

AN KOTHADIYA
om. (Hons.), LL.M.
ocate

In Reply Please
Quote Ref. No.

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Court:
Chamber No. 24,
New Lawyer's Chambers,
District Court Compound,
Shivajinagar, Pune - 411 005

TITLE REPORT

May 26, 2015

1. PLOT DESCRIPTION:

All those portions aggregating to 10,000.00 sq.mt. comprising of,

New Survey No.	Old Survey No.	Total Area "Hectare.Are"	Subject Area "Hectare.Are"
28/2A/17	28/2A+B/3/3	42.00.00	0.42.00
28/2A/16	28/2A+B/3/9	18.50.00	0.18.50
28/2A/15	28/2A+B/3/6	18.50.00	0.18.50
28/2A/14	28/2A+B/3/5	18.50.00	0.12.50
28/2A/2	28/2A+B/3/4	18.50.00	0.08.50
Total			1.00.00

situate at village Undri of Taluka Haveli, District Pune, within the Registration District of Pune, Sub-Registration Taluka Haveli, Pune, and Gram Panchayat of village Undri and which are collectively bounded by as under:

On or towards East : Survey No.27
On or towards South : Survey No,32
On or towards West : Survey No.28/2B/2
On or towards North : Internal road and remaining portion of subject survey numbers

(hereinafter collectively referred to as the said "PLOT")

2. INSTRUCTIONS:

- (a) I am instructed by TUKARAM TULSHIRAM GHOLAP a duly authorized partner of and for M/s.TULSI DEVELOPERS, a partnership firm, having its office at 2/14, Matru Kurpa, Erandavana, Pune 411004 (hereinafter referred to as the said "DEVELOPER") to investigate title to the said Plot.

- (b) The said Developer, M/s.Tulsi Developers is a partnership firm, registered with the Registrar of Firms at Registration No.MPA-50417, presently comprising of 2 (two) partners; (i) Tukaram Tulshiram Gholap and (ii) Ms.Neha Tukaram Gholap,

Neha Tukaram Gholap

3. SEARCH:

- (a) Advocate HN Jagtap, Pune took search in the concerned Sub-Registration Offices, Haveli, Pune, vide Application No.3785 dated 10.04.2015, receipt No.0760885, Haveli No.10 relating to the said Plot, for the period from 1986 till 2015, and online search from the website of Inspector General of Registration, Maharashtra available from the year 2002 onwards.

- (b) It is informed that except the transactions herein recorded, no transaction relating to the said Plot or any transaction encumbering the said Plot was found to have been effected.

- (c) The said search however, is subject to the registers not available in the said offices, the same either having been sent for binding or in torn condition or not available.

4. PUBLIC NOTICE:

I issued public notice dated 14.01.2014 in daily "Prabhat" a marathi news paper being published from Pune inviting objections, if any, from concerned people, relating to the said Plot, I did not receive any objection or claim relating to the said Plot from any quarters in response to the said public notice.

5. DOCUMENTS:

I perused photo copies of following documents for the purposes of investigating the title to the said Plot.

Sr	Particulars
1	VF No.7/12 of (i) Survey No.27/2A+2B from 1943 till 1971, (ii) Survey No.27/2A+B from 1971 till 1984 (iii) Survey No.28/2A/3 from 1991 till 2004, (iv) Survey No.28/2A+B/2B/3/3 from 1992 till 2013, (v) Survey No.28/2A+B/2B/3/9 for year 1992 (vi) Survey No.28/2A+B/2B/3/8 for the year 1992, (vii) Survey No.28/2A+B/2B/3/7 for the year 1992 (viii) Survey No.28/2A+B/2B/3/6 for the year 1992 (ix) Survey No.28/2A+B/2B/3/5 for the year 1992 (x) Survey No.28/2A+B/2B/3/4 for the year 1992 (xi) Survey No.28/2A+B/2B/3/3 for the year 1992, (xii) Survey No.28/2A/B/2 for the year 1992,
2	VF No.7/12 of (i) Survey No.28/2A/17 from 2010 till 2015 (ii) Survey No.28/2A/16 from 2010 till 2015, (iii) Survey

