

SMITA SAWANT

ADVOCATE, HIGH COURT BOMBAY

Flat No.15, 2nd Floor, Charkop Kudal CHS LTD., Plot No.116, Sector-4,
Charkop, Kandivali (West), Mumbai - 400 067.

Contact Nos. 9987195164/8169261189 **Email ID:** smita1786@yahoo.com

To,

Maharashtra Real Estate Regulatory Authority,

6th & 7th Floor, Housefin Bhavan, Plot No. C - 21,

E - Block, Bandra Kurla Complex,

Bandra (E), Mumbai - 400 051.

LEGAL TITLE REPORT

Sub: All that piece and parcel of land situate at Pahadi School Road No. 2, off Aarey Road, Shreyas Colony, Goregaon (East), Mumbai- 400 063 bearing Survey No.119, Hissa No.1 and bearing corresponding CTS Nos. 455/A, 455/B, 455/B/1, 455C, 455C/1 and 455E admeasuring in aggregate 4487.60 sq.mtrs. (as per the Property Register Cards) of Village Pahadi Goregaon (East), Taluka Borivali, within the Registration Sub-District of Borivali, District Mumbai Suburban, within Greater Mumbai ("the said Property/Land").

Under the instructions of Arkade Developers Limited who have requested me to investigate the title of "Municipal Employees Arunachal Co-Operative Housing Society Ltd.," qua the said Property and for that purpose they have handed over to me copies of documents, which I have perused and I furnish my opinion on the basis of the copies of the documents furnished i.e.: -

1. Description of the Property:

All that piece and parcel of land situate at Pahadi School Road No. 2, off Aarey Road, Shreyas Colony, Goregaon (East), Mumbai- 400 063 bearing Survey No.119, Hissa No.1 and earlier bearing City Survey No. 455 and now bearing corresponding CTS Nos. 455/A, 455/B, 455/B/1, 455C, 455C/1 and 455E admeasuring in aggregate 4487.60 sq.mtrs. as per the Property Register Cards (and admeasuring 5479.42 sq. yards equivalent to 4580.80 sq.mtrs. or thereabout as per below recited Indenture dated 31st August, 1978) of Village Pahadi Goregaon (East), Taluka Borivali, within the Registration Sub-District of Borivali, District Mumbai Suburban, within Greater Mumbai.

2. The document of allotment of plot:

Indenture (of Conveyance) dated 31st August, 1978 registered with the Joint Sub-

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Registrar -IV Bombay (Bandra) under Serial No. BOM/B/986 of 1978 of Book No.1 and made and executed between Monica Augustine Baptista & Ors. (therein referred to as "the Vendors") of the First Part; Virag Krishnarao Laud (therein referred to as "the First Confirming Party") of the Second Part, Sharad Prabhakar Pradhan & Anr. of M/s Prkalpa Builders (therein referred to as "the Second Confirming Parties") of the Third Part; M/s. Shyam Construction Company, (therein referred to as "the Third Confirming Parties") of the Fourth Part and Municipal Employees Arunachal Co-Operative Housing Society Ltd. (therein referred to as "the Purchaser") of the Fifth Part.

2A. The documents for grant of development rights of the said Property:

(i) Development Agreement dated 16th October, 2023 registered with the office of Joint Sub-Registrar of Assurances Borivali No. 8 under Sr. No. BRL8-14210-2023 on 16th October, 2023 executed by and between Municipal Employees Arunachal Co-Operative Housing Society Limited (therein referred to as "the Society") of the First Part and Arkade Developers Limited (formerly "Arkade Developers Private Limited") (therein referred to as "the Developer") of the Second Part.

(ii) Power of Attorney dated 16th October, 2023 registered with the office of Joint Sub-Registrar of Assurances Borivali No. 8 under Sr. No. BRL8-14212-2023 on 16th October, 2023, granted by Municipal Employees Arunachal Co-Operative Housing Society Limited in favour of Arkade Developers Limited (formerly "Arkade Developers Private Limited") through its Directors to undertake various acts, deeds, things pursuant to the said Development Agreement.

3. Property Registration Cards:

The name of the said Municipal Employees Arunachal Co-operative Housing Society Limited reflects on the Property Cards in respect of the said Property.

