

7th June 2011**TITLE OPINION****SCHEDULE PROPERTIES****SCHEDULE 'A' PROPERTY**

All the piece and parcel of the plot bearing Bruhath Bangalore Mahanagara Palike Municipal No. 335/A and Property Identification No. (PID NO) 72-38-335A (formed out of Sy. Nos. 57 to 82 by the Amarajothi Housing and Building Co-Operative Society Ltd) measuring East to West 45 feet and North to South 76 feet in all 3420 square feet (including margin land), situated at Dommallur Village, Civil Area, (BMP Ward No. 72) Bangalore 560071 and bounded on the

East by	:	Site No. 360/B;
West by	:	Site No. 355-B;
North by	:	Road; and
South by	:	Private Property

SCHEDULE 'B' PROPERTY

All the piece and parcel of the plot bearing Bruhath Bangalore Mahanagara Palike Municipal No. 360/A and Property Identification No (PID No). 72-38-360A (formed out of Sy. No. 57 to 82 by the Amarajothi Housing and Building Co operative Society Ltd) measuring East to West 50 feet and North to South 68 feet in all 3400 square feet (including margin land), situated at Dommallur Village, Civil Area, (BMP Ward No. 72) Bangalore 560071 and bounded on the

East by	:	Private Property
West by	:	Site No. 360-B
North by	:	Road
South by	:	Private Property

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SCHEDULE 'C' PROPERTY

All the piece and parcel of the plot bearing Bruhath Bangalore Mahanagara Palike Municipal No. 360/B and Property Identification No. (PID No) 72-38-360B (formed out of Sy. No. 57 to 82 by the Amarajothi Housing and Building Co operative Society Ltd) measuring East to West 50 feet and North to South 70 feet in all 3500 square feet (including margin land), situated at Dommallur Village, Civil Area, (BMP Ward No. 72) Bangalore 560071 and bounded on the

East by	:	Site No. 360/A
West by	:	Site No. 355-A
North by	:	Road
South by	:	Private Property

(Hereunder and herein after the Schedule 'A' 'B' and 'C' Properties are collectively and jointly referred to as 'the Schedule Property')

LIST OF DOCUMENTS FURNISHED FOR SCRUTINY:-

1. Sale Deed dated 03.10.1996 executed by Amarjothi House Building Co-operative Society Limited represented by its president Sri. Y.N. Adhisheshajiah in favour of Sri. Gurumukh Singh, registered as Document No. 1965/1996-97, in Volume No. 3822 of Book I, at pages 57-58 in the Office of the Sub-Registrar, Shivajinagar, Bangalore;
2. Sale Deed dated 22.08.1996 executed by Amarjothi House Building Co-operative Society Limited represented by its president Sri. Y.N. Adhisheshajiah in favour of Sri. Harpreet Kaur, registered as Document No. 1569/1996-97, in Volume No. 3822 of Book I, at pages 39-40 in the Office of the Sub-Registrar, Shivajinagar, Bangalore;
3. Sale Deed dated 02.09.1996 executed by Amarjothi House Building Co-operative Society Limited represented by its president Sri. Y.N. Adhisheshajiah in favour of Smt. Vinita Shroff, registered as Document No. 1570/1996-97, in Volume No. 3822 of Book I, at pages 41-42 in the Office of the Sub-Registrar, Shivajinagar, Bangalore;
4. Official Memorandum dated 09.03.1999 bearing No. CR;84:98:99 issued by the Assistant Commissioner, Bangalore North Taluk;
5. Challan of payment dated 18.05.1999 made by Smt. Amaravasthamma;