Signature

	No.28/2A/15 from 2013 till 2015, (iv) Survey No.28/2A/14 from 2010 till 2015, (v) Survey No.28/2A/2 from 2010 to 2015, (vi) Survey No.28/2A/13 from 2010 till 2015, (vii) Survey No.28/2A/12 from 2013 to 2015, (viii) Survey No.28/2A/5 from 2010 to 2015, (ix) Survey No.28/2A/17 from 2010 to 2015,
3	Relevant extracts of VF No.6, called mutation entries, relating to the said land, during period from 1945 till 2014
4	Plan showing the location of Survey No.27/2B/3 and their parts, issued by the Taluka Inspector of Land Records of Haveli Taluka
5	Demarcation of (i) Survey No.28/2B/3, vide Mojini Register No.9118 to illegible, demarcated on illegible, (ii) Survey No.28/2A+B/2B/3/3, 28/2A+B/2B/3/9, 28/2A+B/2B/3/8, 28/2A+B/2B/3/7, 28/2A+B/2B/3/6, 28/2A+B/2B/3/5, 28/2A+B/2B/3/4, 28/2A+B/2 Vide Mojani No.304/98, demarcated on 16.06.2003, (iii) Survey Numbers Nos.28/2A/5, 28/2A/13, 28/2A/12, 28/2A/2, 28/2A/16, 28/2A/14, 28/2A/17, 28/2A/15 vide Mojini Register No.6886, 6887, 6880, 6889, 6193, 6194, 6195, 6196 measured on 20.04.2011, (iv) Survey Numbers 28/2A, 28/2A/13, 28/2A/16 and 28/2A/17 vide Mojini Register No.11430/14, measured on 31.12.2014 by Assistant Superintendent of Land Record of Haveli Taluka under the Maharashtra Land Revenue (Boundaries and Boundary Marks) Rules,1969, framed under Chapter-IX of the Maharashtra Land Revenue Code, 1966
6	Deed of Partition dated 30.09.1991, registered in the Office of Sub Registrar Haveli No.2 at the Sr.No.15964/1991 on the same day, executed by Shankar Dhondiba Kanade and others of portion admeasuring "Hectare 1.95 Are" out of Survey No.28/2A+B and other pieces of land
7	Development Agreement and Power of Attorney both dated 12.06.2013, registered with the Sub Registrar Haveli No.10 at the serial No.6881/2013, executed by Shankar Dondiba Kanade and others infavour of M/s.Tulasi Developers pertaining to the said Plot
8	Plaint in Special Civil Suit No.974/2013, in the Court of Civil Judge, Senior Division, Pune, filed by Subhash Pandurang Ghule against Shankar Dhondiba Kanade and others for declaration and injunction.

Subhash Ghule

9	Zone Certificate No.8943/2014 dated 12.08.2014 issued by the Assistant Director of Town Planning, Pune
10	Amalgamation layout, building layout and plans for construction of the building approved by the Assistant Director of Town Planning Pune, vide No.:Rekhankan NABP/ Mauje Undari/Tal Haveli/S.No.28(part) Moshi/ SSP/2370 dated 22.05.2012 and sanctioned by the Collector, Pune, vide his order dated 13.06.2013, No.PMH/ NA/ SR/ 231/2012 under section 44 of the Maharashtra Land Revenue Code,1966, permitting use of the said Plot for non-agricultural purposes of residence.
11	Supplement to the Development Agreement dated 27.04.2015 entered into by and between the Owners and the Developer pertaining to the selection of the units in the buildings on the said Plot between the Owners and Developer.

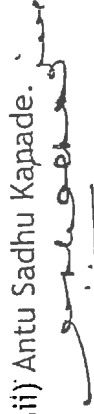
6. **INFORMATION:**

Tukaram Tulshiram Gholap; a partner of the said Developer M/s.Tulsi Developers and Advocate Shrikrishna Shankar Kanade; one of the owner of the said Plot furnished information for drawing this title report.

7. **INCIDENTS:**

(a) Revenue village Undri came to be bifurcated into revenue village of Undri and revenue village of *Vadaa chi wadi*, by notification issued under the provisions of the Maharashtra Land Revenue Code,1966. As a result thereof, Survey No.27 of village Undri was renumbered as "Survey No.28" of village Undri as is seen from mutation entry No.3792 dated 05.12.1990 effected to the record of rights thereof.

(b) Survey No.27/2A and Survey No.27/2B was amalgamated as Survey No.27A + 27/2B as has been remarked by the Circle Officer while certifying mutation entry No.638, dated 09.04.1945. In view of bifurcation of village as mentioned above, Survey No.27A + 27/2B was renumbered as "Survey No.28/2A + 28/2B", the area of which is "Hectare 5.02 Are" (equivalent to "Acre 12.17 Guntha"). This mutation entry mentions that pursuant to the order of the Tahasildar Haveli in the case no.W.T.6R./31-41 dated 03.09.1943, this "Survey No.28/2A + 28/2B" was held by (i) Babu Bala Kanade, (ii) Dhondi Tukaram Kanade and (iii) Antu Sadhu Kanade.