Property Card in respect of CTS Nos. 455/A, 455/B, 455/B/1, 455C, 455C/1 and 455E of village Pahadi Goregaon (East) issued by City Survey Officer, Goregaon Mumbai Suburban District.

4. Search report:

Search Report issued by Search Clerk Mr. Rajendra P. Tungatkar for the period from 1978 to 2024, after causing search in the concerned offices of Sub-registrar of Assurances and also Litigation Search Report issued by Cubictree Technology

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Solution Pvt. Ltd. for the period of 20 years.

On perusal of the above mentioned documents including Search Report and Litigation Search Report and all other relevant documents relating to title of the said Property, I am of the opinion that the title of following Owner is clear, unencumbered, marketable and free from reasonable doubts subject to the following comments and that the Developer i.e. Arkade Developers Limited is duly entitled to develop the said Property as per the terms and conditions of the aforesaid Development Agreement and in accordance with and subject to compliance with and observance of the terms and conditions of various permissions, approvals, sanctions that may be issued by the concerned authorities in respect of the said Property or any construction thereon from time to time and the Developer is also entitled to sell/dispose of flats/premises from the Developer's Premises in the New Building/s to be constructed on ownership basis pursuant to abovementioned Development Agreement.

Owner of the Property: Municipal Employees Arunachal Co-operative Housing Society Limited ("the Society")

Developer/Promoter: Arkade Developers Limited (formerly "Arkade Developers Private Limited")

5. Public Notice:

I have caused public notices to be published on 27th October, 2023 read with corrigendum dated 31st October, 2023 in (i) Free Press Journal (English), and (ii) Navshakti (Marathi) inviting claims and/or objections from any persons with respect to the title of Municipal Employees Arunachal Co-Operative Housing Society Limited to the said Property and I did not receive any claims pursuant to the said public notices read with the corrigendum.

6. Comments/other observations:

- (A) It appears that, the said Property was earlier forming a part of CTS No. 455 and now bears the following corresponding CTS Nos.:
- (i) CTS No. 455A admeasuring 1097 sq.mtrs.
 - (ii) CTS No. 455B, admeasuring 629.20 sq.mtrs.



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- (iii) CTS No. 455/B/1, admeasuring 3 sq. mtrs.
- (iv) CTS No. 455/C, admeasuring 1921.40 sq.mtrs.
- (v) CTS No. 455/C/1 admeasuring 52.20 sq.mtrs.
- (vi) CTS No. 455E admeasuring 784.80 sq.mtrs.

- (B) Further, on account of DP Road passing through the said Property, the same was divided into 2 parts and separate Property Register Cards are issued in respect of the said Property. The Property Register Card in respect of CTS No. 455B/1/1 admeasuring 527.50 sq.mtrs. was issued in the name of Brihanmumbai Mahanagar Palika, as the said area was already been handed over to BMC for DP Road.
- (C) By and under a registered Indenture dated 2nd January 1980, made and executed between the Society, therein referred to as Mortgagor of the One Part and the Municipal Corporation of Greater Bombay and Municipal Commissioner for Greater Bombay, therein referred to as the Mortgagee, the Society had availed loan from the Mortgagee, on the terms and conditions as mentioned therein. After repayment of entire loan facility availed by the Society, the Municipal Corporation of Greater Mumbai executed a Deed of Re-Conveyance registered with the office of Sub-Registrar of Assurances, Borivali-8 under Serial No. BRL-8/4745/2016 on 2nd June 2016 in respect of the said Property in favour of the Society.
- (D) Further, under an Agreement of Right of Way dated 13th March, 1981 registered with the Sub-Registrar of Bombay under No. BOM/S/827 of 1981 of Book-I entered into between the Society, therein called the Party of One Part and one M/s. Gundecha Builders therein called the Party of the Second Part, the Society had granted to the said M/s. Gundecha Builders, a right of way as more particularly described in the Second Schedule thereunder written, passing through the said Plot more particularly described in the First Schedule thereunder written (being the same as that described in the Schedule hereunder written), for the purpose of obtaining access from the D.P. Road to lands bearing Survey No. 119 Hissa No. 3 of Village Pahadi Goregaon bearing City Survey No. 456 or thereabouts, as more particularly described in the Third Schedule thereunder written, for the consideration and on the terms and conditions as mentioned therein.



