

PRAKASH B. PAITHANKAR
ADVOCATE

"Vishnuvardhan"
Plot No. 2, Mayanagar,
Sector N-2, CIDCO,
AURANGABAD.

PHONE NO. 2488395

MOBILE NO. 98232-70026

Date : 03.07.2017

To,

The Branch Manager,
Dombivli Nagari Sahakari Bank Ltd.,
Aurangabad Branch,
AURANGABAD.

Subject : The "Title Verification Report" in respect of Shop No.B-001 admeasuring 59.70 sq.mtrs. carpet area, Ground Floor, in commercial condominium known as "NIRMAN BHARATI CITY CENTRE" constructed on Plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhan Road, Veer Savarkar Road, Aurangabad, within the limits of Aurangabad Municipal Corporation, Aurangabad.

Dear Sir,

i) Name, nature of the borrower constitution and address :

Shri. Chandrakumar Bansilal Malani.

ii) Name, nature of the Mortgagor constitution and address :

Shri. Chandrakumar Bansilal Malani.

iii) Detailed description of all the properties to be mortgaged :

That, the landed property i.e. Shop No.B-001 admeasuring 59.70 sq.mtrs. carpet area, Ground Floor, in commercial condominium known as "NIRMAN BHARATI CITY CENTRE" Plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhan Road, Veer Savarkar Road, Aurangabad, within the limits of Aurangabad Municipal Corporation, Aurangabad, is residential flat, presently

owned by Shri. Chandrakumar Bansilal Malani. The boundaries of which as mentioned in the Registered Sale Deed are as under:

BOUNDARIES OF CTS PLOT CTS NO.6471 AND 6472

(As mentioned in the registered Sale Deed)

- East : Property of Yogesh Zaveri.
- West : Property of Tarasaheb Saudagar.
- North : Lane.
- South : Public road Sarafa.

BOUNDARIES OF SHOP NO.B-001

(As mentioned in the registered Agreement to Sale)

- East : Marginal Space & D-E Type Building.
- West : Shop No.A-001.
- North : Lift, Lobby, Staircase & AMC Parking.
- South : Shop No.B-002.

- iv) Full particulars of documents which are being deposited for the purpose of creating equitable mortgage like the date of execution of the documents, whether the document has been registered or not, the parties to the document, whether the document is available in original or not etc.*

REGISTERED MORTGAGE IS BEING CREATED BY THE MORTGAGOR.

V) List of documents produced/scrutinized by the Advocate

- a) Xerox copy of Order on Preliminary issues dated 29.11.1963 in RCS No.139/15 passed by the Joint Civil Judge S.D.Aurangabad.
- b) Xerox copy of Judgment and Order in RCS No.139/15 dated 14.02.1967 passed by the Joint Civil Judge S.D.Aurangabad.
- c) Xerox copy of Judgment and Order in RCA No.55/1967 dated 04.05.1968 passed by the Extra Asst. Judge, Aurangabad.

- d) Xerox copy of Order dated 22.11.1968 in Second Appeal No.1163/1968 passed by Hon'ble High Court of Bombay.
- e) Xerox copy of Order dated 10.12.1968 in R.D.No.100/68 passed by the Joint Civil Judge, Junior Division, Aurangabad for appointment of Court Receiver.
- f) Xerox copy of Panchnama dated 12.12.1968 prepared by Court Receiver.
- g) Xerox copy of newspaper publication dated 21.12.1968 regarding appointment of Court Receiver.
- h) Xerox copy of Compromise Decree dated 16.07.1971 in Special Leave Petition No.2244(N)/1969 before Hon'ble Supreme Court.
- i) Xerox copy of Order below Exh. 594 dated 19.11.2005 vide which M/s. Nirman Bharati Landmarks Pvt.Ltd., is added as DH No.5 in R.D.No.100/68.
- j) Xerox copy of Order below Exh.718 dated 12.05.2006 in R.D.No.100/68 vide which measurement and fencing of land is permitted.
- k) Xerox copy of Order below Exh.865 dated 22.03.2007 in R.D. No.100/68 vide which physical / symbolic possession of land is ordered to be given to the D.H.No.5.
- l) Xerox copies of Exh.872, 873 and 874 Panchnama and "Taba Pawti" dated 23.03.2007 prepared by Court Receiver for handing over possession to M/s.Nirman Bharati.
- m) Xerox copies of 7/12 extracts of S.No.83 and 91
- n) Xerox copies of P.R.Cards of CTS No.17849 and 17850 (S.No.83 & 91)
- o) Xerox copy of registered Sale Deed No.AGG-5-2589 dated 21.07.2005 executed by Shri. Shirishchandra Asaram Samdani and others in favour of M/s. Nirman Bharati Landmarks Pvt.Ltd.