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6. Sub Division Order and Survey Sketch in respect of land bearing Old Sy. No. 57/3 new No. 93 measuring 0-05 guntas situated at Dommallur Village, Bangalore;
7. Mutation Registrar Extract bearing No. 1/1999-00 issued by the Special Tahasildar, Bangalore North Taluk, Bangalore;
8. Tax Paid Receipt paid by Smt. Amarvathamma in respect of the land bearing Sy. No. 93;
9. RTC for the year 1999-00 for the land bearing Sy. No. 93 reflecting the name of Smt. Amarvathamam as owner in possession;
10. Receipt dated 1.12.1999 and 2.12.1999 issued by BMP towards the payment of betterment charges;
11. The Khatha Certificate dated 09.2.1999 bearing No. ARO/JBN/DA73PR3030/1999 issued by Assistant Revenue Officer, BMP;
12. Khatha Assessment Extract dated 16.12.1999 issued by Assistant Revenue Officer, BMP;
13. Tax paid receipt dated 09.12.1999 bearing No. 2499137 issued by BMP;
14. Endorsement dated 18.05.2000 bearing No. BDA(LA);SLAO:C10:PR 21-2000 dated 18.05.2000 issued by Special Additional Land Acquisition Officer, Bangalore Development Authority;
15. Copy of the Complaint and other proceeding along with Compromise Petition bearing Original Suit bearing No. 6888/1999 before the Additional City Civil Judge, City Civil Court at Bangalore;
16. Copy of the decree dated 16.12.2004 passed by the City Civil Judge at Bangalore City for the Original Suit bearing No. 6888/1999;
17. Copy of the Complaint and other proceeding along with Compromise Petition filed Original Suit bearing No. 6890/1999 before the Additional City Civil Judge, City Civil Court at Bangalore;
18. Copy of the decree dated 16.12.2004 passed by the City Civil Judge at Bangalore City for the Original Suit bearing No. 6890/1999;
19. Copy of the Complaint and other proceeding along with Compromise Petition filed Original Suit bearing No. 6891/1999 before the Additional City Civil Judge, City Civil Court at Bangalore;
20. Copy of the decree dated 16.12.2004 passed by the City Civil Judge at Bangalore City for the Original Suit bearing No. 6891/1999;



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32. Sale Deed dated 30.03.2007 executed by M/s. Oasis Constructions represented by its partners B.L. Somasundaram and Venkatesh and Smt. S. Vimala in favour of Sri. B.S. Hamsa Raj, registered as Document No. SHV-1-05887-2006-07, stored in C.D. No. SHVD80 in the Office of the Sub-Registrar, Shivajinagar, Bangalore;
33. Sale Deed dated 30.03.2007 executed by M/s. Oasis Constructions represented by its partners B.L. Somasundaram and Venkatesh and Smt. S. Vimala in favour of Sri. B.S. Hamsa Raj, registered as Document No. SHV-1-05889-2006-07, stored in C.D. No. SHVD80 in the Office of the Sub-Registrar, Shivajinagar, Bangalore;
34. Sale Deed dated 30.03.2007 executed by M/s. Oasis Constructions represented by its partners B.L. Somasundaram and Venkatesh and Smt. S. Vimala in favour of Sri. B.S. Hamsa Raj, registered as Document No. SHV-1-05890-2006-07, stored in C.D. No. SHVD80 in the Office of the Sub-Registrar, Shivajinagar, Bangalore.
35. Khatha Certificate bearing No. BMP/REV/2011-12/KC/574621 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhat Bangalore Mahanagara Palike;
36. Khatha Assessment Extract bearing No. BMP/REV/2011-12/KC/615437 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhat Bangalore Mahanagara Palike;
37. Khatha Certificate bearing No. BMP/REV/2011-12/KC/574625 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhat Bangalore Mahanagara Palike;
38. Khatha Assessment Extract bearing No. BMP/REV/2011-12/KC/615441 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhat Bangalore Mahanagara Palike;
39. Khatha Certificate bearing No. BMP/REV/2011-12/KC/574623 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhat Bangalore Mahanagara Palike;
40. Khatha Assessment Extract bearing No. BMP/REV/2011-12/KC/615439 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhat Bangalore Mahanagara Palike (BBMP);
41. Encumbrance Certificates dated 26.05.2011 bearing No. 1035/2011-12 for the period from 01.04.1980 to 21.05.2011 issued by the Sub-Registrar, Indiranagar, Bangalore;
42. Encumbrance Certificates dated 26.05.2011 bearing No. 1038/2011-12 for the period from 01.04.1980 to 21.05.2011 issued by the Sub-Registrar, Indiranagar, Bangalore;
43. Encumbrance Certificates dated 26.05.2011 bearing No. 1034/2011-12 for the period from 01.04.1980 to 21.05.2011 issued by the Sub-Registrar, Indiranagar, Bangalore;
44. Tax Paid Receipt bearing Application No. 431010997 for the year 2011-12 issued by the Assistant Revenue Officer, BBMP;