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- (E) I have been informed that the Society has constructed or caused to be constructed and completed three Buildings i.e. Buildings "A", "B" and "C", all known as "Arunachal" on the said Property, out of which, Building "A" and Building "B" have been constructed on the portions of the said Property bearing CTS Nos. 455B, 455B/1, 455C, 455C/1 and 455E of Village Pahadi Goregaon, while Building "C" was constructed on a portion (of the said Property) bearing City Survey No. 455/A of Village Pahadi Goregaon. Building "A", Building "B" and Building "C" hereinafter be collectively referred as the "Existing Buildings".
- (F) The aforesaid observation on title of the Owner is subject to demarcation of boundaries of the said Property and physical measurement of the said Property, if required.
- (G) By and under Development Agreement dated 16th October, 2023 registered with the office of Joint Sub-Registrar of Assurances Borivali No. 8 under Sr. No. BRL8-14210-2023 on 16th October, 2023 executed by and between Municipal Employees Arunachal Co-Operative Housing Society Limited (therein referred to as "the Society") of the First Part and Arkade Developers Limited (formerly "Arkade Developers Private Limited") (therein referred to as "the Developer") of the Second Part, the Society has granted development rights of the said Property in favour of Arkade Developers Limited for the consideration and upon the terms and conditions as mentioned therein.
- (H) The Society through its Authorized Managing Committee Members also executed Power of Attorney dated 16th October, 2023 in favour of Arkade Developers Limited (formerly "Arkade Developers Private Limited") through its Directors to undertake various acts, deeds, things pursuant to the said Development Agreement and the said Power of Attorney is duly registered with the office of Joint Sub-Registrar of Assurances Borivali No. 8 under Sr. No. BRL8-14212-2023 on 16th October, 2023.
- (I) In view of aforesaid, Arkade Developers Limited ("Developer/Promoter"), is duly entitled to develop the said Property as per the terms and conditions of the aforesaid Development Agreement and in accordance with and subject to compliance with and observance of the terms and conditions of



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various permissions, approvals, sanctions that may be issued by the concerned authorities in respect of the said Property from time to time.

- (J) The report reflecting the flow of the title of Municipal Employees Arunachal Co-operative Housing Society Limited qua the said Property is enclosed herewith as **"Annexure – A"**.
- (K) So far as litigations are concerned, following 3 litigations are pending in the Hon'ble High Court of Judicature at Bombay, *inter alia* against the Society:
- (i) Civil Revision Application No. 695 of 2014 filed by Shri. Madhukar V Talekar against Mr. Pandurang Atmaram Pai (since Deceased) & others ("**CRA 695/2014**");
 - (ii) Civil Revision Application No. 425 of 2014 filed by Shri. Gopal G. Samrit against Mr. Pandurang Atmaram Pai (since Deceased) & others ("**CRA 425/2014**");
 - (iii) Civil Writ Petition No. 1802 of 2015 filed by Smt. Anuja Anil Achrekar against Smt. Nilima Vinod Desai and others ("**WP 1802/2015**")

The abovementioned Applicants/Petitioners viz. Smt. Anuja Anil Achrekar, Shri Madhukar V. Talekar and Shri. Gopal G. Samrit (collectively referred to as "**Disputants**"), allegedly claiming themselves as members of Municipal Employees Arunachal Co-operative Housing Society Limited, had filed 3 separate Dispute Applications/proceedings before Co-operative Court, Mumbai *inter alia* against the Society for various reliefs as mentioned therein. The orders passed by Co-operative Court, Mumbai in aforesaid Dispute Applications/proceedings, were challenged by the said Disputants before the Maharashtra State Co-operative Appellate Court at Mumbai by preferring separate Appeals. Subsequently, the orders passed in the aforesaid Appeals by State Co-operative Appellate Court at Mumbai ultimately culminated in preferring the above referred proceedings i.e. CRA 425/2014, CRA 695/2014 and WP 1802/2015 by the respective Disputants before Hon'ble High Court Bombay, which are pending disposal.



