

Date :

CORRIGENDUM TO TWO REPORTS ON TITLE

**R.1.** Report on Title dated 4<sup>th</sup> April, 2013 (for short "the First Report on Title") in respect of property being all that pieces and parcels of land and ground situate, lying being at Village Valni, Taluka Borivali, in the Registration District of Mumbai Suburban District bearing (i) Survey No.38, Hissa No.2 (part), corresponding C.T.S. Nos. 213A and 213 B, s丈measuring approximately about 1780.70 Sq. Mtrs. (ii) C.T.S. No.213 (Part), admeasuring approximately about 1539.527 Sq.Mtrs. aggregating to 3320.227 sq.mtrs.

**THE FIRST PROPERTY**  
2. Report on Title dated 15<sup>th</sup> July, 2014 (for short "the Second Report on Title") in respect of property being all that pieces and parcels of land and ground situate, lying being at Village Valni, Taluka Borivali, in the Registration District of Mumbai Suburban District bearing Survey No.39(p), C.T.S. Nos. 214, 214/1 to 31 admeasuring about 2622.9 sq.mtrs. or thereabouts and in aggregating in all 5943.127 sq.mtrs. or thereabouts together with the old structures/chausis standing thereon.

THE SECOND PROPERTY

1. By our Report on Title dated 4<sup>th</sup> April 2013 (for short "the First Report"), we have certified the title of M/s. Crescent Amity Realtors Private Limited, a Company having its Office at 1<sup>st</sup> Floor, A Wing, Dattani Tower, Kora Kendra, S. V. Road, Borivali (West), Mumbai - 400 092 (for short "the Owners"), being marketable subject to what is stated therein in respect of the First Property described above.

2. By our Report on Title dated 15<sup>th</sup> July, 2014 (for short "the Second Report") we have certified the title of the Owners being marketable subject to what is stated therein in respect of the Second Property described above.

Pramodkumar & Co. (Regd.)

- 3 -

Continuation Sheet No. \_\_\_\_\_

City Civil Court at Dindoshi, Borivali Division and Order dated 20<sup>th</sup> June, 2016 passed therein;

- h. Proceedings in S.C. Suit No.2479 of 2014 filed by Chhaya Anant Gavankar and another against the Owners and Others in the Hon'ble City Civil Court at Dindoshi, Borivali Division and the Order dated 3<sup>rd</sup> December, 2014 passed therein;
- i. Proceedings in Appeal From Order No.125 of 2015 before Hon'ble High Court at Bombay in its Civil Appellate Jurisdiction filed by Owners against the said Chhaya Anant Gavankar & Ors and Order dated 26<sup>th</sup> October, 2015 passed therein;
- j. Proceedings in SLP No.32097 of 2015 filed by Chhaya Anant Gavankar and another against the Owners and Others in the Hon'ble Supreme Court of India along with Order dated 20<sup>th</sup> November 2015 passed therein;
- k. Proceedings in S.C. Suit No.1629 of 2014 filed by John Patrick Hendricks against the Owners in the City Civil Court at Dindoshi, Borivali Division and the Consent Terms filed therein on 12<sup>th</sup> March, 2016;
- l. Agreement/Deed of Mortgage dated 16<sup>th</sup> December 2014, Indenture of Mortgage and Deed of Further Charge dated 3<sup>rd</sup> June 2016, both registered between the Owners and India Infoline Finance Limited (for short "the IIFL");
- m. Indemnity Bond Notarized on 16<sup>th</sup> December 2014, executed by IIFL;
- n. Indemnity Bond Notarized on 16<sup>th</sup> December 2014, executed by the Owners;
- o. Letter dated 22<sup>nd</sup> June, 2016 issued by IIFL;
- p. Proceedings in S.C. Suit No.3165 of 2015 filed by Shirley Max Magalhas Neer Shirley Max Fernandes against the Owners before the Hon'ble City Civil Court at Dindoshi.