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45. Tax Paid Receipt bearing Application No. 431010998 for the year 2011-12 issued by the Assistant Revenue Officer, BBMP; and
46. Tax Paid Receipt bearing Application No. 431010999 for the year 2011-12 issued by the Assistant Revenue Officer, BBMP.

TRACING OF THE TITLE

The Documents furnished to us provide as follows:

1. That the Bangalore Development Authority (BDA) had acquired a land bearing Sy. Nos. 57 to 82 of Dommallur Village, Kasaba Hobli, Bangalore for formation of Amarajyothi House Building Co-Operative Society (AHBCS) vide issuing preliminary notification dated 14.10.1981 and final notification dated 14.10.1982 as per the provisions of the Land Acquisition Act, 1894. Thereafter AHBCS was given possession of the said lands. In furtherance of the same, AHBCS obtained approval for formation of the residential layout from the BDA.
2. That the Schedule Property is carved out of the land bearing Sy. No. 57/3 of Dommallur Village, Bangalore.
3. That Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur were the members of AHBCS and made the applications for allotment of the plots of different dimensions. AHBCS appreciated the applications made by Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur and allotted the following plots them:
 - i. the said Sri. Gurumukh Singh was allotted with a site bearing No. 335/A measuring East to West 45 feet and North to South 76 feet in all 3420 square feet (including margin land) situated at Dommallur Village, Civil Area. (BMP Ward No. 72) Bangalore 560071, which is more fully described in the Schedule 'A' described herein above and hereunder and herein after 'Schedule 'A' Property'. In furtherance of the foregoing allotment, AHBCS represented by its president Sri. Y.N. Adhisheshaiah absolutely transferred the Schedule 'A' Property in favour of Sri. Gurumukh Singh vide Sale Deed dated 03.10.1996 registered as Document No. 1965/1996-97, in Volume No. 3822 of Book I, at pages 57-58 in the Office of the Sub-Registrar, Shivajinagar, Bangalore. Thereafter the said Sri. Gurumukh Singh was granted with possession certificate and he got Khatha of the Schedule 'A' Property transferred in his name by BDA. Thus by virtue of the foregoing sale



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deed and registration of Khatha in his favour, Sri. Gurumukh Singh became the absolute owner of the Schedule 'A' Property.

