



ANNEXURE - E

# WADIA GHANDY & Co.

ADVOCATES, SOLICITORS & NOTARY

N. M. Wadia Buildings, 123, Mahatma Gandhi Road, Mumbai - 400 001, India.

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## TITLE CERTIFICATE

NL-DJM-10044

10<sup>th</sup> November, 2015

To,

Rustomjee Constructions Private Limited,  
702, Natraj, M.V. Road Junction,  
Western Express Highway,  
Andheri (East), Mumbai-400 069.

Kind Attn: Mr. Boman Irani / Mr. Chandresh Mehta

Re: All that piece and parcel of land bearing Survey No. 341 (part) having corresponding CTS Nos. 648 and 648/1-6 of Village Bandra admeasuring 15,445 square metres (as per MHADA records) lying, being and situate at Gandhi Nagar, Bandra (East), Mumbai - 400 051 in Municipal "H" Ward East ("said Land") together with the 16 buildings then standing thereon bearing nos. 36, 37 and 58 to 71 ("Old Buildings") consisting of a total of 168 flats ("Old Flats"). The said Land and the Old Buildings are hereinafter collectively referred to as the "said Property".

### 1. INTRODUCTION

Our client, Rustomjee Constructions Private Limited, is a company registered under the provisions of the Companies Act, 1956 and having its registered office at 702, Natraj, M.V. Road Junction, Western Express Highway, Andheri (East), Mumbai 400069 ("Developer") has instructed us to investigate its title to develop the said Property and issue a title certificate in respect thereof.

### 2. STEPS

For the purpose of issuing this Title Certificate, we have undertaken the following steps:

- (i) Caused searches to be taken from the years 1955 to the year 2015 i.e. for a period of 61 (sixty-one) years for the said Land at the offices of the Sub-Registrar of Assurances at Mumbai and Bandra. However, searches at the office of the Sub-Registrar of Assurances are subject to the availability of records and also to records being torn and mutilated. A list of documents reflected in the search report on title is annexed hereto as **Annexure "A"**.

**WADIA GHANDY & CO.**

- (ii) Caused searches to be undertaken at the Registrar of Companies in respect of records of the Developer. However, searches at the website of the Ministry of Corporate Affairs are subject to the availability of records with the Ministry of Company Affairs on the date of the search.
- (iii) Perused copies of relevant property cards in respect of the said Property.
- (iv) Perused the copies of the deeds, documents and writing with respect to the said Property as provided to us by the Developer.
- (v) The status of the original title deeds of the said Property is detailed in **Annexure "B"**.
- (vi) With respect to facts, which cannot be ascertained on searches of public records, we have relied on the Declaration of even date of the Developer.
- (vii) Perused the Development Plan Remark of the said Property.
- (viii) We have issued a Public Notice in Economic Times on 31st May, 2015 and in Maharashtra Times on 1st June, 2015 to invite objections, if any from any third person with respect to the title of the Developer to develop the said Property. We have not received any objection or claim to the aforesaid Public Notice.

**3. CHAIN OF TITLE:**

- (i) Maharashtra Housing Board ("MHB"), a predecessor in title of Maharashtra Housing and Area Development Authority ("MHADA") was the owner of the said Land.
- (ii) Between the years, 1962 and 1964, MHB constructed the Old Buildings comprising of the Old Flats on the said Land and allotted and sold the Old Flats under the said "Middle Income Group Housing Scheme". MHB had allotted the Old Flats in the Old Buildings to the allottees on a "Hire-Purchase/ Rental" basis. This fact is evidenced in the said Redevelopment Agreement (as defined hereinbelow).
- (iii) Pursuant to the introduction of the Maharashtra Housing and Area Development Act, 1976 and Government Notification dated 5<sup>th</sup> December, 1977, MHB stood dissolved and MHADA was constituted in its place and accordingly, all the property, rights, liabilities and obligations of the MHB became the property, rights, liabilities and obligations of MHADA. Hence, MHADA became entitled to the said Property that previously was owned by MHB.
- (iv) On 4<sup>th</sup> May, 1981, the M.I.G Co-operative Housing Society (Bandra East) Group

## WADIA GHANDY &amp; CO.

IV Limited was registered as a co-operative housing society under the provisions of the Maharashtra Co-operative Societies Act, 1960 under Registration No. BOM/HSG/7595/1981 and having its registered office at Gandhi Nagar Bandra (East), Mumbai - 400 051 ("the Society"). The said allottees and/or their successors/assigns of the Old Flats became members of the Society.

- (v) The Society conducted an Annual General Meeting of all its members on 25<sup>th</sup> June 2006 and the members of the Society passed a resolution on the same day, whereby they resolved to appoint a redevelopment committee from amongst its members to examine the redevelopment of the said Property and invite offers/proposals for redevelopment of the said Property.
- (vi) By and under an invitation of bid for redevelopment dated 25<sup>th</sup> September, 2006, the Society invited bids for redevelopment of the said Property in the manner as stated therein.
- (vii) Pursuant to the process undertaken by the Society, on 29<sup>th</sup> July 2007, the members of the Society by way of a secret ballot voted in favour of Keystone Realtors Private Limited, company registered under the provisions of the Companies Act, 2013 and having its registered office at 702, Natraj, M.V. Road Junction, Western Express Highway, Andheri (East), Mumbai 400069 ("Keystone"), as the developer, which is also the holding company of the Developer.
- (viii) By and under a letter dated 31<sup>st</sup> July 2007, the Society informed Keystone that the Society has decided to grant the rights of redevelopment of the said Property to Keystone upon the terms and conditions as stated therein.
- (ix) By and under a letter dated 31<sup>st</sup> July 2007, Keystone accepted the terms and conditions of the Society under the letter dated 31<sup>st</sup> July 2007 and deposited a sum of Rs. 4,60,00,000/- (Rupees Four Crores Sixty Lakhs Only) towards the security deposit in addition to the sum of Rs. 40,00,000/- (Rupees Forty Lakhs only) already deposited by Keystone with the Society.
- (x) On 16<sup>th</sup> September 2007, the Society conducted a Special General Body Meeting and the members of the Society resolved that Keystone has been appointed for the redevelopment of the said Property and the security deposit of Rs. 5,00,00,000/- (Rupees Five Crores Only) forwarded to the Society by Keystone was duly accepted by the Society.
- (xi) By and under a letter dated 12<sup>th</sup> October 2007, Keystone *inter-alia* informed the Society that they desire to carry out the redevelopment of the said Property, through their wholly owned subsidiary, being the Developer.