- 2 -

3. We have been forwarded by our clients, being the Owners herein photocopies of the following documents with a request to issued Corrigendum to our said First Report on Title and the Second Report on Title in respect of the said First Property and the Second Property respectively:-

- a. LOI issued by the Concerned Authority under reference No. SRA/ENG/2717/PN/PL/LOI dated 28<sup>th</sup> April, 2014 for development of the First and Second Property under the provisions of Regulations 33(10) and 33(14)(d) of the D.C. Regulations;
- b. Revised LOI issued by the Concerned Authority under reference No. SRA/ENG/2717/PN/PL/LOI dated 13<sup>th</sup> April, 2016 for development of the First and Second Property under the provisions of Regulations 33(10) and 33(14)(d) of the D.C. Regulations;
- c. Copy of amended plan dated 16<sup>th</sup> April, 2016 for Rehab Building No.2 and Sale Building No.1 issued by the Concerned Authorities along with Commencement Certificate re-endorsed as per amended plan;
- d. Proceedings in Appeal filed by Mr. Paul Pereira, under Section 4(3) of Maharashtra Slum Area (Improvement, Clearance And Redevelopment) Act, 1971 before the Maharashtra Slum Tribunal in respect of property being C.T.S. No.214/13 admeasuring 800 sq.ft.;
- e. Proceedings in S.C. Suit No.432 of 2013 filed in the Hon'ble City Civil Court at Dindoshi, Borivali Division, by Chhaya Anant Gavankar and Rajendra Anant Gavankar along with Order dated 26<sup>th</sup> April, 2013;
- f. Proceedings in Appeal From Order (Stamp) No.17200 of 2013 before the Hon'ble High Court of Judicature at Bombay along with the Order dated 8<sup>th</sup> August, 2013 filed by the Owners;
- g. Proceedings in S.C. Suit No.2807 of 2013 filed by the said Chhaya Anant Gavankar and another against the Owner in the Hon'ble

- 4 -

q. Original Declaration Cum Confirmation dated 7<sup>th</sup> July 2016 duly notarized given by the Owners.

4. Based on the aforesaid documents and as requested by the Owners, we are issuing Corrigendum to our aforesaid 2 (Two) Reports on Title, as follows:-

- 4.1 We have been informed by the Owners that since part of the first property and the Second Property has been declared as "NOTIFIED SLUM" by the Concerned Authority, the Owners proposed to carry out development/re-development under the provisions of Regulations 33(10) and 33(14)(d) of the D.C. Regulations 1991, as amended by amalgamation of the First Property and the Second Property. By following due process, the amalgamation of the First Property and the Second Property, the Concerned Authority being Deputy Collector (Encroachment and Removal) and the Competent Authority, Borivali, issued Annexure -II, inter alia, certifying the eligibility of the Slum Dwellers of the then existing structures on part of First Property & on the Second Property and on compliance of the requirement for issuance of LOI, the Concerned Authority being Chief Executive Officer, Slum Rehabilitation Authority issued LOI under reference No. ENG/2771/PN/TL/LOI dated 28<sup>th</sup> April, 2014 for development of both the First and Second Property under the provisions of Regulations 33(10) and 33(14)(d) of the D.C. Regulations.
- 4.2 On necessary application/proposal being submitted the Concerned Authority being C.E.O., SRA issued Revised LOI dated 13<sup>th</sup> April, 2016 and accordingly the Owners have obtained sanction of amended plan dated 16<sup>th</sup> April, 2016 for Rehab Building No.1 and Sale Building No.1 from the Concerned Authority and got the Commencement Certificate re-endorsed as per the amended plan.
- 4.3 One Mr. Paul Pereira had filed an Appeal under Section 4(3) of Maharashtra Slum Area (Improvement, Clearance And



Redevelopment) Act, 1971 before the Maharashtra Slum Tribunal, inter alia, challenging the Notification declaring Property being C.T.S. No.214/13 admeasuring 800 sq.ft. consisting 2 commercial and 5 residential premises as "NOTIFIED SLUM". Since filing of the said Appeal is beyond the stipulated period of limitation, an application for condonation of delay and for stay of the operation of the said Notification has been filed, which is still pending. However, no interim Order staying the operation of the said Notification has so far been passed.