- ii. the said Smt. Vinita Shroff was allotted with plot bearing No. 360/A having BMP Khatha No. PID 72-38-360A (formed out of Sy. No. 57 to 82 by the AHBCS) measuring East to West 50 feet and North to South 68 feet in all 3400 square feet (including margin land), situated at Dommallur Village, Civil Area, (BMP Ward No. 72) Bangalore 560071, which is more fully described in the Schedule 'B' Property described herein above and hereunder and herein after 'Schedule 'B' Property'. In furtherance of the foregoing allotment, AHBCS represented by its president Sri. Y.N. Adhishshaiah absolutely transferred the Schedule 'B' Property in favour of Smt. Vinita Shroff vide Sale Deed dated 02.09.1996 registered as Document No. 1570/1996-97, in Volume No. 3822 of Book I, at pages 41-42 in the Office of the Sub-Registrar, Shivajinagar, Bangalore. Thereafter the said Smt. Vinita Shroff was granted with possession certificate and she got Khatha of the Schedule 'B' transferred in her name by BDA. Thus by virtue of the foregoing sale deed and registration of Khatha in his favour, Smt. Vinita shorff became the absolute owner of the Schedule 'B' Property.
- iii. the said Smt. Harpreet Kaur was allotted with plot bearing No. 360/B having BMP Khatha No. PID 72-38-360B (formed out of Sy. No. 57 to 82 by the AHBCS) measuring East to West 50 feet and North to South 70 feet in all 3500 square feet (including margin land), situated at Dommallur Village, Civil Area, (BMP Ward No. 72) Bangalore 560071, which is more fully described in the Schedule 'C' Property described herein above and hereunder and herein after 'Schedule 'C' Property'. In furtherance of the foregoing allotment, AHBCS represented by its president Sri. Y.N. Adhishshaiah absolutely transferred the Schedule 'B' Property in favour of Smt. Harpreet Kaur vide Sale Deed dated 02.09.1996 registered as Document No. 1570/1996-97, in Volume No. 3822 of Book I, at pages 41-42 in the Office of the Sub-Registrar, Shivajinagar, Bangalore. Thereafter the said Smt. Harpreet Kaur was granted with possession certificate and She got Khatha of the Schedule 'C' transferred in her name by BDA. Thus by virtue of the foregoing sale deed and registration of Khatha in his favour, Smt. Harpreet Kaur became the absolute owner of the Schedule 'C' Property.

Thus by virtue of the foregoing Sale Deeds, the said Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur became the absolute owners of the Schedule Property and were in possession and enjoyment of the same.

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4. In furtherance of the foregoing transactions and registration of Khatha, One Smt. Amarvathama w/o. Krishna Reddy filed an objection before BDA seeking cancellation of the Khathas registered in favour of Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur in respect of the Schedule Property for the following reasons:

- i. The land bearing Sy. No. 57/3 situated at Kasaba Hobli, Dommur Village, Bangalore totally measuring 1 acres 29 guntas inclusive of 5 guntas of Karab was originally owned by her husband Sri. Krishna Reddy;
- ii. BDA notified the foregoing land to the extent of 1 acres 24 guntas for the formation of residential layout by AHBCS vide passing the preliminary notification and final notification;
- iii. In furtherance of the foregoing notification, BDA put the AHBCS in possession of the foregoing land to the extent of 1 acre 24 guntas and approved the layout proposed by the latter;
- iv. In furtherance of the formation of forgoing lay out, the said Amarvathamma had made an application for regularization of 5 guntas of karab and sought for fixation of tax for the same before the Assistant Commissioner. Accordingly the Assistant Commissioner passed Official Memorandum bearing CR:84;98-99 dated 09.03.1999, wherein he regularized 5 gunats of karab and fixed tax for the same.
- v. The said Amaravathamma paid the upset price fixed the Assistant Conunissioner and thereby became the absolute owner of the said karab of 5 guntas in the land bearing Sy. No. 57/3 situated at Dommallur Village, Kasaba Hobli. Bangalore. The same is reflected in the challan dated 18.05.1999
- vi. There after she got the land sub divided, wherein the karab land was granted with new Sy. No. 93 and the same is mutated and recorded in the Mutation Register at Sl No. 1/1999-00. The RTC for the land bearing Sy. No. 93 for the year 1999-00 reflects the name of Smt. Amavathamma as owner in possession of the said property.
- vii. Thereafter the said Amaravathamma paid the necessary betterment charges to the Bangalore Mahanagara Palike (BMP), which issued Receipts dated 1.12.1999 and 2.12.1999 acknowledging the payment towards betterment charges. Further she applied for registration of Khatha in her favour before BMP. Accordingly the Khatha was registered in her name and land was given BMP Municipal No. 139/31. The Khatha Certificate dated 09.2.1999 bearing No. ARO/JBN/DA73PR3030/1999 and Khatha Assessment Extract dated 16.12.1999



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issued by Assistant Revenue Officer, BMP in respect of property bearing No. 139/31 reflect the name of Smt. Amarvathamma as owner and khathedar of 5 gunats karab land.