## WADIA GHANDY &amp; CO.

- (xii) In the meanwhile, by and under the Notification dated 6<sup>th</sup> December 2008 bearing reference number TTB 4308/74/CR-11/2008/UD-11 passed by the State Government, Regulation 33(5) of the Development Control Regulations for Greater Mumbai, 1991 ("**Regulation 33(5)**") governing the redevelopment of housing schemes of MHADA was amended.
- (xiii) On 7<sup>th</sup> February, 2010, the Society conducted a Special General Body Meeting and the members of the Society decided to amend the bye laws of the Society to include the redevelopment of the said Property as a business of the Society as well as to obtain lease of the said Land and conveyance of the Old Buildings in the name of the Society from MHADA.
- (xiv) Keystone, vide its letter dated 31<sup>st</sup> March, 2010 to the Society, proposed certain amendment to the terms and conditions for redevelopment of the said Property.
- (xv) On 11<sup>th</sup> April 2010, the Society conducted a Special General Body Meeting and the members of the Society decided to accept the amendments proposed under the letter dated 31<sup>st</sup> March 2010 of Keystone and as stated therein.
- (xvi) By and under a letter dated 15<sup>th</sup> April 2010, the Society intimated its acceptance and approval of the amendments proposed by Keystone under its letter dated 31<sup>st</sup> March 2010.
- (xvii) On 5<sup>th</sup> September, 2010, the Society conducted a Special General Body Meeting and it was resolved and decided that (a) redevelopment of the said Property be undertaken under amended Regulation 33(5) of the Development Control Regulations for Greater Mumbai, 1991 ("**DCR**") (b) the Developer be substituted in place of Keystone, for the grant of redevelopment rights of the said Property and Keystone be retained as a confirming party in the Redevelopment Agreement (c) the lay out plans, members building plan and developers building plan for redevelopment of the said Property were approved (d) the draft of the Redevelopment Agreement together with annexures thereof, Power of Attorney were approved and certain members of the Managing Committee of the Society were authorised to sign and register the Redevelopment Agreement on behalf of the Society (e) members of the Managing Committee of the Society were authorised to approve and execute the conveyance of the buildings and lease of the land by MHADA in favour of the Society and register the same.
- (xviii) By and under a Redevelopment Agreement dated 17<sup>th</sup> September 2010, registered with the office of Sub-Registrar of Assurances at Bandra – 4 under serial No. 10647 of 2010 ("**Redevelopment Agreement**") and executed between the Society and Keystone (therein referred to as 'the Confirming Party') and the Developer, the Society granted to the Developer, full, free, irrevocable and

## WADIA GHANDY &amp; CO.

exclusive development rights to develop the said Property by utilising FSI upto 2.5 of the gross plot area of the layout of MHADA at Gandhi Nagar, Bandra (East) and FSI upto 3.115 of the said Land, subject to the consideration and in the manner and on the terms and conditions as stated therein. In consideration of the grant of redevelopment rights, the Developer will provide the members of the Society, (a) Members New Premises (as described in the Redevelopment Agreement), (b) amenities (as described in the Redevelopment Agreement) (c) Monetary Consideration (as described in the Redevelopment Agreement) (d) Facility for temporary alternate accommodation (as described in the Redevelopment Agreement) and other amenities as stated in the Redevelopment Agreement. In consideration of the Developer providing consideration to the Members of the Society as stated therein, the Developer is entitled to construct the Developer's New Buildings/Wings on the portion of the said Land and market the Developer's Flats (as described therein) and Developer's Car Parking Spaces (as described therein).

- (xix) By and under a Power of Attorney dated 17<sup>th</sup> September 2010, registered with the Sub Registrar of Assurances at Bandra under serial number BDR-9/9628 of 2010, executed by the Society in favour of the Developer acting through its directors and/or authorised representatives, the Society appointed the Developer as its lawful attorney to admit the execution of the Redevelopment Agreement before the Sub Registrar of Assurances at Bandra or any other appropriate registering authority and to do all other acts, deeds or matters for the due registration of the Redevelopment Agreement and other deeds executed by the Society.
- (xx) By and under a Limited Power of Attorney dated 17<sup>th</sup> September 2010 executed by the Society in favour of the Developer, the Society empowered the Developer acting through its directors and/or authorised representatives, to perform all such acts as stated therein.
- (xxi) By and under a Deed of Indemnity dated 17<sup>th</sup> September 2010, executed by the Developer (therein referred to as "Obligor") in favour of the Society (therein referred to as "Obligees"), the Developer has agreed to indemnify the Society against all claims, demands, actions, suits, proceedings, loss, costs which may be made or taken against the Society, pursuant to any act or omission by the Developer under the Power of Attorney dated 17<sup>th</sup> September 2010 in the manner as stated therein.
- (xxii) By and under a Guarantee of Performance dated 17<sup>th</sup> September 2010, executed between Keystone (therein referred to as the "Guarantor") and the Society (therein referred to as the "Society"), Keystone guaranteed and





## WADIA GHANDY &amp; CO.

covenanted to the Society, that inter-alia in the event of the Developer not performing and observing the terms, conditions and obligations under the Redevelopment Agreement and/or committing a breach of the said Redevelopment Agreement, the Guarantor will perform and discharge such obligations of the Developer under the Redevelopment Agreement.