(c) As is seen from mutation entry No.1071, dated 29.11.1955, Antu Sadhu died somewhere in the year 1953 or thereabout, leaving behind only (i) Babu Bala Kanade paternal cousin brother, and (ii) Dhondi Tukaram Kanade paternal uncle, who succeeded to the said "Survey No.28/2A + 28/2B", each having $\frac{1}{2}$ undivided share therein.

(d) On perusal of mutation entry No.1481, dated 23.12.1963, No.1579 date *illegible* and No.4717, dated 27.12.1993, it is revealed that Survey No.27 was *inaam/ watan* land classified as Patil Watan service *inaam* class-VIB. The said *inaam* was abolished by the provisions of Maharashtra Inferior Village Watan Abolition Act (previously known as the Bombay Inferior Village Watan Abolition Act,1958). Accordingly, said land bearing Survey No.27 by then renumbered as Survey No.28 was resumed, and on payment of *nazarana* was re-granted to its holder whose name is *illegible*. From subsequent revenue records, it is deduced that this regrant was to Babu Bala Kanade. This regrant was on 'old tenure' which means Class-I tenure as laid down by Section 29 of the Maharashtra Land Revenue Code,1966 rendering it alienable, transferable and partible.

(e) On demise of Babu Bala Kanade on 11.09.1976, as is seen from mutation entry No.1909 dated 09.01.1977, the names of his heirs; (i) Sadas Shiv Babu Kanade, (ii) Vitthal Babu Kanade and (iii) Dnyandeo Babu Kanade were entered in the record of rights of said "Survey No.28/2A + 28/2B".

(f) On demise of Dhondiba Tukaram Kanade on 28.05.1965, the name of his sole heir, Shankar Dhondiba Kanade was entered in the record of rights *vide* mutation entry No.1792 dated 17.08.1974 of said "Survey No.27/2A + 27/2B".

(g) The Deed of Partition dated 20.09.1991 registered with the Jt.Sub-Registrar, Haveli No.2 at Serial No.15964 entered into by coparceners and family members of Shankar Dhondiba Kanade, mentions that *inter alia* the eastern portion admeasuring "Hectare 1.95 Are" out of said "Survey No.28/2A+B" was occupied by them as appears to have been mutually decided with family of then demised Babu Bala Kanade and demarcated by the office of

Shankar Kanade

the District Survey Officer as Survey No.28/2B/3. This eastern portion admeasuring "Hectare 1.95 Are", came to be renumbered as "Survey No.28/2A+B/2B/3" as is seen from VF 7/7A/12 (which hereinafter referred to as the said "LARGER LAND", for brevity). However, no mutation entry for this could be located.

- (h) Pursuant to the above partition, by mutation entry No.4058 dated 25.09.1991, later on demarcated vide Urgent Corrected Mojini Register No.304/1998, dated 16.06.2003 said Larger Land was partitioned amongst the coparceners of family of Shankar Dhondiba Kanade, which again were renumbered during computerization of record of rights by mutation entry No.6946, dated *illegible*, as follows:

Survey No.	Computerized Survey No.	To the share of (referred to as the said "OWNERS")
28/2A+B/2	28/2A/5	Shankar Dhondiba Kanade
28/2A+B/3/3	28/2A/17	Smt.Shakuntala Shankar Kanade who died on 20.01.2011, leaving behind husband and sons mentioned in this very column as seen from mutation entry No.9379 dated 17.03.2011
28/2A+B/3/4	28/2A/12	Chandrakant Shankar Kanade
28/2A+B/3/5	28/2A/13	Suresh Shankar Kanade
28/2A+B/3/6	28/2A/2	Uttam Shankar Kanade
28/2A+B/3/7	28/2A/14	Ratan Shankar Kanade
28/2A+B/3/8	28/2A/15	Rajendra Shankar Kanade
28/2A+B/3/9	28/2A/16	Shrikrishn Shankar Kanade

- (i) From the contents of the instruments of development comprising of Development Agreement and the Power of Attorney both dated 12.06.2013 registered with the office of the Sub-Registrar, Haveli No.10 at Serial No.6881/2013 and 6882/2013 respectively (hereinafter referred to as the said "INSTRUMENTS OF DEVELOPMENT"), executed by said Owners in favour of the said Developer, it is seen that despite the above instrument of partition, the occupation of said pieces of land by said Owners remained joint.

seal

(j) The said Owners by the said Instruments of Development granted exclusive development rights pertaining to a portion admeasuring "Hectare 1.00 Are" lying on south out of said "Survey No.28/2A+B", described in paragraph 1 above and referred to herein as the said "PLOT", unto and in favour of the said Developer, M/s.Tulsi Developers.