- viii. Tax paid receipt dated 09.12.1999 bearing No. 2499137 issued by BMP provides that the said Amarvathamma had paid the property tax in respect of the property bearing No. 139/31 from the year 1994 to 1999.
 - ix. Thereafter she got an endorsement dated 18.05.2000 bearing No. BDA(LA);SLAO:C10:PR 21-2000 dated 18.05.2000 issued by Special Additional Land Acquisition Officer, BDA, wherein the authority had clarified that it had not notified the said 5 gunats of karab land for the formation of the residential layout by AHBCS and it only notified 1 acre 24 guatas in land bearing Sy. No. 57/3 of Dommallur Village Bangalore for formation of the lay out.
 - x. The said Amarvathamma claimed that the Schedule Property is carved out of the said 5 guntas of karab land and the same should belong to her. Neither Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur nor AHBCS had any right, title and interest in the Schedule Property and accordingly sought for the cancellation of Khatha registered in favour of Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur.
5. In appreciation of the application cum objection made by Smt. Amarvathamma in respect of cancellation of Khatha registered in favour of Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur, BDA issued following show cause notices to said Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur:
- i. Show Cause Notice dated 29.03.2001 bearing No. BDA/KA(East)2040/2000-01 issued by the office of Revenue Office, East Division, Bangalore Development Authority, Bangalore in respect of the Schedule 'A' Property;
 - ii. Show Cause Notice dated 29.03.2001 bearing No. BDA/KA(East)2040/2000-01 issued by the office of Revenue Office, East Division, Bangalore Development Authority, Bangalore in respect of the Schedule 'B' Property;
 - iii. Show Cause Notice dated 29.03.2001 bearing No. BDA/KA(East)2040/2000-01 issued by the office of Revenue Office, East Division, Bangalore Development Authority, Bangalore in respect of the Schedule 'C' Property;

Wherein BDA had asked for clarification and reasons that why BDA should not cancel the Khatha registered in favour of Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur with respect to Schedule Property and sought for reply within 15 days from the date of receipt of the notices, failing which BDA had cautioned to cancel the

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Khatha. BDA claiming that it did not receive any reply from Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur in respect of cancellation of Khatha of the Schedule Property within the stipulated time, issued following cancellation Orders;

- iv. Cancellation Order dated 06.08.2001 bearing No. BDA/KA(East)2040/2000-01 issued by the office of Revenue Office, East Division, Bangalore Development Authority, Bangalore in respect of the Schedule 'A' Property;
- v. Cancellation Order dated 06.08.2001 bearing No. BDA/KA(East)2040/2000-01 issued by the office of Revenue Office, East Division, Bangalore Development Authority, Bangalore in respect of the Schedule 'B' Property;
- vi. Cancellation Order dated 06.08.2001 bearing No. BDA/KA(East)2040/2000-01 issued by the office of Revenue Office, East Division, Bangalore Development Authority, Bangalore in respect of the Schedule 'C' Property;

Thus vide issuing the foregoing cancellation order, BDA cancelled the Khatha registered in favour of Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur.