- p) Xerox copy of registered Correction Deed No.AGG-5-4153 dated 17.08.2009 executed by Shri. Shirishchandra Asaram Samdani and others in favour of M/s. Nirman Bharati Landmarks Pvt.Ltd.
- q) Xerox copy of Order dated 24.09.2014 passed by the Superintendent of Land Records, Aurangabad for sub-division of CTS No.17849 and 17850.
- r) Xerox copies of P.R.Cards of CTS No.17850, 17849 and 17850/2.
- s) Internet downloaded copy of Index-II in r/o. registered Sale Deed No.AGG-5-2589 dated 21.07.2005.
- t) Xerox copy of registered Sale Deed No.AGG-5-4650 dated 27.06.2012 executed by M/s. Nirman Bharati Landmarks Pvt.Ltd. in favour of Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed.
- u) Internet downloaded copy of Index-II in r/o. registered Sale Deed No.AGG-5-4650 dated 27.06.2012.
- v) Xerox copy of order passed by Additional Commissioner in ROR/Riv/PT/259-2002, ROR/Riv/PT/270-2002 and ROR/Riv/PT/271-2002 dated 13.07.2007.
- w) Xerox copy of Order dated 08.03.2013 passed by Hon'ble High Court in Second Appeal No.254/2000 in original RCS No.17/72.
- x) Xerox copy of Withdrawal Purshis in RCS No.749/1974.
- y) Xerox copy of withdrawal purshis in R.D.No.52/80 filed by Mir Jabbar Ali.
- z) Xerox copy of Order of dismissal of suit dated 06.06.2007 passed by Civil Judge (J.D.) Aurangabad in Special Civil Suit No.527/72 (new No.RCS 1236/2000).
- a1) Xerox copy of Order below Exh. 867 in R.D.No.100/68 dated 27.08.2007 passed by Civil Judge S.D. Aurangabad rejecting the objection taken by the Wakf Board.

- a2) Xerox copy of DID Order below Exh.1 in RCS No.867/84
- a3) Xerox copy of Compromise Purshis in RCS No.189/1986.
- a4) Xerox copy of Limited Liability Partnership Agreement in respect of M/s. City Bharati Techno Heritage LLP.
- a5) Xerox copy of Certificate of Incorporation No.AAB-0109 dated 12.07.2012 issued by the ROC in favour of M/s. City Bharati Techno Heritage LLP.
- a6) Xerox copy of Supplementary Limited Liability Partnership Agreement of M/s. City Bharati Techno Heritage LLP.
- a7) Xerox copy of registered Development Agreement No.AGG-5-4666 dated 27.06.2012 executed by Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed in favour of M/s. City Bharati Techno Heritage LLP in respect of plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhana, Behind M.P.Law College, Aurangabad.
- a8) Xerox copy of registered General Power of Attorney No.AGG-5-4667 dated 27.06.2012 executed by Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed in favour of Shri. Navin Hanumanprasad Bagdiya Managing Partner of M/s. City Bharati Techno Heritage LLP in respect of plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhana, Behind M.P.Law College, Aurangabad.
- a9) Xerox copy of registered Deed of Rectification No.AGG-2-6943 dated 13.10.2014 executed by Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed in favour of M/s. City Bharati Techno Heritage LLP in respect of plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhana, Behind M.P.Law College, Aurangabad.
- a10) Xerox copy of Building Permission No.1014/2013-14 in file No.919/17/2012-13 dated 06.03.2014 for "Group Housing" issued by Aurangabad Municipal Corporation in favour of (1) M/s. Nagpal Project & Construction Pvt.Ltd., (2) Shri. Ranjit Ashok Darak, (3) Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed, (4) Shri. Vikramsing Dattusing Chavan & others through their GPA M/s. City Bharati