- (xxiii) By and under an Indenture of Lease dated 19<sup>th</sup> October 2010, registered with the Sub-Registrar of Assurances at Bandra under serial number BDR-4/9745 of 2010, executed between MHADA (therein referred to as "the Authority") of the One Part and the Society of the Other Part, MHADA granted lease to the Society, in respect of the portion of the said Land admeasuring 9322.42 square meters, which is appurtenant and underneath the Old Buildings, for a period of 60 years commencing from 16<sup>th</sup> March 1977, and renewable by thirty years once on the terms and conditions determined by MHADA from time to time, for residential use, for rent, in the manner and on such terms and conditions as stated therein.
- (xxiv) By and under a Deed of Sale dated 19<sup>th</sup> October 2010, registered with the Sub-Registrar of Assurances at Bandra under serial number BDR-4/9746 of 2010, executed between MHADA (therein referred to as "the Authority") of the One Part and the Society of the Other Part, MHADA has conveyed, granted and assured unto the Society, its right, title and interest in the Old Flats in the Old Buildings, for the consideration and in the manner as stated therein.
- (xxv) Subsequently, by and under a resolution passed by the Society in its Special General Body Meeting held on 13<sup>th</sup> February 2011, the Society decided and resolved the following (a) Society shall execute with the Developer, a supplementary agreement to modify certain terms and conditions and also record additional terms and conditions to the Redevelopment Agreement as stated therein (b) authorised certain members of the Society to execute the Supplementary Agreement (c) ratified all acts, deeds, things in the Society' records and all resolutions of the Society in its annual general meetings, special general body meetings since June, 2006 as well as all documents executed by the Society till then including the Redevelopment Agreement, Power of Attorney and all incidental documents executed between Society, Keystone and the Developer, in respect of the redevelopment of the said Property.
- (xxvi) Pursuant thereto, by and under the First Supplemental Agreement dated 14<sup>th</sup> February 2011, registered with the Sub Registrar of Assurances at Bandra under serial number BDR-4/1482 of 2011, executed between the Society, Keystone (therein referred to as the "Confirming Party") and the Developer, the Parties agreed to modify some terms under the Redevelopment Agreement and

## WADIA GHANDY &amp; CO.

incorporate certain additional terms and clauses in the said Redevelopment Agreement in the manner as stated therein.

- (xxvii) The Society conducted a Special General Body Meeting on 23<sup>rd</sup> June, 2013 and the Society resolved and decided *inter-alia* that (a) the tentative layout plans of the Member's Flats were approved and (b) the draft of the Second Supplementary Agreement with all annexures thereto was approved and certain members of the Managing Committee were authorised to sign and register the Second Supplementary Agreement for and on behalf of the Society.
- (xxviii) Pursuant thereto, by and under a Second Supplemental Agreement dated 1<sup>st</sup> July 2013 executed between the Society, and Keystone (therein referred to as the "Confirming Party") and the Developer ("**Second Supplemental Agreement**"), the Parties amended certain terms and conditions and incorporated certain additional terms and conditions to the Redevelopment Agreement, in the manner as stated therein.
- (xxix) By and under a resolution passed by the members of the Society in a Special General Body Meeting held on 7<sup>th</sup> July 2013, the following was decided and resolved that (a) the Letter of Offer dated 10<sup>th</sup> October 2012 issued by MHADA in respect of the redevelopment of the said Property was accepted and agreed to by the members of the Society, (b) the members of the Society confirmed and ratified the payment of premium of Rs. 116,28,63,664/- (Rupees One Hundred Sixteen Crores Twenty Eight Lakhs Sixty Three Thousand Six Hundred Sixty Four) by the Developer in pursuance to the said Letter of Offer dated 10<sup>th</sup> October 2012.
- (xxx) By and under a resolution passed by the members of the Society in its Special General Body Meeting held on 21<sup>st</sup> December, 2014, it was decided and recorded as follows (a) Intimation of Disapproval ("IOD") as amended on 27<sup>th</sup> November, 2014 bearing reference number CHE/WS/0953/H/337 (NEW) for the redevelopment of the said Property issued by the Municipal Corporation of Greater Mumbai ("MCGM") was approved (b) the layout plan, building plans, conceptual sectional elevations, typical floor plans of the Member's New Building/Wing and Members New Flats and Members Car Parking Spaces was approved (c) the drafts of the revised Second Supplementary Agreement, Process Note, Revised Plans, Power of Attorney, Indemnity against Power of Attorney, Escrow Agreement, Letter of Allotment, Notice to Vacate were approved (d) authorised the representatives of the Society to execute and register the aforesaid documents for and on behalf of the Society (e) ratified steps taken in regard to the redevelopment of the said Property and declared that the said Redevelopment Agreement read with the Supplemental

## WADIA GHANDY &amp; CO.

Agreements are valid, binding and subsisting.

- (xxxi) By and under Process Note dated 16<sup>th</sup> January 2015 executed between the Society and the Developer, the Parties have entered into an agreement to record in detail the process that will be followed chronologically by the Society, the Members and the Developer for commencement of redevelopment of the said Property including obtainment of sanctioned plans, execution of the Escrow Arrangement, issuance of notice to vacate to the members from the said Property, handing over of possession by the members of the said Property to the Developer, inter-se allotment of new flats to the members and demolition of Old Buildings.
- (xxxii) By and under Escrow Arrangement dated 17<sup>th</sup> January, 2015 executed between the Society, the Developer and M/s. Federal & Rashmikant (therein referred to as Escrow Agent), the Society and the Developer have appointed M/s. Federal & Rashmikant as the escrow agent to hold monies in escrow aggregating to Rs. 102,36,16,328/- (Rupees One Hundred and Two Crores Thirty Six Lakhs Sixteen Thousand Three Hundred and Twenty Eight Only) towards the balance 80% monetary consideration, part of the shifting charges and facility for temporary alternate accommodation for seven months under the Redevelopment Agreement, and to release the monies to the members of the Society, in the manner and in the terms and conditions as stated therein.
- (xxxiii) By and under letter dated 17<sup>th</sup> January, 2015 of the Developer to the Society, the Developer has identified (a) 14 (fourteen) Flats admeasuring 16,954 square feet i.e. 1575.07 square meters carpet area along with proportionate car parking spaces out of Developer's Premises, for the purpose of creating a charge thereon to secure issuance of a bank guarantee as provided in clause 3(d)(vii) of the Revised Second Supplemental Agreement as well as; (b) 18 (eighteen) flats admeasuring in aggregate 30,672 sq. ft. i.e. 2849.50 square meters carpet area with proportionate car parking spaces out of the Developer's Premises (to be constructed by utilizing the Additional FSI) for the purpose of creating a charge thereon to secure payment of Additional Corpus, as per the Revised Second Supplemental Agreement referred therein.
- (xxxiv) The Developer deposited in escrow with M/s. Federal & Rashmikant an aggregate sum of Rs. 102,36,16,328/- (Rupees One Hundred and Two Crores Thirty Six Lakhs Sixteen Thousand Three Hundred and Twenty Eight Only) as per the Redevelopment Agreement, Process Note and the Escrow Arrangement dated 17<sup>th</sup> January, 2015.
- (xxxv) By and under letter dated 27<sup>th</sup> January, 2015, the Developer has called upon the





