

29.09.2020

Ref. : Bangalore

To,

M/s Cornerstone
Bangalore

Sirs,

Sub:-	Legal scrutiny report regarding the title of The Society of the Servants of the Holy Spirit rep by its President Sister Gracy Antony and Secretary Sister Wilma D'souza rep by GPA holder M/s Ashed Properties & Investments Pvt. Ltd., rep by its Managing Director Sri.Sameer A. Khan in respect of property bearing municipal no.12/3, PID no.65-32-12/13 consisting of a) 1 st Block admeasuring East to West : 63 ft., and North to South : 134 ft., in all measuring 8442 Sq. Ft., AND b) 2 nd Block admeasuring East to West 216 ft., + 325 ft./2 and North to South : 276 ft., + 305 ft./2 in all measuring 78580.25 Sq. Ft., and Block 1 and 2 totally measuring 88028 Sq. Ft., or 8178 Sq. Mtrs., both situated at BTM 1 st Stage, 1 st Phase, 20 th Main Road, in BBMP ward no.65, Bangalore (earlier identified as Sy no.12/13 of Tavarekere Village, Begur Hobli, Bangalore South Taluk).
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I DESCRIPTION OF PROPERTY:

All that piece and parcel of property bearing municipal no.12/3, PID no.65-32-12/13 consisting of a) 1st Block admeasuring East to West : 63 ft., and North to South : 134 ft., in all measuring 8442 Sq. Ft., AND b) 2nd Block admeasuring East to West 216 ft., + 325 ft./2 and North to South : 276 ft., + 305 ft./2 in all measuring 78580.25 Sq. Ft., and Block 1 and 2 totally measuring 88028 Sq. Ft., or 8178 Sq. Mtrs., both situated at BTM 1st Stage, 1st Phase, 20th Main Road, in BBMP ward no.65, Bangalore (earlier identified as Sy no.12/13 of Tavarekere Village, Begur Hobli, Bangalore South Taluk) and bounded as follows :

On the East by	:	BDA site and Road
West by	:	Property in Sy no.12
North by	:	Property in Sy no.19
South by	:	Property in Sy no.12

II LIST OF DOCUMENTS SCRUTINIZED (all photo-copies) :

1. Legal opinion dated 03.12.2014 given by Sri.Udaya Holla, Advocate.



2. Mutation register bearing MR no.6/1997-98 issued by the office of Tahsildar, Bangalore South Taluk, Bangalore.
3. Agreement to Sell dated 04.10.1980 entered into between Sri.Muniswamappa, S/o Late Sri.Venkatappa and Sri.Annayappa, Late S/o Sri.Rashappa of the one part and The President, The Society of the Servants of the Holy Spirit of the other part.
4. General Power of Attorney dated 04.10.1980 executed by Sri.Muniswamappa, S/o Late Sri.Venkatappa and Sri.Annayappa, Late S/o Sri.Rashappa in favour of The President, The Society of the Servants of the Holy Spirit, registered as doc no.227/1980-81, in Book-IV, Volume-10 entered in page 240, additional register Book no.16, entered in pages 219-2211 at the office of Sub-Registrar, Jayanagar, Bangalore.
5. Letter dated 25.10.1980 bearing no.HUD 159 MNX 80 issued by Government of Karnataka addressed to the Chairman, BDA, Bangalore.
6. Letter dated 03.03.1981 bearing no.HUD 159 MNX 80 issued by Under Secretary to Government, Housing & Urban Development Deptt. addressed to the Commissioner, BDA, Bangalore.
7. Award notice dated 12.05.1981 bearing no.L.A.C. no.174/78-79 issued by the office of Special Land Acquisition Officer, BDA, Bangalore.
8. Letter dated 21.07.1981 issued by BDA addressed to the President, Society of the Servants of the Holy Spirit, Bangalore.
9. Certified copy of Agreement of Re-conveyance dated 03.09.1982 entered into between Sr. Alicianc, President and Regional Superior of the Society of the Servants of the Holy Spirit of the one part and the Bangalore Development Authority, Bangalore rep by its Secretary of the other part, registered as doc no.1890/1982-83, in Book-I, Addl. Vol.695, entered in pages 41 to 42, at the office of Sub-Registrar, Jayanagar, Bangalore.
10. Possession certificate dated 11.10.1982 bearing no.BDA/TPM/A2/125/82-83 issued by the BDA in favour of The President & Regional Superior of the Society of the Servants of the Holy Spirit, Bannerghatta Road, Bangalore.
11. Order dated 03.02.1983 issued by the office of Commissioner, Bangalore Development Authority, Bangalore.
12. BDA remittance challan/s bearing no.149511, 97583, 75208,
13. Letter dated 25.05.2005 issued by BMP addressed to M/s Society of the Servants of the Holy Spirit, Bangalore.
14. Absolute Sale Deed dated 19.11.2007 executed by BDA rep by its Asst. Commissioner in favour of Society of the Servants of the Holy Spirit rep by its President Sister Shruthi, D/o Sri.Chacko, registered as doc no.6581/2007-08, in Book-I, stored in C.D. no.BDAD135, at the office of Addl. District Registrar, Bangalore Urban District.
15. Special notice dated 10.04.2008 issued by BMP.
16. Katha certificate dated 09.11.2009 issued by BDA in favour of Servants of the Holy Spirit rep by its President Sister Shruthi



