

REPORT ON TITLE

Re : **Property bearing C.S. No.310 of Tardeo Division admeasuring 7525 sq. yards equivalent to 6291.86 sq. mtrs. situate lying and being at Chikhalwadi, Tardeo, Mumbai**

1. At relevant material time, One Massamant Saeedun Nisa daughter of Abdul Rahim of Lucknow Muslim Inhabitant was seized and possessed of or otherwise well and sufficiently entitled to ALL THAT piece of land or ground of Forus Tenure together with the dwelling houses standing thereon then known as Jawji Building lying, being and situate at Chikhalwadi, Tardeo, Mumbai admeasuring about 7556 square yards or thereabouts equivalent to 6291.86 square meters or thereabouts and registered in the Books of the Collector of Land Revenue under Old Nos. 332, 333, 334, New No.13552 Old Survey No.114 and New Survey No.7026 Cadastral Survey No.310 of Tardeo Division and assessed by the Assessor and Collector of Municipal Rates and Taxes under "D' Ward Nos. 3715, 3716, 3717, 3718 (1), 3718 (2), 3819 (1), 3719 (2), 3719 (3) Street Nos. 22, 24-26-28-30, 32, 36C, 36D, 34A, 34F, 34E, 34G and 34B, more particularly described in the Schedule hereunder written (hereinafter referred to as "**the said Property**").
2. Under the Joint Declaration dated 31st August, 1956 registered with the Sub-Registrar of Assurances at Mumbai under No.55012 of 1958 on 12th February, 1958 the said Massamat Saeedun Nisa declared her intention to make a gift and agreed to make a gift of said Property viz. ALL THAT piece and parcel of land or ground hereditaments and premises particularly described in the Schedule of the said Joint Declaration being the same particularly described in the Schedule hereunder written in favour of (1) Mohammed Saeeduz Zafar, son of late Mohammed Zafrul Hasan, (2)

Mohammed Rashiduz Zafar, son of late Mohammed Zafrul Hasan, (3) Mohammed Mahmooduz Zafar, son of late Mohammed Zafrul Hasan and (4) Mohammed Waheeduz Zafar (hereinafter be called **"the Original Owners"**).

3. The Original Owners were thus seized and possessed of or otherwise well and sufficiently entitled to ALL THAT piece or parcel of land bearing City Survey No.310 admeasuring about 7525 square yards equivalent to 6291.86 square meters or thereabouts lying and being at near Bhatia Hospital in Registration District and Sub-district of Mumbai City and Mumbai Suburban and more particularly described in the SCHEDULE hereunder written being referred as said Property hereto.
4. One of the Original Owners Mohammed Waheeduz Zafar (deceased) died intestate at Jeddah on 17th October, 1989 leaving him surviving according to Sunni Muslim Law by which he was governed Safia Zafar Mohammed, Majeeduz Zafar, Mohammed Mateenuz Zafar and Khadija Zafar as his only heirs and next of kin all of whom became entitled to the share right, title and interest of the deceased in the said Property as heirs of the deceased.
5. In the circumstances, the remaining Original Owners along with the heirs of deceased Original Owner became the Owners of the said Property and are entitled to deal with the same.
6. The said Property comprised of 7 buildings having ground + 2 floors containing several residential and commercial tenements in occupation of the tenants and occupants thereof, which are more than 100 years old.