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At present (i) by Order dated 28th June 2017 passed in CRA 425/2017, the Hon'ble Court has *inter alia* directed that pending the hearing and final disposal of CRA, the Society and its Officers or members are restrained by an order of injunction from registering any transfer by way of sale, inheritance, gift, exchange or in whatsoever manner in respect of Flat No. A-303 and flats in occupation by Opponent Nos. 3, 5 and 6 therein i.e. Flat Nos. A-301, C-403 and A-101 (in the Existing Buildings) respectively or new flat to be allotted in lieu thereof and are also directed to reserve a flat of the area mentioned therein as offered to all other members in the new building which is to be constructed ("**Order-1**"); (ii) by Order dated 28th June 2017 passed in CRA 695/2017, the Hon'ble Court has *inter alia* directed that pending the hearing and final disposal of CRA, the Society and its Officers or members are restrained by an order of injunction from registering any transfer by way of sale, inheritance, gift, exchange or in whatsoever manner in respect of Flat No. A-3 (in the Existing Buildings) or new flat to be allotted in lieu thereof and are also directed to reserve a flat of the area mentioned therein as offered to all other members in redevelopment scheme in the Society before demolition of Existing Buildings pursuant to the redevelopment sanctioned by Municipal Corporation of Greater Mumbai ("**Order-2**"); (iii) by Order dated 25th July 2017 passed in WP 1802/2015, the Hon'ble Court has *inter alia* rejected the Interim relief as prayed in the said WP 1802/2015 by the Disputant/Petitioner therein ("**Order-3**").

The aforesaid Order-1 and Order-2 are thereafter modified by Order dated 27th October 2023 and 9th November 2023 in Interim Application No. 14758 of 2023 and Interim Application No. 14759 of 2023 whereunder area of proposed 2 new flats to be reserved as per Order-1 and Order-2 are modified as per offer submitted by the Developer pursuant to the aforesaid Development Agreement.

Thereafter, the Applicants in CRA 425/2014 and CRA 695/2014, have filed Interim Application No. 17853 of 2023 and Interim Application No. 17856 of 2023 respectively against the Developer thereby *inter alia* seeking benefits such as rent (Monthly Displacement Compensation) offered by Developer to other members of the Society, car park, stamp duty and registration charges, etc. and the aforesaid both the Interim Applications



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are pending disposal.

- (L) The Society vide its Declaration dated 20th December 2023 has declared that the original Indenture (of Conveyance) dated 31st August, 1978 and the original Society Registration Certificate bearing Registration No. BOM/HSG-4762 of 1976 dated 09.03.1976 ("**Original Documents**") are misplaced and despite best efforts are still untraceable and that the Society has not handed over or deposited the Original Documents to any bank, financial institution or any other person as and by way of security or otherwise for repayment of any money or performance of any obligation or to any person whosoever towards creation of any third party right(s) / interest in respect of the Property in any manner howsoever and the Society has agreed to undertake necessary steps with respect to the loss of the aforesaid Original Documents by intimating to the concerned police station and causing to issue public notices in local newspapers inviting from public at large, any claim and/or demands, by virtue of being in custody, possession or control howsoever, of the Original Documents.
- (M) While considering my opinion on the title of the said Property, I have made the following assumptions:
- (i) All copies of the documents conform to the originals and all originals are genuine and complete.
 - (ii) Each signature on the documents shall be deemed to be genuine signature of the individual/party concerned.
 - (iii) The Agreements/documents are within the capacity and powers and have been validly authorized and signed by each party.
 - (iv) That the Agreements/documents have been duly authorized, executed and delivered by each of the parties hereto.
 - (v) I express no opinion as to the correctness of any warranty given by the parties (expressly and impliedly) under the Agreement/documents or by virtue of the Agreements/documents executed save if and so far as the matters warranted are the subject matter of the specific opinion in this certificate.
- (N) In course of taking search with the concerned Sub-Registrar of Assurances, I have been informed by search clerk that for certain years, the records maintained by the Offices of the Sub-Registrar of Assurances are torn and



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mutilated and the Index-II records maintained in digital form have not been properly maintained. Searches at the Offices of the Sub-Registrar of Assurances are subject to the availability of records and also to records being torn and mutilated and maintained in an improper condition. I therefore disclaim any responsibility for consequences which may arise on account of such non-availability of records or on account of records being torn and mutilated or maintained improperly.