## WADIA GHANDY &amp; CO.

Society to cause their members to quit, vacate and hand over vacant and peaceful possession of their respective Old Flats and their old car parking spaces and to hand over vacant and peaceful possession of the said Land within a period of 30 days from the date of receipt of the letter along with a grace period of further 30 days.

- (xxxvi) The Society identified, distributed and allocated Member's New Premises to each of the Members in lieu of his/her/its Old Flats in the new buildings to be constructed on the said Land, under a lottery system conducted by the said Society on 4<sup>th</sup> April, 2015 and 5<sup>th</sup> April, 2015.
- (xxxvii) By and under Revised Second Supplemental Agreement dated 27<sup>th</sup> April, 2015 ("**Revised Second Supplemental Agreement**") executed between the Society, Keystone and the Developer, the Parties have amended certain terms and conditions and incorporated certain additional terms and conditions to the Redevelopment Agreement as stated therein. The Society has permitted the Developer to avail and utilise the Fungible FSI available under Regulation 35(4) of the DCR, on the said Land. The Society has permitted the Developer to utilise Aggregate FSI of 84,388.50 square meters for the development of said Property. The Revised Second Supplemental Agreement is yet to be registered. Under the Revised Second Supplemental Agreement, the Society has confirmed that all 168 Members have handed over quiet, vacant and peaceful possession of their Old Flats and their old car parking spaces to the Developer. The Society has confirmed the terms and conditions of the Revised Second Supplemental Agreement vide its letter dated 27<sup>th</sup> April, 2015 to the Developer. The said Redevelopment Agreement, First Supplemental Agreement, Second Supplemental Agreement and Revised Second Supplemental Agreement are collectively referred to as "**the said Development Agreements**".
- (xxxviii) By and under Power of Attorney dated 27<sup>th</sup> April, 2015 executed between the Society and the Developer, the Society has granted powers to the Developer acting through its directors and/or authorised representatives, jointly or severally, to do all or any of the acts, deeds, matters and/or things concerning the re-development of the said Property in the manner as stated herein. The Power of Attorney dated 27<sup>th</sup> April, 2015 is yet to be registered.
- (xxxix) By and under Indemnity against Power of Attorney dated 27<sup>th</sup> April, 2015, the Developer has agreed to indemnify the Society in respect of acts or omissions of the Developer under the said Development Agreements and the Power of Attorney dated 27<sup>th</sup> April, 2015, in the manner and on the terms and conditions as stated therein.

**WADIA GHANDY & CO.**

- (xi) By and under Letter dated 27<sup>th</sup> April, 2015, the Society has recorded and confirmed handing over quiet, vacant and peaceful possession of the said Property in favour of the Developer subject to their right to continue to use and occupy the office premises of the Developer at the present location or any other mutually changed location on the said Property.
- (xli) By and under a letter dated 9<sup>th</sup> September, 2015 of MHADA to the Society, MHADA has forwarded the draft of the Supplemental Lease Deed to be executed between the Society and MHADA for the balance area of the said Land admeasuring 6123.28 square meters. MHADA has called upon the Society to process the Supplemental Lease Deed for execution as stated therein.
- (xlii) The Developer has informed us that 166 of the said Members have executed a Declaration cum consent cum indemnity under which the Members have agreed and undertaken to comply with his/her obligations and render full co-operation in redevelopment of the said Property.
- (xliii) The Developer has informed us that the Developer, the said Society and the said Members have executed and registered Permanent Alternative Accommodation Agreements to confirm and record the allotment of the New Member's Premises in favour of 118 Members. The Developer has informed that they are in process of execution of the Permanent Alternative Accommodation Agreements with the balance Members.
- (xliv) The Developer has informed us that all the 168 Members have handed over quiet, vacant and peaceful possession of the said Property to the Developer and the Developer has demolished the Old Buildings on the said Land and has commenced development on the said Land.

**4. DEVELOPMENT PLAN REMARK**

By and under letter dated 11<sup>th</sup> October 2010, bearing reference number CHE/745/DPWS/H/E, issued by the MCGM in respect of land bearing C.T.S. No. 648 of Village Bandra-East, it is reflected that land bearing C.T.S. No. 648 of Village Bandra-East is situated in the Residential Zone and there are no reservations or designations affecting and abutting the land and there are no D.P. Roads affecting the land.

**5. MORTGAGE/ CHARGE**

By and under Deed of Mortgage cum Charge dated 29<sup>th</sup> May, 2015 executed between the Developer (therein referred to as Borrower/Mortgagor) and IDBI Trusteeship Services Limited (therein referred to as the Security Trustee) and registered with the Sub-Registrar of Assurances at Andheri - 2 under serial no. BDR-4/4085/2015, the

**WADIA GHANDY & CO.**

Developer has for securing the mortgage debt of upto maximum principal amount of Rs. 500,00,00,000/- (Rupees Five Hundred Crore only) together with interests, and other costs (i) created a mortgage and/or charge on first pari-passu charge basis, the saleable FSI to be constructed on the portion of the said Land (as per the said Development Agreements) along with all right, title and interest of the Developer in respect of the said Property and present and future FSI/TDR and all other benefits accruing to the said Property along with all movables attached to the said Property (save and except certain Excluded Units /Premises as identified therein and Member's Premises) (ii) created a first pari passu charge over receivables of the Developer in respect of residential development on the said Property (iii) created a first pari passu charge over project account, current account and ISRA account (interest service reserve account) of the Developer as detailed therein, in favour of the Security Trustee for the benefit of the Lenders being Standard Chartered Bank, on the terms and conditions as stated therein.