7. By an Agreement for Sale dated 11th January, 1993 made between (1) Mohammed Saeeduz Zafar, (2) Mohammed Rashiduz Zafar, (3) Mohammed Mahmooduz Zafar, (4) Safia Zafar Mohammed, (5) Majeeduz Zafar, (6) Mohammed Mateenuz Zafar and (7) Khadija Zafar as the Vendors of the One Part and Shri Khimchand S. Bafna and Shri Kantilal Girdharilal Bhandari therein in their capacities as the Promoters of Kora Construction Pvt. Ltd. (Proposed) as the Purchasers of the Other Part, the said Vendors agreed to sale to Shri Khimchand S. Bafna and Shri Kantilal Girdharilal Bhandari therein in their capacities as the Promoters of Kora Construction Pvt. Ltd. (Proposed) the said land hereditaments and premises on "as is where is basis" as to the physical condition thereof the said land hereditaments and premises bearing Cadastral survey No. 310 of Tardeo Division together with structures standing thereon for valuable consideration on the terms and conditions therein contained. At the relevant time under the then prevailing provision under Section 269 (U) (c) of 1961, the NOC dated 16th April, 1993 bearing No. AA/Bom/Cert/11189/93-94 for sale of the said property was granted by the appropriate Authorities to complete the sale of the said Property. Pursuant thereto the said Vendors have also executed an Irrevocable Power of Attorney in favour of the Purchasers conferring upon them powers and authorities in respect of the said Property.

8. The said proposed Company viz. M/s. Kora Construction Pvt. Ltd. came to be incorporated and registered by the Promoters viz. Shri Khimchand S. Bafna and Shri Kantilal Girdharilal Bhandari on 26th March, 1993 (hereinafter referred to as "**the said Company**"). In consequence thereof, M/s. Kora Construction Pvt. Ltd. adopted

the said Agreement for Sale dated 11th January, 1993 by a resolution of its Board of Directors passed on 3rd May, 1993.

9. Against the performance of the obligations by the Original Owners under the Agreement for Sale referred in Clause 6 and against the payment of the consideration paid by the Purchaser to the Original Owners, the Original Owners handed over the possession of the vacant portion of the said Property to M/s. Kora Construction Private Limited and for remaining part of the said Property comprised of buildings and structures in occupation of tenants/occupants by attorning tenancies and occupancies in the building standing on the said Property to M/s. Kora Construction Private Limited.

10. That acquisition proceedings had been initiated by MHADA and State Government of Maharashtra at the instance of the tenants/occupants as a Promoter of the Proposed Society viz. Shree Dattaprasad Co-operative Housing Society Limited, in respect of the said Property against Mohammed Saeeduz Zafar, son of late Mohammed Zafrul Hasan and Others being the Landlords of the said Property under Section (5) of Section 103-B read with Sub-Section (5) of Section 93 of MHADA Act, 1976 by the Government of Maharashtra and an Order dated 05/08/1994 was passed by Special Land Acquisition Officer of Mumbai Building Repairs and Reconstruction ("M.B.R. & R.") Board Mumbai which was also notified in official Gazette, Maharashtra State accordingly. The said Order was challenged by the said Original Owners in City Civil Court and High Court at Bombay culminated into filing of Special Leave to appeal (Civil) No.13428 of 1996 against State of Maharashtra and Others before the Hon'ble Supreme Court

challenging the dismissal Order dated 26th February 1996 passed in the Writ Petition No.27 of 1996 filed against the Order dated 5th August, 1994 of Special Land Acquisition Officer.

11. During the course of a time, the said Mohammed Saeed-Uz-Zafar died intestate on 11th March 1998, leaving behind him as his only heirs and next of kin (i) Mohammed Hamid-Uz-Zafar and (ii) Mohammed Aziz - Uz - Zafar. The said (i) Mohammed Rashid-Uz-Zafar, (ii) Mohammed Mahmood-Uz-Zafar, (iii) Safia Zafar Mohammed, (iv) Mohammed Mateen-Uz-Zafar, (v) Mohammed Majeed-Uz-Zafar, (vi) Khadija Zafar, (vii) Mohammed Hamid UzZafar and (viii) Mohammed Aziz Uz-Zafar.
12. In the meanwhile, subject to acquisition hereinabove, by an Indenture dated 6th August 1999 made between (1) Mohammed Rashiduz Zafar, (2) Mohammed Mahmooduz Zafar, (3) Safia Zafar Mohammed, (4) Mohammed Majeeduz Zafar, (5) Mohammed Mateenuz Zafar, (6) Khadija Zafar therein referred to as "**the Vendors No.1**" of the First Part, 1) Khalida Saeed, 2) Mohammed Hamiduzzafar and 3) Mohammed Azizuzzafar therein referred to as "**the Vendors No.2**" of the Second Part, Khimchand Santokji Bafna and Kantilal Girdharilal Bhandari in their capacity as Promoters of the Kora Construction Private Limited (which was then under formation) therein referred to as "**the Confirming Party**" of the Third Part and Kora Construction Private Limited ("**the Company**") therein referred to as "**the Purchasers**" of the Fourth Part and registered with the office of the Sub Registrar of Assurances at Bombay under Serial No.3697 of 1999, the said Mohammed Rashiduz Zafar and others granted, conveyed, sold and transferred to the said property to the Company and the Confirming Party