- (O) I have not undertaken the reconciliation of area between the Property Register Card, or any other Revenue Record and area as per physical site survey, in respect of the said Property and my primary observations with respect to area of Property as stated hereinabove.
- (P) This Certificate records my observations on the title of Municipal Employees Arunachal Co-operative Housing Society Limited to the said Property only and does not contain any observations on the development potential of the said Property nor have I investigated the development potential of the said Property.
- (Q) Unless specifically stated otherwise in this Certificate, I have not verified whether the formalities which have a direct bearing on the enforceability of the contractual or other arrangements comprised in the documents furnished to me and/or the information provided to me have been complied with or not.
- (R) The accuracy of this Certificate necessarily depends on the documents furnished to me and the information provided to me, being true, complete and accurate and which I have assumed to be the case. I therefore disclaim any responsibility for any misinformation or incorrect or incomplete information arising out of the documents, responses and other information furnished to me.

Date: 1st July, 2024

Place: Mumbai

Smita Sawant,



Advocate, High Court,
Bombay

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"Annexure – A"

FLOW OF THE TITLE OF THE SAID PROPERTY

- (i) Property Card in respect of C.T.S. No. 455/A, 455/B, 455/B/1, 455C, 455C/1 and 455E of village Pahadi Goregaon (East) issued by City Survey Officer, Goregaon Mumbai Suburban District reflects the name of Municipal Employees Arunachal Co-Operative Housing Society Limited as holder/owner thereof in respect of area admeasuring 4487.60 sq. mtrs.
- (ii) Search Report by Search Clerk Mr. Rajendra P. Tungatkar for 45 years from 1978 to 2024.
- (iii) By and under an Indenture (of Conveyance) dated 31st August, 1978 registered with the Joint Sub-Registrar-IV Bombay (Bandra) under Serial No. BOM/B/986 of 1978 of Book No.1 and made and executed between Monica Augustine Baptista & Ors. (therein referred to as "the Vendors") of the First Part; Virag Krishnarao Laud (therein referred to as "the First Confirming Party") of the Second Part, Sharad Prabhakar Pradhan & Anr. of M/s Prkalpa Builders (therein referred to as "the Second Confirming Parties") of the Third Part; M/s. Shyam Construction Company, (therein referred to as "the Third Confirming Parties") of the Fourth Part and Municipal Employees Arunachal Co-Operative Housing Society Ltd., the Society herein (therein referred to as "the Purchaser") of the Fifth Part; the Monica Augustine Baptista & Ors. with the confirmation of the Virag Krishnarao Laud, Sharad Prabhakar Pradhan & Anr. of M/s Prkalpa Builders and M/s. Shyam Construction Company transferred, conveyed and assigned unto the Municipal Employees Arunachal Co-operative Housing Society Limited the said Property in the manner as set out therein and as shown on the plan of layout and subdivision thereof thereto annexed and marked as Plot 'A' and 'C' together with *inter alia* common use and benefit of D.P. Road, proposed internal road, right to access the property, etc. as described therein.
- (iv) By and under Development Agreement dated 16th October, 2023 registered with the office of Joint Sub-Registrar of Assurances Borivali No. 8 under Sr. No. BRL8-14210-2023 on 16th October, 2023 executed by and between Municipal Employees Arunachal Co-Operative Housing Society Limited