- 6. Aggrieved by the impugned cancellation order of BDA, the said Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur preferred a Writ Petition bearing No.295 to 297 of 2002, wherein they sought for quashing of foregoing cancellation order before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka appreciating the facts stated in said petitions, passed order dated 09.02.2004 quashing the cancellation orders and asking BDA to reconsider its cancellation orders.
- 7. Aggrieved by the interference by Smt. Amarvathamma with the possession and enjoyment of the Schedule Property, the said Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur filed three Original hare injunction Suits bearing Nos. 6888/1999, 6890/1999 and 9891/1999 before the Hon'ble City Civil Court, Bangalore restraining the said Smt. Amarvathamma from interfering with the possession and enjoyment of the Schedule Property by the said Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur. Pursuant of filing of this suit and orders passed in Writ Petitions, the parties i.e Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur and Smt. Amarvathamma amicable resolved their issues in respect of the Schedule Property vide filing a Compromise Petitions under Order 23 Rule 3 of the Civil Procedure Code, 1908 in all three suits. In the said Compromise Petitions, it was agreed among the Parties that the smt. Amarvathamma was entitled for 60% of the rights, interest and title in the Schedule Property and Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur were entitled for 40% in the Schedule Property. Accordingly the said Amarvathamma released all her tight , title and interest in the Schedule Property to the extent of 40% in favour of Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur and on the other hand, the said Sri. Gurumukh Singh, Smt. Vinita Shroff

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and Smt. Harpreet Kaur released all their rights, interest and title in respect of the Schedule Property to the extent of 60% in favour of Smt. Amarvathamma. Further it was agreed among the Parties that the said Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur along with Smt. Amarvathamma should alienate the Schedule Property to the prospective purchaser/s and share the sale proceeds received out of the sale of the Schedule Property in the ratio of 40:60%. Accordingly the Hon'ble Court decreed all the three suits bearing Nos. 6888/1999, 6890/1999 and 9891/1999 vide decree dated 16.12.2004.

8. In furtherance of foregoing decree, the said Sri. Gurumukh Singh, Smt. Vinita Shroff and Smt. Harpreet Kaur along with Smt. Amarvathamma conveyed the Schedule Properties to M/s. Oasis Constructions and Smt. Vimala vide Sale Deeds dated 14.08.2006 registered as Document Nos. SHV-1-02060-2006-07 of Book I, SHV-1-02061-2006-07 of Book I and SHV-1-02062-2006-07 of Book I stored in C.D. bearing No. SHVD68 in the office of the Sub-Registrar, Shivajinagar, Bangalore. Thus by virtue of execution and registration of the foregoing Sale Deeds, the said M/s. Oasis Constructions and Smt. Vimala became the absolute joint owners of the Schedule Property.
9. Pursuant to foregoing transactions, the said M/s. Oasis Constructions and Smt. Vimala conveyed the Schedule Property to B.S Hamsa Raj vide executing the Sale Deeds dated 30.03.2007 and got the same registered as Document Nos. SHV-1-05887-2006-07 of Book I, SHV-1-05889-2006-07 and SHV-1-05890-2006-07 of Book I and stored in C.D. No. SHVD80 in the Office of the Sub-Registrar, Shivajinagar, Bangalore.
10. In furtherance of the foregoing sale transactions, the said B.S Hamsa Raj got the Khatha of the Schedule Property transferred in his name from BBMP. Accordingly BBMP issued following Khatha Certificate and Khatha Assessment Extracts;
 - i. Khatha Certificate bearing No. BMP/REV/2011-12/KC/574621 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhath Bangalore Mahanagara Palike in respect of the Schedule 'A' Property reflecting the name of B.S Hamsa Raj as khathedar of the Schedule 'A' Property and the same was allotted with Municipal No. 335/A and Property Identification Number (PID No) of 72-38-335/A;
 - ii. Khatha Assessment Extract bearing No. BMP/REV/2011-12/KC/615437 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhath Bangalore Mahanagara Palike reflecting the name of B.S. Hamsa Raj as current owner of the Schedule 'A' Property;
 - iii. Khatha Certificate bearing No. BMP/REV/2011-12/KC/574625 dated 23.05.2011 issued by the Assistant Revenue Officer, Bruhath Bangalore Mahanagara Palike in respect of the Schedule 'B' Property reflecting the name of B.S Hamsa Raj as



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