17. Katha certificate dated 22.07.2010 issued by BBMP in favour of Servants of the Holy Spirit rep by its President Sister Shruthi
18. Katha extract dated 11.03.2011 issued by BBMP in favour of Servants of the Holy Spirit rep by its President Sister Shruthi
19. Katha certificate dated 04.02.2016 issued by BBMP in favour of Servants of the Holy Spirit rep by its President Sister Shruthi
20. Katha extract dated 04.02.2016 issued by BBMP in favour of Servants of the Holy Spirit rep by its President Sister Shruthi
21. Katha certificate dated 24.04.2019 issued by BBMP in favour of Servants of the Holy Spirit rep by its President Sister Shruthi
22. Katha extract dated 24.04.2019 issued by BBMP in favour of Servants of the Holy Spirit rep by its President Sister Shruthi
23. Joint Development Agreement dated 29.02.2016 entered into between The Society of the Servants of the Holy Spirit rep by its President Sister Gracy Antony and Secretary Sister Wilma D'souza of the one part and M/s Ashed Properties & Investments Pvt. Ltd., rep by its Managing Director Sri. Sameer A. Khan, of the other part, registered as doc no.3562/2015-16, in Book-I, stored in C.D. no.SHRD59, at the office of Senior Sub-Registrar, Jayanagar (Shantinagar), Bangalore.
24. General Power of Attorney dated 29.02.2016 executed by The Society of the Servants of the Holy Spirit rep by its President Sister Gracy Antony and Secretary Sister Wilma D'souza in favour of M/s Ashed Properties & Investments Pvt. Ltd., rep by its Managing Director Sri. Sameer A. Khan, registered as doc no.287/2015-16, in Book-IV, stored in C.D. no.SHRD59, at the office of Senior Sub-Registrar, Jayanagar (Shantinagar), Bangalore.
25. Memorandum and Articles of association of M/s Ashed Properties and Investments Private Limited.
26. Board resolution dated 30.11.2015 of M/s Ashed Properties & Investments Pvt. Ltd.,
27. Memorandum of Association and Rules & Regulations dated 04.07.1974 of The Society of the Servants of the Holy Spirit together with certification of registration dated 20.07.1974 issued by Registrar of Societies, Karnataka.
28. Minutes of the government body meeting of The Society of the Servants of the Holy Spirit Held on 14.08.2015.
29. Copy of sanction plan dated 05.04.1983 bearing L.P. no.138/1982-83 issued by BDA.
30. Copy of sanction plan dated 05.11.2018 L.P. no.248/17-18 issued by BBMP.
31. Encumbrance Certificates :
 - a) Dated 10.11.2009 for the period 01.04.1980 to 31.03.2004 depicting the entry of agreement of re-conveyance dated 03.09.1982 (doc no.1890).
 - b) Dated 13.03.2003 for the period 01.10.1966 to 07.03.2003 (in form no.16).
 - c) Dated 17.01.2014 for the period 27.08.2005 to 16.01.2014 depicting the entries of sale deed dates 21.11.2007 (doc no.464), 19.11.2007 (doc no.6581),