**6. PROPERTY REGISTER CARD**

The Property Register Card for the said Land, which forms part of a larger land of MHADA, reflects the name of MHADA and the same is summarised in **Annexure "C"** below.

**7. LITIGATION**

The details with respect to the litigation proceedings filed in relation to the said Land are listed hereinbelow:-

**(i) Writ Petition No. 280 of 2013 ("Abhinav Sahakar Writ")**

- (a) There is a dispute between one, Abhinav Sahakar Education Society ("**Abhinav Society**") and MHADA with respect to (i) Flat Nos. 657 and 658 in Building No. 68 on the said Land ("**Disputed Flats**") (ii) 3 garages ("**said Garages**") on the said Land and (iii) two dexion sheds (which is adjoining to the said Land) and the same seems to be overlapping on portion of the said Land (to an extent of 44 square metres).
- (b) The captioned writ petition was filed by Abhinav Society and its Secretary, Mrs. Prema Ramanand Hattangadi (therein referred to as '**the Petitioners**') against the State of Maharashtra and 5 others including the Secretary of the Society (therein referred to as '**the Respondents**'), seeking reliefs of inter-alia (i) to set aside order dated 15<sup>th</sup> January 2013 of the Chief Officer, Mumbai Board under which the request of the Abhinav Society to convert the Disputed Flats and the said Garages on the said Land and two dexion sheds, on ownership basis was rejected, (ii) to substitute the name of the Abhinav Society vis-à-vis the name of

WADIA GHANDY &amp; CO.

MHADA in the schedule to the Lease Deed dated 19<sup>th</sup> October 2010 executed in favour of the said Society and in the Offer Letter dated 10<sup>th</sup> October, 2012; (iii) to direct MHADA to enter into conveyance and transfer of the dexion sheds and the said Garages with land underneath (iv) to allow the Abhinav Society to recommence school activities in the Disputed Flats, two Dexion Sheds and the said Garages (v) to rehabilitate the Abhinav Society on redevelopment of the Society in the new premises and to be entitled to the benefit of corpus amount as stated therein; (vi) to direct MHADA to issue consent letter to the Society to induct Abhinav Society as member of the Society.

- (c) By and under an order dated 17<sup>th</sup> June 2013, the captioned writ petition was admitted by the Hon'ble High Court of Bombay and the effect of the Order dated 15<sup>th</sup> January, 2013 of MHADA was stayed and the Society was restrained from parting with corpus and/or rehabilitated area in lieu of the Disputed Flats, to either of the Respondents.
- (d) In Notice of Motion No. 297 of 2014 filed by the Society in the captioned Writ Petition, vide Order dated 20<sup>th</sup> April 2015, the Hon'ble High Court impleaded the Developer as a party to the Writ Petition and also Consent Terms dated 20<sup>th</sup> April 2015 (as detailed below) which was executed between the Abhinav Society, the said Society and the Developer were taken on record. The Court directed MHADA to deposit the corpus amount collected from the Developer in Court. The Court modified order dated 17<sup>th</sup> June, 2013 and kept the contention of all Parties in the Petition open and made the arrangement arrived at subject to the further orders of the Court.
- (e) By and under Consent Terms dated 20<sup>th</sup> April, 2015 executed between the Abhinav Society, the said Society and the Developer, it was recorded that (i) the Redevelopment Agreement and all Supplemental Agreements thereto are binding on the Abhinav Society (ii) the Petitioners handed over quiet, vacant and peaceful possession of the Disputed Flats and the said Garages to the Developer and (iv) the Developer has, without prejudice to the rights of MHADA and without admitting and subject to further orders and as an interim arrangement, agreed to provide to the Petitioners; Facility for Temporary Alternate Accommodation, Shifting Expenses, New Premises (as identified therein), White Goods and 4 car parks, as stated therein. In lieu of the said Garages, the Developer has reserved 3 (three) car parks for Abhinav Society and will hand over the same to Abhinav Society if and only in the event it is held on final orders in the captioned writ petition

## WADIA GHANDY &amp; CO.

that Abhinav Society was entitled to the said Garages (iv) till final determination of issues in the captioned writ petition, the Developer has undertaken not to construct on a portion of land admeasuring 619.22 square meters in relation to the dexion sheds (which is adjoining to the said Land) (v) the Developer has deposited an amount of Rs. 102,87,200/- (Rupees One Crore Two Lakhs Eighty Seven Thousand Two Hundred Only) in the Hon'ble Court to secure the claim of Abhinav Society to 77 square meters of land, with liberty to the Abhinav Society to withdraw 50% (fifty per cent) of the same against issuance of bank guarantee to the Hon'ble Court. In the event, Abhinav Society succeeds in its claim on this land admeasuring 77 square meters on the final outcome of this Writ Petition, Abhinav Society will be entitled to the amount of Rs. 102,87,200/- in lieu of and in full and final settlement of its rights in the land admeasuring 77 square meters. However, in the event the Abhinav Society fails in its claim on this land admeasuring 77 square meters, then the Developer will be entitled to refund of the amount of Rs. 1,02,87,200/-.

- (f) Hence, till the final order and decision in the captioned Writ Petition, the Developer has undertaken not to construct on and interfere with possession of the Abhinav Society in respect of land admeasuring 619.22 square meters (as identified therein) and out of which, land admeasuring 44 square meters forms part of the said Land.