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- (v) Municipal Employees Arunachal Co-operative Housing Society Limited through its Authorized Managing Committee Members also executed Power of Attorney dated 16th October, 2023 in favour of Arkade Developers Limited (formerly "Arkade Developers Private Limited") through its Directors to undertake various acts, deeds, things pursuant to the said Development Agreement and the said Power of Attorney is duly registered with the office of Joint Sub-Registrar of Assurances Borivali No. 8 under Sr. No. BRL8-14212-2023 on 16th October, 2023.
- (vi) Following 3 litigations are pending in the Hon'ble High Court of Judicature at Bombay, *inter alia* against the Society:
- Civil Revision Application No. 695 of 2014 filed by Shri. Madhukar V Talekar against Mr. Pandurang Atmaram Pai (since Deceased) & others ("CRA 695/2014");
 - Civil Revision Application No. 425 of 2014 filed by Shri. Gopal G. Samrit against Mr. Pandurang Atmaram Pai (since Deceased) & others ("CRA 425/2014");
 - Civil Writ Petition No. 1802 of 2015 filed by Smt. Anuja Anil Achrekar against Smt. Nilima Vinod Desai and others ("WP 1802/2015")

The abovementioned Applicants/Petitioners viz. Smt. Anuja Anil Achrekar, Shri Madhukar V. Talekar and Shri. Gopal G. Samrit (collectively referred to as "**Disputants**"), allegedly claiming themselves as members of Municipal Employees Arunachal Co-operative Housing Society Limited, had filed 3 separate Dispute Applications/proceedings before Co-operative Court, Mumbai *inter alia* against the Society for various reliefs as mentioned therein. The orders passed by Co-operative Court, Mumbai in aforesaid Dispute Applications/proceedings, were



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challenged by the said Disputants before the Maharashtra State Co-operative Appellate Court at Mumbai by preferring separate Appeals. Subsequently, the orders passed in the aforesaid Appeals by State Co-operative Appellate Court at Mumbai ultimately culminated in preferring the above referred proceedings i.e. CRA 425/2014, CRA 695/2014 and WP 1802/2015 by the respective Disputants before Hon'ble High Court Bombay, which are pending disposal.

However, it is clarified that (i) by Order dated 28th June 2017 passed in CRA 425/2017, the Hon'ble Court has *inter alia* directed that pending the hearing and final disposal of CRA, the Respondent Society and its Officers or members are restrained by an order of injunction from registering any transfer by way of sale, inheritance, gift, exchange or in whatsoever manner in respect of Flat No. A-303 and flats in occupation by Opponent Nos. 3, 5 and 6 therein i.e. Flat Nos. A-301, C-403 and A-101 (in the Existing Buildings) respectively or new flat to be allotted in lieu thereof and are also directed to reserve a flat of the area mentioned therein as offered to all other members in the new building which is to be constructed ("**Order-1**"); (ii) by Order dated 28th June 2017 passed in CRA 695/2017, the Hon'ble Court has *inter alia* directed that pending the hearing and final disposal of CRA, the Respondent Society and its Officers or members are restrained by an order of injunction from registering any transfer by way of sale, inheritance, gift, exchange or in whatsoever manner in respect of Flat No. A-3 (in the Existing Buildings) or new flat to be allotted in lieu thereof and are also directed to reserve a flat of the area mentioned therein as offered to all other members in redevelopment scheme in the Society before demolition of Existing Buildings pursuant to the redevelopment sanctioned by Municipal Corporation of Greater Mumbai ("**Order-2**"); (iii) by Order dated 25th July 2017 passed in WP 1802/2015, the Hon'ble Court has *inter alia* rejected the Interim relief as prayed in the said WP 1802/2015 by the Disputant /Petitioner therein ("**Order-3**").

The aforesaid Order-1 and Order-2 are thereafter modified by Order dated 27th October 2023 and 9th November 2023 in Interim Application No. 14758 of 2023 and Interim Application No. 14759 of 2023 whereunder area of 2 new flats to be reserved as per Order-1 and Order-2 are modified as per offer submitted by the Developer pursuant to the aforesaid Development Agreement.



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Thereafter, the Applicants in CRA 425/2014 and CRA 695/2014, have filed Interim Application No. 17853 of 2023 and Interim Application No. 17856 of 2023 respectively against the Developer thereby *inter alia* seeking benefits such as rent (Monthly Displacement Compensation) offered by Developer to other members of the Society, car park, stamp duty and registration charges, etc. and the aforesaid both the Interim Applications are pending disposal.

Date: 1st July, 2024

Place: Mumbai

Smita Sawant,

Advocate, High Court,
Bombay

Housiey.com