5.1 One Chhaya Anant Gavankar and Rajendra Anant Gavankar have filed a Suit being S.C. Suit No.432 of 2013 in the Hon'ble City Civil Court at Dindoshi, Borivali Division, against the Owners, inter alia, for the reliefs not to disposes them from the room/ premises claimed by them and from demolition thereof along with Ota without following due process of law. On an application in the form of Notice of Motion being Notice of Motion No.361 of 2013 being filed, the Hon'ble Court after hearing, by an Order dated 26<sup>th</sup> April, 2013 was pleased to make the said Notice of Motion absolute in terms of prayer (a) thereof.

5.2 Being aggrieved by the said Order the Owners preferred an Appeal being Appeal From Order (Stamp) No.17200 of 2013 before the Hon'ble Court of Judicature at Bombay and took out a Civil Application No.780 of 2013 which came to be disposed of by an Order dated 8<sup>th</sup> August, 2013 whereby the Hon'ble High Court was pleased to set aside the interim Order dated 26<sup>th</sup> April, 2013 in respect of temple structure and continued the said interim Order dated 26<sup>th</sup> April, 2013 in respect of the room claimed by the said Smt Chhaya Anant Gavankar.

5.3 The said Chhaya Anant Gavankar and another had also filed a Suit being S.C. Suit No.2807 of 2013 in the Hon'ble City Civil Court at Dindoshi, Borivali Division against the Owners, inter alia, for the

relief prayed for therein against putting up any compound wall or Patra Sheet Fencing on the property touching to the structure claimed by them. However, since said structure came to be demolished by the MCGM on 20<sup>th</sup> April 2016, the said Suit came to be dismissed by the Hon'ble Court on 20<sup>th</sup> June, 2016.

5.4 The said Chhaya Anant Gavankar and another have also filed a Suit being S.C. Suit No. 2479 of 2014 in the Hon'ble City Civil Court at Dindoshi, Borivali Division against the Owners and the MCGM, inter alia, challenging the Notice dated 19.09.2014 issued under Section 351 of BMC Act and Order dated 09.10.2014 passed thereon for demolition of the room claimed by them on the property being C.T.S. No. 215 (Part) and made an application in the form of Notice of Motion No.2677 of 2014 for grant of interim relief. By an Order dated 03.12.2014 an ad-interim Order came to be granted by which the parties were directed to maintain status quo in respect of the subject matter of the premises.

5.5 Being aggrieved by the said Order the Owners preferred an Appeal From Order No.125 of 2015 before Hon'ble High Court of Judicature, at Bombay in its Civil Appellate Jurisdiction which came to be disposed of by an Order dated 26<sup>th</sup> October, 2015 whereby the ad-interim Order of status-quo came to be set aside, however, the operation of the Order was stayed till 23<sup>rd</sup> November, 2015.

5.6 The said Chhaya Anant Gavankar and another challenged the Order dated 26<sup>th</sup> October, 2015 before the Hon'ble Supreme Court of India by filing SLP bearing No.32097 of 2015 which came to be dismissed by an Order dated 20<sup>th</sup> November 2015, however, time to vacate the premises was granted upto 31<sup>st</sup> March, 2016.

5.7 That after 31<sup>st</sup> March 2016, the Concerned Authorities of MCGM by following due procedure, has demolished the premises/room claimed by the said Chhaya Anant Gavankar and another

20.04.2016 and accordingly the said fact came to be informed to the Hon'ble City Civil Court. However, the said Suit being Suit No.2479 of 2014 and Suit No.432 of 2013 are still pending.

6.1 One John Patrick Hendricks had filed a Suit being S.C. Suit No. 1629 of 2014 against the Owners and others inter alia, challenging the Deed of Conveyance dated 28<sup>th</sup> July, 2006 in respect of the Second Property i.e. C.T.S. Nos.214 and 214/1 to 31 and for other reliefs prayed for therein.