(ii) **Case No. CC-II/489 of 2010 ("said Dispute")**

- (a) The captioned dispute (under section 91 of the Maharashtra Co-operative Society Act, 1960) was filed on 6<sup>th</sup> October 2010 by 37 members of the Society (therein referred to as 'the Disputants') against the Society and the Developer (therein referred to as "the Opponents") before the Hon'ble Co-operative Court No. II, Mumbai, to inter-alia, set aside the Redevelopment Agreement, Supplemental Agreement dated 14th February 2011 and certain resolutions by the members of the Society; to call afresh tender for redevelopment of the said Property.
- (b) However, in and around 28<sup>th</sup> July, 2014, 25 of the Disputants had filed an Application before the Hon'ble Cooperative Court No. II, Mumbai for their withdrawal from the captioned Dispute, *inter alia* stating that they have amicably resolved their disputes with the Society.
- (c) By and under order dated 23<sup>rd</sup> April, 2015, the Hon'ble Co-operative Court has held that it has no jurisdiction to entertain and try the said



**WADIA GHANDY & CO.**

Dispute and has returned the said Dispute to the Disputant for its presentation before the competent civil court.

**(iii) Case No. ENF-1/EVN-J/152/2010**

- (a) By and under letter dated 13<sup>th</sup> June, 2014, the office of the Chief Controlling Revenue Authority & Inspector General of Registration and Controller of Stamps, Maharashtra State, Pune to the Developer, the Collector of Stamps has proposed revision proceedings under section 53A of the Bombay Stamp Act, 1958 and has proposed levying further stamp duty of Rs. 2,80,22,427/- (Rupees Two Crores Eighty Lakhs Twenty Two Thousand Four Hundred Twenty Seven Only) on the Redevelopment Agreement along with penalty of Rs. 11,20,900/- (Rupees Eleven Lakhs Twenty Thousand Nine Hundred Only). In furtherance of the aforesaid proceedings, the Town Planning Department has submitted its report dated 16<sup>th</sup> September, 2015 to the Chief Controlling Revenue Authority & Inspector General of Registration and Controller of Stamps, Maharashtra State, Pune that the stamp duty on the Redevelopment Agreement should be Rs. 4,21,99,820/- (Rupees Four Crore Twenty One Lac Ninety Nine Lac Eight Hundred and Twenty only) and not Rs. 2,80,22,427/- (Rupees Two Crores Eighty Lakhs Twenty Two Thousand Four Hundred Twenty Seven Only). The Developer has disputed the aforesaid revision of stamp duty and the report submitted by the Town Planning Department and had filed its reply and is awaiting orders thereof.

We have been informed that there are other inter-se disputes between the members of the Society and their relatives in respect of the flats in the Old Buildings, however the same do not pertain to the development rights granted to the Developer by the Society and the Members.

**8. PROPERTY TAX PAYMENTS**

We have perused copies of (i) property tax bill for 2014-2015, (ii) receipts issued by the Assessment and Collection Department, MCGM dated 11<sup>th</sup> March 2015 reflecting full payment of the property taxes upto 31<sup>st</sup> March 2015.

**9. SEARCHES AT THE OFFICE OF SUB- REGISTRAR OF ASSURANCES**

- (i) We have caused to undertake searches at the offices of the Sub-Registrar of Assurances at Mumbai and Bandra for a period of 61 (Sixty One) years (i.e. from 1955 to 2015) with respect to the said Land.

**WADIA GHANDY & CO.**

- (ii) As per the Search Report dated 16<sup>th</sup> February, 2015 issued by Mr. Ashish Jhaveri, the search clerk, there are 11 documents that are registered with the office of the Sub-Registrar of Assurances in respect of the said Land, the list whereof is annexed hereto and marked as **Annexure "A"**. The documents listed at serial no. 1 to 4 have already been explained in this certificate. The documents reflected at serial no. 4, 6, 11 are in respect of a mortgage that has been released and extinguished and Deeds of Re-conveyance has been executed in respect thereof. The document listed at serial no. 7, 8, 10 are registered undertakings executed by Mr. Chandresh Mehta (through Mrs. Geeta Mondkar) on behalf of the Developer in favour of the MCGM in relation to the redevelopment of the said Land. The document listed at serial no. 9 does not pertain to the said Property.

**10. SEARCH OF THE REGISTRAR OF COMPANIES**

As per the Search Report dated 3rd April, 2015 of M/s. Jayshree Dagli & Associates in respect of records of the Developer inspected on the website of the Ministry of Company Affairs, the charges stated in paragraph 5 above are reflected as being created and registered by the said Developer with respect to the saleable FSI on portion of the said Land and the development rights thereof.

**11. APPROVALS****I. MHADA APPROVALS**

- (i) By and under Letter of Offer dated 10<sup>th</sup> October 2012 bearing reference number CO/MB/RDC/NOC/F-457/1608/2012 issued by MHADA to the Society, MHADA stated that MHADA would issue no-objection certificate for development of the said Property by utilisation of permissible FSI of 2.5, subject to payment of Rs 116,28,63,664/- (Rupees One Hundred Sixteen Crores Twenty Eight Lakhs Sixty Three Thousand Six Hundred Sixty Four Only) to MHADA and subject to fulfilment of conditions as stated therein. The Letter of Offer erroneously records the CTS No. of the said Land as CTS No. 649, 649(1-48).
- (ii) The Developer has paid the sum of Rs 116,28,63,664/- (Rupees One Hundred Sixteen Crores Twenty Eight Lakhs Sixty Three Thousand Six Hundred Sixty Four Only) to MHADA (as per the Letter of Offer dated 10<sup>th</sup> October, 2012). By and under receipt dated 9<sup>th</sup> April, 2013 bearing reference no CO/MB/RDC/NOC/P-457/1608/2012, MHADA has acknowledged the payment of an aggregate sum of Rs. 116,28,63,664/- (Rupees One Hundred Sixteen Crores Twenty Eight Lakhs Sixty Three Thousand Six Hundred and Sixty Four Only) under the Letter of Offer dated 10<sup>th</sup> October, 2012.