(k) In consideration of grant of exclusive development rights pertaining to the said Plot, the Developer agreed to construct for the said Owners, units to the extent of 37% of the permissible Floor Area Ratio/ Floor Space Index ("FAR/ FSI") originating from the physical area of the said Plot, while the balance 63% was available for the said Developer to deal with.

(l) The said Plot has also been demarcated by the Office of the Assistant Superintendent of Land Records, Haveli at Mojini Register No.11430 of 2014.

(m) On approval of the amalgamation layout, building layout and plans for construction of the building by the Assistant Director of Town Planning Pune, vide No.:Rekhankan NABP/ Mauje Undari/Tal Haveli/S.No.28 (part) Moshi/ SSP/2370 dated 22.05.2012, the Collector, Pune, vide his order dated 13.06.2013, No.PMH/ NA/ SR/ 231/2012, under section 44 of the Maharashtra Land Revenue Code,1966, permitted use of the said Plot for non-agricultural purposes of residence. The Developer accordingly, commenced the construction of various buildings on the said Plot. I am informed that the said Developer has submitted revised plans for approval and sanction, which expected to be sanctioned soon.

(n) By Supplement to the Development Agreement dated 27.04.2015, the Owners and the Developer made their respective selection of units in the building/s being built on the said Plot by the Developer. The following is the extract of the list appended to the said supplement selecting the units by them *inter se*.

FLATS FOR THE OWNERS

Building No	Flat No
A	303 and 304
	503 and 504
	703 and 704
	901 and 904
B	101 to 104

Signature

	201 to 204
	301 to 304
	401 to 404
	903 and 904
	1003 and 1004
B1	101 to 104
	201 to 204
	301 to 304
	401 to 404

FLATS FOR THE DEVELOPER

Building No	Flat No
A	101 to 104
	201 to 204
	301 and 302
	401 to 404
	501 and 502
	601 to 604
	701 and 702
	801 to 804
	901 and 902
	1001 to 104
	1101 and 1102
	501 to 504
B	601 to 604
	701 to 704
	801 to 804
	901 and 902
	1001 and 1002
	1101 and 1102
	501 to 504
	601 to 604
	701 to 704
	801 to 804
	901 to 904
	1001 to 1004
B1	1101 and 1102
	501 to 504
	601 to 604
	701 to 704
	801 to 804
	901 to 904
	1001 to 1004
	1101 and 1102

- (o) One Subhash Pandurang Ghule filed a suit bearing Special Civil Suit No.974/2013 in the Court of Civil Judge, Senior Division, Pune, against Shankar Dhondiba Kanade and others. The said Developer as yet is not a party to the suit. Briefly stated, the Plaintiff avers that his great grandfather Hari Babu Ghule was the mortgagee to whom the predecessor in title of the Defendants 1

Subhash Pandurang Ghule

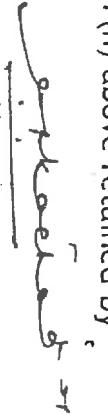
to 13 mortgaged *inter alia* the said Plot. He also has averred that therefore, he has become the owner. He sought declaration that sale deed of the year 2003 is invalid and sought possession *inter alia* of the said Plot.

- (p) Nowhere in the plaint, any particulars as to mortgage have been given nor it is averred that the alleged mortgage was created by registered instrument, which is a *sine qua non* under section 59 of the Transfer of Property Act, 1882, nor the nature of mortgage has been disclosed. In the event of any mortgage, the relief of foreclosure in case of usufructory mortgage or sale in case of other mortgages could be the reliefs for the mortgagee. It is hence, inconceivable that the mortgagee becomes the owner, as could be seen from the pleadings. Many of the reliefs sought are not only barred by latches, delay and limitation, but are also barred by provisions of section 158 of the Maharashtra Land Revenue Code, 1966 as they relate to mutation entries in the record of rights. In my opinion therefore, there is no merit in the suit and most likely it would be dismissed.

8. OPINION:

On the basis of perusal of documents referred to above, the information collected by me, as has been mentioned above, the above incidents pointed out and position on law, I am of the opinion that,

- (a) Shankar Dhondiba Kande, Chandrakant Shankar Kanade, Suresh Shankar Kanade, Uttam Shankar Kanade, Ratan Shankar Kandade, Rajendra Shankar Kanade and Shrikrishna Shankar Kanade are the Owners of the said Plot,
- (b) the said Plot is free from encumbrances and is marketable,
- (c) the said Developer is entitled to construct various buildings on the said Plot and is entitled to sell and otherwise dispose of the blocks in the buildings on the said Plot to intending purchasers except the blocks constructed and referred to in clause 7(n) above retained by the said Owners.


Kiran Kothadiya
Advocate