confirmed to the aforesaid sale and on terms, conditions and covenants stated therein;

13. Pending the hearing and final disposal of the SLP No.13428 of 1996 filed in the Supreme Court of India, the Office of the Collector of Bombay has issued an Order dated 30th March 2007 under Sub Section 2 (6) of Section 93 of MHADA Act to the City Survey and Land Record calling upon the Office of City Survey and Land Record to handover possession of the said property to the Office of the Collector, Bombay.
14. In pursuance of the aforesaid Order made by the Office of the Collector, Bombay, an Order has been passed in the SLP No. 13428 of 1996 on 11th April 2007 whereby the Hon'ble Supreme Court of India has recorded the representation made by the State of Maharashtra that only symbolic possession of the said property will be taken by the State of Maharashtra.
15. After a lapse of about more than 20 years, the structural stability of said buildings weaken and deteriorated to the such an extent that they have turned into dilapidated and ruinous conditions causing imminent danger to the life and property of the tenants/occupants. By reason whereof, the majority of the Tenants/Occupants made representation to Hon'ble Housing Minister, Government of Maharashtra for recession and cancellation of the acquisition of the said Property to avail of benefit of newly enacted development regulation 33 (7) of Development Control Regulation of Greater Mumbai 1991. The said representation was forwarded to MHADA by the Hon'ble Housing Minister and a Report was sought FOR from MHADA.

16. By letter dated 7th June 2012, Chief Officer, M.B.R. & R. Board Mumbai of MHADA recommended to the State Government inter alia to rescind/cancel land acquisition order of the said Property and notification thereto to enable the tenants/occupants and promoters of the said Proposed Society to redevelop the said Property under the provision of Development Regulation 33 (7) of Development Control Regulation of Greater Mumbai, 1991.
17. In consequence thereof, by a letter dated 16th August, 2013, the Housing Department of Government of Maharashtra inter alia accorded its consent for rescinding/cancelling acquisition of the said Property and notification thereto, subject to terms and conditions stated therein.
18. Pursuant to the said letter dated 16th August 2013, MHADA by and under letter dated 27th September 2013, has informed to the Chief Promoter of the said Proposed Society that MHADA shall initiate proceedings of rescinding/cancelling of the Notification in respect of acquisition of Property in accordance with the terms and conditions set out therein.
19. In view of the aforesaid recommendations of MHADA under letter dated 7th June 2012 and pursuant to the aforesaid letter dated 16th August 2013 of Government of Maharashtra, the Proposed Society filed Interim Application No.10 of 2013 in the above SLP No. 13428 of 1996 to sought for the permission of the Hon`ble Supreme Court to withdraw the abovementioned SLP (C) No.13428 of 1996 to enable the Government of Maharashtra and MHADA to complete the process of rescinding/cancelling the acquisition of the

said Property and Notification thereto to enable the re-development of the Property under the provisions of Regulation 33 (7) of (DCR) by the said Company in furtherance of compliance of condition mentioned in letter dated 16th August 2013.