**WADIA GHANDY & Co.**

- (iii) Pursuant to the Letter of Offer dated 10<sup>th</sup> October, 2012, MHADA vide its Letter dated 7<sup>th</sup> October, 2013 bearing reference no CO/MB/REE/NOC/F-457/1892/2013, granted it's No Objection Certificate for the development of the said Property to the Society in the manner and on terms and conditions as stated therein.
- (iv) By and under Letter of Offer dated 8<sup>th</sup> July, 2013 bearing reference number CO/MB/RDC/NOC/F-457/1245/2013 issued by MHADA to the Society, MHADA issued offer for allotment of additional built up area of 18,237.58 square meters over and above built up area of 35,820.20 square meters, aggregating to a total FSI of 3.5, subject to payment of premium and fulfilment of terms and conditions as stated therein
- (v) A Revised Offer Letter dated 28<sup>th</sup> January, 2014 bearing reference no CO/MB/REE/NOC/F-457/0101/2014 was issued by MHADA for total FSI of 3.5, subject to payment of premium and fulfilment of terms and conditions as stated therein. This validity of this offer letter was extended by MHADA vide letter dated 30<sup>th</sup> July, 2015. Accordingly, the Developer has made payment of Rs. 92,03,94,202/- (Rupees ninety two crore three lac ninety four thousand two hundred and two only) to MHADA and Rs. 12,94,84,052/- (Rupees twelve crore ninety four lac eighty four thousand fifty two only) to MCGM and is awaiting no-objection certificate from MHADA in respect thereof.

**II. MCGM APPROVALS**

- (i) By and under an Intimation of Disapproval dated 28<sup>th</sup> November 2013, bearing reference number CHE/WS/0953/H/337 (NEW), the Executive Engineer, Building Proposal, MCGM has granted approval for development of the said Property, subject to such terms and conditions as stated therein.
- (ii) By and under Intimation of Disapproval dated 9<sup>th</sup> July 2014 (as amended by 27<sup>th</sup> November, 2014), bearing reference number CHE/WS/0953/H/337 (NEW), the Executive Engineer, Building Proposal Department, MCGM has permitted the development of the said Property as per the amended plans, subject to the terms and conditions as stated therein.
- (iii) By and under Intimation of Disapproval dated 27<sup>th</sup> November, 2014, bearing reference number CHE/WS/0953/H/337 (NEW), the Executive Engineer, Building Proposal Department, MCGM has permitted the development of the said Property as per the amended plans, subject to the terms and conditions as stated therein.



**WADIA GHANDY & CO.**

- (iv) By and under Commencement Certificate dated 3<sup>rd</sup> November, 2015 issued by MCGM to the Developer, MCGM has permitted the Developer to commence construction on the said Land till 3<sup>rd</sup> basement (part) and 2<sup>nd</sup> basement on the said Land till construction area of 20,000 square meters.

**III OTHER APPROVALS**

The State Level Environmental Impact Assessment Authority has vide its letter dated 25<sup>th</sup> March, 2015 granted Environmental Clearance in respect of the redevelopment of the said Property, in the manner and on the terms and conditions more particularly mentioned therein

**12. SITE STATUS**

We have been informed by the Developer that all the Members of the Society have vacated the said Property and the Society has handed over quiet, vacant and peaceful possession of the said Property to the Developer for the purpose of redevelopment of the said Property. The Developer has informed us that in pursuance of the sanctioned plans amended from time to time, the Developer will be constructing rehabilitation buildings and free sale buildings on the said Land as per the terms of the said Development Agreements.

**13. SALES**

We have been informed by the Developer that they have created third party rights in respect of some of the Developer's Premises (as defined under the said Development Agreements).

**14. OPINION**

Based on the aforesaid steps undertaken by us, subject to what is stated hereinabove and hereinbelow, we are of the view that the title of the Developer to develop the said Land and sell Developer's Premises in the new buildings to be constructed on the said Land and known as "Seasons" to the intending purchasers on "ownership basis", is clear and marketable:-

- (i) Obtainment of lease of balance portion of the said Land admeasuring 6122.58 square meters;
- (ii) The compliance of all the terms and conditions as stated under the said Development Agreements;
- (iii) The obtainment and compliance of all the terms and conditions of approvals and



**WADIA GHANDY & CO.**

permissions for the development of the said Property;

- (iv) The mortgage and charge as created in paragraph 5 above.
- (v) Undertaking given by the Developer in respect of portion of the said Land admeasuring 44 square meters (as identified in the Consent Terms dated 20<sup>th</sup> April, 2015) as stated in paragraph 7(i)(e) and paragraph 7(i)(f) above.

**For M/s. Wadia Ghandy & Co.**

  
Partner

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**ANNEXURE "A"****List of Registered Documents Reflected in the Search Report dated 16<sup>th</sup>  
February, 2015**

1. Lease Deed dated 19th October, 2010 registered with the office of the Sub Registrar of Assurances under serial No. BDR-4/9745/2010 executed by Maharashtra Housing & Area Development Board in favour of The M.I.G. CHSL Bandra(East) Group IV Ltd.
2. Sale Deed dated 19th October, 2010 registered with the office of the Sub Registrar of Assurances under serial No. BDR-4/9746/2010 executed by Maharashtra Housing & Area Development Board in favour of The M.I.G. CHSL Bandra (East) Group IV Ltd.
3. Redevelopment Agreement dated 17th September, 2010 registered with the office of the Sub Registrar of Assurances under serial No. BDR-4/10647/2010 and executed by and between The M.I.G. CHSL Bandra(East) Group IV Ltd. of the one part and Rustomjee Construction Pvt. Ltd. of the other part
4. Deed of Mortgage dated 27th June, 2011 registered with the office of the Sub Registrar of Assurances under serial No. BDR-4/5932/2011, executed between (i) Rustomjee Constructions Pvt. Ltd. (ii) Kapstone Constructions Pvt. Ltd. and (iii) Keystone Realtors Pvt. Ltd. as the mortgagor of the one part and I. L. & F. S. Trust Co. Ltd. as the mortgagee of the other part
5. Deed of Rectification dated 24th October, 2011 registered with the office of the Sub Registrar of Assurances under serial No. BDR-4/10591/2011, executed between (i) Rustomjee Constructions Pvt. Ltd. (ii) Kapstone Constructions Pvt. Ltd. and (iii) Keystone Realtors Pvt. Ltd. of the one part and I. L. & F. S. Trust Co. Ltd. of the other part
6. Deed of Rectification dated 6th April, 2013 registered with the office of the Sub Registrar of Assurances under serial No. BDR-4/2705/2013, executed between (i) Rustomjee Constructions Pvt. Ltd. (ii) Kapstone Constructions Pvt. Ltd. and (iii) Keystone Realtors Pvt. Ltd. of the one part and I. L. & F. S. Trust Co. Ltd. of the other part
7. Affidavit dated 11th December, 2013 registered with the office of the Sub Registrar of Assurances under serial No. BDR-4/8672/2013 executed by Geeta Mondkar C/A for Chandresh Mehta, Director of Rustomjee Constructions Pvt. Ltd.
8. Affidavit dated 25th July, 2014 registered with the office of the Sub Registrar of Assurances under serial No. ANDHERI-6/6159/2014 executed by Geeta Mondkar C/A for Chandresh Mehta, Director of Rustomjee Constructions Pvt. Ltd.
9. Development Agreement dated 4th September, 2014 registered with the office of the Sub Registrar of Assurances under serial No. BDR-1/7339/2014 executed between