- d) Dated 16.06.2017 for the period 01.04.2004 to 13.03.2009 (in form no.16).
- e) Dated 16.06.2017 for the period 01.04.2014 to 15.06.2017 depicting the entry of development agreement dated 29.02.2016 (doc no.3562).
- f) Dated 12.07.2018 for the period 01.02.2016 to 11.07.2018 depicting the entry of development agreement dated 29.02.2016 (doc no.3562).
- g) Dated 28.03.2019 for the period 07.03.2018 to 27.03.2019 (in form no.16).
- h) Dated 28.08.2020 for the period 01.03.2019 to 27.08.2020 (in form no.16)

III SOURCE OF TITLE :

On perusal of documents produced for scrutiny, it is noticed that the erstwhile land owners Sri.Muniswamappa, S/o Late Sri.Venkatappa and Sri.Annayappa, S/o Late Sri.Rashappa entered into an Agreement to Sell dated 04.10.1980 with The President, The Society of the Servants of the Holy Spirit for sale of land bearing Sy no.12/13 measuring 2 acres 06 guntas of Tavarekere Village for a consideration of Rs.60,000/-. A sum of Rs.30,000/- was paid as advance and the balance amount of Rs.30,000/- was agreed to be at the time of registration or on receipt of the orders granting or reconveying the said land to the Society by BDA or by the Government.

In furtherance to the said agreement, Sri.Muniswamappa, S/o Late Sri.Venkatappa and Sri.Annayappa, Late S/o Sri.Rashappa also executed a General Power of Attorney dated 04.10.1980 (doc no.227/1980-81) in favour of The President, The Society of the Servants of the Holy Spirit, empowering the attorney to do various acts, deeds and things with power of alienation of aforesaid land in Sy no.12/13 to an extent of 2 acres 06 guntas.

The Government of Karnataka issued a Letter dated 25.10.1980 bearing no.HUD 159 MNX 80 addressed to the Chairman, BDA, Bangalore directing the BDA for allotment of land in Sy no.52 of Tavarekere Village to an extent to 2 acres to The Society of the Servants of the Holy Spirit. Further, the Under Secretary to Government, Housing & Urban Development Deptt. issued a Letter dated 03.03.1981 addressed to the Commissioner, BDA, Bangalore to consider allotment of 2 acres of land in Sy no.12/13 of Thavarekere Village by the BDA to The Society of the Servants of the Holy Spirit instead of land in Sy no.52 of Thavarekere Village.

The office of Special Land Acquisition Officer, BDA, Bangalore issued an Award notice dated 12.05.1981 bearing L.A.C. no.174/78-79 granting compensation of Rs.38,007.50/- to the land owners towards acquisition of land in Sy no.12/13 of Thavarekere Village, Bangalore to an extent of 2 acres 06 guntas. It is further noticed that the compensation was kept in R.D, subject to payment to real owner of the land after land owners establish and prove their title over the land.

The office of Bangalore Development Authority issued a letter dated 21.07.1981 issued addressed to the President, Society of the Servants of the Holy Spirit,



Bangalore confirming that land in Sy no.12/13 had been acquired and the possession of the said land was taken over on 12.05.1981 by the authority.

That Sr. Alicianc, President and Regional Superior of the Society of the Servants of the Holy Spirit entered into an Agreement of Re-conveyance dated 03.09.1982 (doc no.1890/1982-83) with Bangalore Development Authority, Bangalore rep by its Secretary subjecting the allotment of land in Sy no.12/13 measuring 2 acres of Taverekere Village with terms and conditions as mentioned therein. The prominent conditions specified therein was that a building should be constructed within 2 years from the date of taking over possession with necessary approval for the construction of residential girls hostel.

The Bangalore Development Authority placed The President & Regional Superior of the Society of the Servants of the Holy Spirit, Bannerghatta Road, Bangalore in possession of Sy no.12/13 of Taverekere Village admeasuring East to West : I Block 63 ft., II Block 216 ft., + 325 ft., /2 North to South : I Block 134 ft., and II Block 276 ft., + 305 ft., /2 vide Possession certificate dated 11.10.1982 bearing no.BDA/TPM/A2/125/82-83.