6.2 The said suit came to be settled and accordingly Consent Terms signed on 12<sup>th</sup> March, 2016 have been filed by which the said John Patrick Hendricks confirmed after having realized the validity and authenticity of the said Deed of Conveyance dated 28/7/2006 executed in favour of the Owners in respect of the Second Property is valid and legal and the Owners are the absolute Owners of the property acquired under the said Conveyance. Accordingly, the said Suit No.1629 of 2014 came to be disposed of.

7.1 The Owners have availed loan/finance from India Infoline Finance Limited (IIFL) and to secure repayment thereof along with interest and other charges, by a Loan-cum-Mortgage Agreement dated 16<sup>th</sup> December 2014, registered with the Sub-Registrar of Assurances at Borivali-7 under Serial No.10246 of 2014, the Owners have offered security and created Mortgage in respect of the said First and Second Property in favour of IIFL and handed over the Original documents in respect of First and Second Property as and by way of security/Mortgage with the said IIFL till repayment of the finance, interest and other charges as mentioned in the said Loan-Cum-Mortgage Agreement.

7.2 The said IIFL by its Indemnity Bond notarized on 16<sup>th</sup> December 2014, has, inter alia, confirmed that it has not taken possession of the mortgaged property and would not take possession thereof unless the security becomes enforceable in terms of the Mortgage Agreement.

7.3 The Owners also by an Indemnity Bond notarized on 16<sup>th</sup> December 2014, has, inter alia, confirmed that they have not given possession of the mortgaged property to the said IIFL and would not give possession thereof unless the security becomes enforceable in terms of the Mortgage Agreement.

7.4 We have also informed that the Directors of the Owners' Company have also executed further documents including of Personal Guarantee in favour of IIFL.

7.5 The said IIFL have also sanctioned further Loan/Finance as additional facility to the Owners for their Project on the First and Second Property and by an Indenture of Mortgage and Deed of Further Charge dated 3<sup>rd</sup> June 2016, registered with the Sub-Registrar of Assurances at Borivali 6 under Serial No.BRL-6/5797/2016, the Owners confirmed having availed the said additional facility and created further security on the said First and Second Property and the development thereof to the extent of the said additional facility to secure the claim of the said IIFL.

7.6 By its Letter dated 22<sup>nd</sup> June, 2016 IIFL has, inter alia, confirmed that it has not taken any steps to enforce the security under the said mortgaged document referred above and has No Objection to the Advocate of the Owners to issue their Certificate/Report on Title in respect of the right of the Owners in respect of the First and Second Property.

8.1 One Shirley Max Magalhau Nee Shirley Max Fernandes has filed a Suit being S.C. Suit No. 3165 of 2015 against her other Co-Owners and the Owners, inter alia, for issuance of temporary Order of Injunction restraining the Owners from entering upon property being C.T.S. No.214 (part) admeasuring 234 sq.yards and the structure standing thereon as also from demolition thereof without following due process of law and for other reliefs prayed for

therein. However, all the structures standing thereon have been already demolished by the Owners prior to the filing of the said Suit.

8.2 Though a Notice of Motion has been taken out in the said Suit for grant of ad-interim and interim reliefs, however, so far no relief has been granted. We have been informed that the Owners are in process of filing their Written Statement in the said Suit and reply to the said Notice of Motion. The said Suit is still pending.

9.1 By a Declaration-Cum-Confirmation dated 7<sup>th</sup> July, 2016 the Owners, have, inter alia, given various Declarations/Confirmations with regard to their right, title and interest and the encumbrances in the form of mortgage in favour of IIFL and the status of various proceedings and further declared and confirmed that save and except the mortgage created in favour of IIFL under the documents as referred above, they have not created any further encumbrances and save and except the pending proceedings and the mortgage there are no other impediments on their right, title and interest in respect of the First and Second Property.

10. Based on the above facts and documents and subject to what is stated hereinabove, including as regards the encumbrance and the pending proceedings the Owners are entitled to the said property and carry out development thereof and their right being marketable and free from other encumbrances.

Dated this 9th day of August, 2016.

M/s. Pramodkumar & Co., (Regd.)

  
Partner  
Advocates & Solicitors

Housiey.com