**WADIA GHANDY & CO.**

Middle Income Group Consumers Co-operative Housing Society Ltd. of the one part and  
Rustomjee Constructions Pvt. Ltd. of the other part

10. Affidavit dated 21st November, 2014 registered with the office of the Sub Registrar of Assurances under serial No. ANDHERI-6/9191/2014 executed by Geeta Mondkar C/A for Chandresh Mehta, Director of Rustomjee Constructions Pvt. Ltd.
11. Mortgage Deed dated 13th February, 2015 registered with the office of the Sub Registrar of Assurances under serial No. ANDHERI-6/1353/2015 executed between Rustomjee Constructions Pvt. Ltd. of the one part and I. L. & F. S. Trust Co. Ltd. of the other part.



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**ANNEXURE "B"**

**Original Title Documents**

- A. The Developer has informed us that the following original title deeds are deposited in custody of IDBI Trusteeship Services Limited for and on behalf of Standard Chartered Bank, and in this regard has provided us with the letter dated 5<sup>th</sup> June, 2015 issued by IDBI Trusteeship Services Limited to Standard Chartered Bank:
1. Original letter dated 27th April, 2015 issued by MIG Co-operative Housing Society (Bandra East) Group IV Limited addressed to Rustomjee Constructions Pvt. Ltd. modifying certain terms of the Re-development Agreement dated 17.9.2010.
  2. Original First Supplemental agreement dated 14.02.2011 executed by MIG Co-operative Housing Society (Bandra East) Group IV Limited and Rustomjee Constructions Pvt. Ltd. bearing sr. no. BDR-1/1482/2011.
  3. Original Re-development Agreement dated 17.09.2010 between MIG Co-operative Housing Society (Bandra East) Group IV Limited and Keystone Realtors Pvt. Ltd. and Rustomjee Constructions Pvt. Ltd. bearing sr. no. BDR-4/10647/2010.
- B. The Society has informed us that the following original title deeds are in their custody and possession:
- (i) Indenture of Lease dated 19th October 2010, registered with the Sub-Registrar of Assurances at Bandra under serial number BDR-4/9745 of 2010, executed between MHADA and MIG Co-operative Housing Society (Bandra East) Group IV Limited;
  - (iii) Deed of Sale dated 19th October 2010, registered with the Sub-Registrar of Assurances at Bandra under serial number BDR-4/9746 of 2010, executed between MHADA of the One Part and MIG Co-operative Housing Society (Bandra East) Group IV Limited.
- C. The Developer has provided us inspection of the following original title deeds:
1. Power of Attorney dated 17<sup>th</sup> September 2010, registered with the Sub Registrar of Assurances at Bandra under serial number BDR-9/9628 of 2010, executed by the MIG Co-operative Housing Society (Bandra East) Group IV Limited in favour of Rustomjee Constructions Pvt. Ltd;



**WADIA GHANDY & CO.**

2. Limited Power of Attorney dated 17<sup>th</sup> September 2010 executed by MIG Co-operative Housing Society (Bandra East) Group IV Limited in favour of Rustomjee Constructions Pvt. Ltd;
3. Second Supplemental Agreement dated 1<sup>st</sup> July 2013 executed between MIG Co-operative Housing Society (Bandra East) Group IV Limited, and Keystone Realtors Pvt. Ltd and Rustomjee Constructions Pvt. Ltd;
4. Revised Second Supplemental Agreement dated 27<sup>th</sup> April, 2015 executed between MIG Co-operative Housing Society (Bandra East) Group IV Limited, Keystone Realtors Pvt. Ltd. and Rustomjee Constructions Pvt. Ltd;
5. Letter dated 27<sup>th</sup> April, 2015 executed by MIG Co-operative Housing Society (Bandra East) Group IV Limited to Rustomjee Constructions Pvt. Ltd;
6. Power of Attorney dated 27<sup>th</sup> April, 2015 executed between MIG Co-operative Housing Society (Bandra East) Group IV Limited and Rustomjee Constructions Pvt. Ltd.



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**ANNEXURE "C"****Details of the Property Register Card for the said Land**

The Property Register Card dated 26<sup>th</sup> May 2014 for the said Land admeasuring 15,445 square metres (which forms part of a larger land of MHADA) reflects as follows:

S.No.	CTS No.	HOLDER	AREA (in square meters)
1.	648	MHADA (since 1965)	17,004.3
2.	648/1	MHADA (since 1965)	88.5
3.	648/2	MHADA (since 1965)	11.0
4.	648/3	MHADA (since 1965)	88.5
5.	648/4	MHADA (since 1965)	69.2
6.	648/5	MHADA (since 1965)	12.0
7.	648/6	MHADA (since 1965)	69.2
<b>TOTAL</b>			<b>17,342.7</b>