The office of Commissioner, Bangalore Development Authority, Bangalore sanctioned development plan for construction of Hostel building to an extent of 2 acres in Sy no.12/13 of Tavarekere Village vide Order dated 03.02.1983.

The copy of Mutation register bearing MR no.6/1997-98 issued by the office of Tahsildar, Bangalore South Taluk, Bangalore confirms the acquisition of land in Sy no.12/13 measuring 2 acres 06 guntas among other survey numbers of Tavarekere Village, Bangalore by Bangalore Development Authority is produced.

The office of Bangalore Mahanagara Palike issued a Letter dated 25.05.2005 addressed to M/s Society of the Servants of the Holy Spirit, Bangalore demanding a Rs.60,748/- as improvement charges in respect of land bearing Sy no.12/13 of Tavarekere Village admeasuring East to West : 63 ft., X 216 ft., + 325 ft., /2 North to South : 134 ft., X 276 ft., + 305 ft.,/2.

Subsequently, BDA rep by its Asst. Commissioner conveyed the absolute right, title and interest over land bearing Sy no.12/13 of Tavarekere Village admeasuring East to West : 63 ft., X 216 ft., + 325 ft., /2 North to South : 134 ft., X 276 ft., + 305 ft.,/2 unto Society of the Servants of the Holy Spirit rep by its President Sister Shruthi, D/o Sri.Chacko, in terms of an Absolute Sale Deed dated 19.11.2007 and registered as doc no.6581/2007-08, at the office of Addl. District Registrar, Bangalore Urban District.



The important question that arose was whether the condition imposed in the Agreement of Re-conveyance dated 03.09.1982 (for residential girls hostel) was applicable when the sale deed dated 19.11.2007 did not impose the erstwhile condition except that it should be used only for residential purpose. In this regard, we have been provided with a copy of legal opinion dated 03.12.2014 given by Sri.Udaya Holla, Senior Advocate, who on relying on Section 11 of Transfer of Property Act, 1982 with reference from decision of the Hon'ble Supreme Court of India in M/s R & M Trust vs. Koramangala Residents Vigilance Group reported in 2005 (3) SCC 91 has opined that the aforesaid society was entitled to construct residential apartment building in consonance with law.

The office of BMP issued a Special notice dated 10.04.2008 assessing the property to tax.

The katha for the subject property stands in the name of Servants of the Holy Spirit rep by its President Sister Shruthi vide Katha Certificate and Katha Extract both dated 24.04.2019 issued by the office of Bruhat Bangalore Mahanagara Palike.

The owner The Society of the Servants of the Holy Spirit rep by its President Sister Gracy Antony and Secretary Sister Wilma D'souza has entered into a Joint Development Agreement dated 29.02.2016 (doc no.3562/2015-16) with M/s Ashed Properties & Investments Pvt. Ltd., rep by its Managing Director Sri.Sameer A. Khan for the beneficial development of captioned property into a residential multi-storied building. The parties to the JDA have agreed to share the undivided share in land and super built-up area in the ratio 45 % (to the owner) : 55 % (builder).

In furtherance to the said JDA, The Society of the Servants of the Holy Spirit rep by its President Sister Gracy Antony and Secretary Sister Wilma D'souza also executed a General Power of Attorney dated 29.02.2016 (doc no.287/2015-16) in favour of M/s Ashed Properties & Investments Pvt. Ltd., rep by its Managing Director Sri.Sameer A. Khan, empowering the attorney to do various acts, deeds and things with power of alienation of builder' share of built-up area and corresponding undivided share in land.

The copies of Memorandum of Association and Articles of Association of M/s Ashed Properties and Investments Private Limited are produced. It further mentions that Mrs.Iram Khan and Mr.Mehmood Agha are the subscribers to the company. Further, copy of Board resolution dated 30.11.2015 of M/s Ashed Properties & Investments Pvt. Ltd., authorizing Sri.Sameer A.Khan, Managing Director of company as authorized signatory to execute necessary agreement and documentation concerning development of property bearing municipal no.12/13 situated at BTM 1st Stage, 1st Phase, Bangalore.