20. Based on letter dated 16th August 2013 of Government of Maharashtra to MHADA, the Hon'ble Supreme Court of India after hearing the parties was pleased to allow withdrawal of SLP (C) No. 13428 of 1996 by Order dated 4th October 2013 and the said interlocutory application disposed off accordingly.
21. In consequence thereof, as directed by Chief Officer (MBR&RB) vide his letter No.REE/R&R/Dattaprasad CHS/351/13 DATED 20TH January 2014 informed the Special Land Acquisition Officer (MBR&RB) Officer for de-acquisition as per the direction of the Government. In accordance with the condition in the Government letter dated 16th August 2013, the Special Land Acquisition Officer initiated procedure to rescind/cancel the Notification dated 5th August 1994 and issued notice to all the tenants/occupants inviting obligations, if any, to rescind/cancel the Notification dated 5th August, 1994. In view of the fact that 70% of the Occupants have not raised any objection for rescinding the Notification dated 5th August 1994 issued under sub-section (5) of Section 103B and sub-section (5) of Section 93 and also in view of the report of Divisional Executive Engineer with regard to the condition of the building, it is stated that the said building be redeveloped collectively. Hence on compliance of terms and condition of Government letter dated 16th August 2013, the Special Land Acquisition Officer Mumbai (MBR&RB) by a Notification dated 10th March 2016 granted sanction to rescind and cancel Notification

dated 5th August 1994 issued under sub-section (5) of Section 103B.

22. By virtue of the said Notification dated 10th March 2016 the said Property vested with the Owners with all encumbrances from MBR&RB of Maharashtra Housing and Area Development Authority from the date of publication of the said Notification in Government Gazette.
23. In view of the execution and registration of the Deed of Conveyance dated 6th August 1999 as stated in Clause 11 hereinabove, by the Owners in favour of Kora Construction Private Limited the said Property in turn vested in Kora Construction Private Limited as a present Owner thereof.
24. I have perused Search Report dated 16th April 2016 issued by Mr. N.D. Rane, Title Investigator and I found that there is no other adverse document of title registered in respect of the said Property. However, the said Deed of Conveyance dated 6th August 1999 is duly reflected in the Record of Sub-Registrar.
25. One Mr. Tukaram Anavkar and Mr. Shrikant Bhatt have filed Writ Petition No.1935 of 2016 before the Hon'ble High Court Mumbai challenging the de-acquisition Notification dated 10th March 2016 by Special Land Acquisition Officer, MBR&RB Mhada, Government of Maharashtra. The matter is pending before the Court for admission. No ad-interim or interim Orders have been passed by the Hon'ble Court.
26. On the basis of aforesaid findings and subject to what is stated hereinabove, I am of opinion that Kora Construction Private

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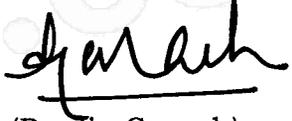
Limited is entitled to said Property as Owners thereof and carry out development thereon subject to tenancies and occupancies thereof.

THE SCHEDULE ABOVE REFERRED TO :

ALL THAT piece of land or ground of Forus Tenure together with the dwelling houses standing thereon formerly known as Jawji Building lying, being and situate at Chikhalwadi, Tardeo, MUmbai admeasuring about 7556 square yards equivalent to 6291.86 square meters bearing Cadastral Survey No.310 of Tardeo Division and assessed by the Assessor and Collector of Municipal Rates and Taxes under "D' Ward Nos. 3715, 3716, 3717, 3718 (1), 3718 (2), 3819 (1), 3719 (2), 3719 (3) Street Nos. 22, 24-26-28-30, 32, 36C, 36D, 34A, 34F, 34E, 34G and 34B and bounded as follows :

On or towards North	:	Property of Banu National Ultra Marine
On or towards South	:	Property of Tokersji Javji Road
On or towards East	:	Property of Wallace Floor Mill Company Ltd.
On or towards West	:	Property of Ravbahadur Rajuji

Dated this 21st day of October 2016.


(Pradip Garach)
Advocate High Court Bombay