Techno Heritage LLP in r/o. CTS No.17849/part situated at Sillekhan, Behind M.P.Law College, Aurangabad.

a11) Xerox copy of registered Deed of Rectification / Addendum No.AGG-2-6943 has been executed by Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed in favour of M/s. City Bharati Techno Heritage LLP in respect of plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhan, Behind M.P.Law College, Aurangabad.

a12) Xerox copy of registered Deed of Declaration No.AGG-3-6847 dated 16.12.2014 has been executed by (1) Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed and (2) Shri. Navin Hanumanprasad Bagdiya Managing Partner of M/s. City Bharati Techno Heritage LLP in respect of "**Building-C**" to be constructed on plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhan, Behind M.P.Law College, Aurangabad.

a13) Original NOC No.MANAPA/NARAVI/SASANNAR/425/2015 dated 28.04.2015 issued by the Asst. Director of Town Planning, Aurangabad Municipal Corporation in r/o. CTS No.17849 and 17850 for grant of N.A. permission.

a14) Original N.A. permission No.JA.KRA.2007/MASHAKA/JAMIN-1/NAP-34/MOUJE AURANGABAD, TA. AURANGABAD/PRA.KRA.315 dated 01.08.2015 granted by the Collector, Aurangabad u/s.44 of MLR Code.

a15) Original registered Deed of Confirmation cum Declaration No.AGG-2-2571 dated 28.04.2016 has been executed by (1) M/s. Nagpal Projects & Constructions Pvt.Ltd., (2) Shri. Ashok Shivram Darak, (3) Shri. Bhagatsing Ashok Darak, (4) Shri. Ranjeet Ashok Darak, (5) Shri. Karan Ashok Darak, (6) Shri. Dharmendrasingh Vikramsingh Chavan, (7) Shri. Jitendrasingh Vikramsingh Chavan, (8) Shri. Jagdish Chandranath Suryawanshi, (9) Shri. Priyaratna Jagdish Suryawanshi, and (10) Shri. Pritish Jagdish Suryawanshi in favour of Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed in respect of plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhan, Behind M.P.Law College, Aurangabad.

a16) Xerox copy of registered Mortgage Deed No.AGG-1-6621 dated 01.01.2015 has been executed by (1) M/s. City Bharati Techno Heritage

LLP through its partners and (2) Shri. Zuber Ahmed s/o. Khurshid Ahmed in favour of Sunderlal Savaji Urban Co-operative Bank Ltd., in respect of "Building-C" to be constructed on plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhan, Behind M.P.Law College, Aurangabad.

a17) Original registered Agreement to Sale No.AGG-6-1782 dated 28.04.2017 executed by (1) M/s. City Bharti Techno-Heritage LLP through its authorized signatories Shri. Navin Hanumanprasad Bagadiya and (2) Shri. Shaikh Zuber Shaikh Khurshid Ahmed in favour of Shri. Chandrakumar Bansilal Malani in respect of Shop No.B-001 admeasuring 59.70 sq.mtrs. carpet area, Ground Floor, in commercial condominium known as "NIRMAN BHARATI CITY CENTRE" constructed on Plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhan Road, Veer Savarkar Road, Aurangabad, within the limits of Aurangabad Municipal Corporation, Aurangabad.

vi) The flow of title to the property to be mortgaged should be traced at least for a period not less than 13 years. If any doubt arises on the title, it is to be traced for 30 years. It may be examined mentioned how the party acquired the title, what are the parent documents/link documents, how the vendor acquired the property etc.