The Clause no.VIII under powers of governing body in Memorandum of Association and Rules & Regulations dated 04.07.1974 of The Society of the Servants of the Holy Spirit, enables/empowers "the society to Manage, improve, develop, alter, repair, demolish, sell, alienate, lease, mortgage, charge, pledge, hypothecate, enter into joint development agreement, dispose off and / or otherwise deal with all or any of the properties, funds, assets, rights and privileges of the society or part thereof for such consideration and upon such terms and conditions as the governing body may deem fit".

The copy of certification of registration dated 20.07.1974 issued by Registrar of Societies, Karnataka favouring The Society of the Servants of the Holy Spirit is produced.

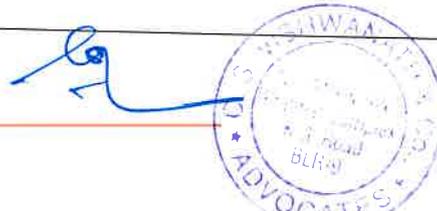
The copy of Minutes of the government body meeting of The Society of the Servants of the Holy Spirit Held on 14.08.2015 for appointing Sr. Gracy Antony and Sr.Wilma D'souza as authorized signatories to execute development agreement and General Power of Attorney in respect of land bearing Sy no.12/13 measuring 88028 Sq. ft., is produced.

The copy of sanction plan dated 05.04.1983 bearing L.P. no.138/1982-83 issued by BDA is also produced.

The copy of sanction plan dated 05.11.2018 and L.P. no.248/17-18 issued by the office of BBMP permits the construction of residential apartment building consisting of 2 basement + ground floor + 11 (eleven floors) at Sy no.12/13, PID no.65-32/12/13, BTM 1st Stage, 1st Phase, 20th Main Road, Bangalore is produced.

Encumbrance certificate/s produced for scrutiny disclose entries of following transactions;

Sl Nos.	Period	Entries
1.	01.09.1982 30.09.1982	to depicting the entry of agreement of re-conveyance dated 03.09.1982 (doc no.1890).
2.	27.08.2005 16.01.2014	to depicting the entries of sale deed dates 21.11.2007 (doc no.464), 19.11.2007 (doc no.6581),
3.	01.04.2014 15.06.2017	to depicting the entry of development agreement dated 29.02.2016 (doc no.3562).
4.	01.02.2016 11.07.2018	to depicting the entry of development agreement dated 29.02.2016 (doc no.3562).



IV EVIDENCE OF POSSESSION:

All the documents produced for the scrutiny evidence the possession of subject property in favour of The Society of the Servants of the Holy Spirit rep by its President Sister Gracy Antony and Secretary Sister Wilma D'souza rep by GPA holder M/s Ashed Properties & Investments Pvt. Ltd., rep by its Managing Director Sri.Sameer A. Khan (concerning the share of the builder in terms of JDA and GPA)

V OPINION:

On the basis of documents perused and information furnished, SUBJECT TO THE PRODUCTION AND VERIFICATION OF TAX PAID RECEIPT FOR THE PERIOD 2020-21, We are of the opinion that the title of The Society of the Servants of the Holy Spirit rep by its President Sister Gracy Antony and Secretary Sister Wilma D'souza rep by GPA holder M/s Ashed Properties & Investments Pvt. Ltd., rep by its Managing Director Sri.Sameer A. Khan over the subject property is valid, clear and marketable concerning 55 % of built-up area together with proportionate undivided share In land accruing to the share of said builder.

NOTE :

1. IT IS ADVISABLE TO VERIFY ALL THE ORIGINAL DOCUMENTS OF TITLE BEFORE CONCLUDING THE TRANSACTION.
2. DOCUMENTS PERUSED HEREIN ARE BONA-FIDE BELIEVED TO BE GENUINE.
3. IN THE PROCESS OF LEGAL VERIFICATION OF DOCUMENTS, WE HAVE RELIED UPON THE VERACITY OF CONTENTS OF DOCUMENTS AND HAVE ASSUMED THE IDENTITY AND SIGNATURES OF THE PARTIES TO DEEDS AS AUTHENTIC.

SPECIFIC NOTE : THIS REPORT IS PREPARED WITH THE ASSISTANCE OF SMT.ROHINI SRINIVAS, ADVOCATE.

All the documents referred to us are returned herewith.

Thanking you,

For C.S.Vishwanath & Co.,

Advocate.

