etc. that both the societies wanted to develop their respective properties jointly and through their architect they sought permission/approval from MHADA. BMC and CFO to amalgamate both the plots together make the payment for additional area jointly and construct the building on the consolidated plot. From the development agreements referred to above both the societies have common interest i.e. developing their properties jointly through the same developer and the architect by amalgamating the same. Though the approvals and permissions for amalgamations are on record, the cost is paid accordingly to MHADA and even the CFO has permitted for the high rise residential building No.1 and 2 on societies plot No.71 and 72 there is nothing on records both the societies on amalgamated and registered with the Deputy Registrar of CS (MHADA). Save and accept this condition the rest appears to have been followed and all the rest of the authorities have virtually approved the amalgamation.

In my opinion in view of Fresh Certificate of Incorporation upon change of name referred to in (i) above the name of M/s. Orbit Heights Pvt. Ltd is to be referred to and substituted as M/s. Neminath Homes Pvt. Ltd. wherever it appears in respect of development of plots undertaken by M/s. Orbit Heights Pvt. Ltd keeping unchanged the contract of those Agreement and it is only M/s. Neminath Homes Pvt. Ltd, responsible to comply with the terms and conditions of those Agreements, thus the Developer M/s. Neminath Homes Pvt. Ltd has full authority to sell the additional flats in the market and receive the consideration by themselves.


V.B.Mahadik