1. That, the revenue record consisting of Khasra Pahani patrak for the year 1954-55, Pahani Patrak for the year 1956-59 and record of rights earlier to that, it is evident that lands Survey No.83 and 91 were recorded in the name of Abdul Wahab Hussaini R/o Hyderabad as absolute owner and possessor, during the settlement of revenue records which took place in the year, 1937. His name appears in the record of rights i.e. "Hakk Nondni Patrak", Namuna No.1 for the year 1937 as owner and possessor. After Independence of India in the year 1947 and also the police action thereafter in the year 1949, Aurangabad, which was earlier in erstwhile Nizam State was liberated and was merged in India. The revenue record in the form of Hakk Nondni Patrak, Khasra Patrak which was treated as record of rights was prepared in 1950 and 1954-55 respectively. Name of Nadimulla Hussaini s/o Abdul Wahab Hussaini was recorded as owner in possession in respect of both the lands in said revenue records. He continued to own and possess the land till 1957. In 1956, Reorganization of State Act was implemented. Aurangabad which was in erstwhile Nizam State was included in Marathwada, however, the provision of Hyderabad

Tenancy & Agricultural Lands Act, 1950 continued to apply and still applies to the lands which were in erstwhile Nizam State.

2. That, from the record placed before me consisting of Complaint, Judgment & Decree in Regular Civil Suit No.139/1959, it is seen that Nadimulla Hussaini who was owner and possessor of land Survey Nos.83 and 91 entered into an agreement of sale in respect of both the lands in favor of (1) Shri. Vijendra s/o Hiralal Kabra, (2) Tarachand s/o Rupchand Verma, (3) Jan Mohammed Haji Sale Mohammad, (4) Mohd. Osman s/o Mohd Abdul Karim all R/o Aurangabad, by virtue of agreement of sale dated 26.10.1956.

3. That, it is seen that, Nadimulla Hussaini had appointed one, Bahadur Khan s/o Dalmir Khan as power of attorney. By virtue of the rights conferred on him as power of attorney holder, Bahadur Khan executed a sale deed in respect of land Survey No.83 and 91 situated at Silleshkhana, Aurangabad in favour of (1) Shirishchandra s/o Asaram Samdani (2) Laxminarayan s/o Rawatmal Agrawal both R/o. Aurangabad on 11.11.1957. In pursuance to the said sale deed, names of above purchasers were mutated in the revenue records in respect of land survey No.83 and 91 as owners and possessors vide mutation entry No.115 dated 25.01.1958. Thereafter on 30.07.1959, said purchasers agreed to sell 13 Guntha land out of survey No.83 to the adjacent owners i.e. Sanmitra Co-operative Housing Society Limited and the possession of that 13 Guntha land was handed over to the said society.

4. That, (1) Mr. Vijendra Hiralal Kabra (2) Tarachand Rupchand Verma (3) Mr. Jan Mohammed Haji sale Mohammad, (4) Mohd. Osman Mohd. Abdul Karim, in whose favour Nadimulla had executed agreement of sale dated 26.10.1956 filed suit for specific performance of contract against (1) Nadimulla Hussaini, (2) Shirishchandra Samdani, (3) Laxminarayan Agrawal and others and (4) Sanmitra Co-operative Housing Society in the court of civil Judge Junior Division, Aurangabad bearing Regular civil suit No.139/1959. In the said suit, president of Marathwada Wakf Board filed application under order 1 Rule 10 of the CPC for impleading the Wakf Board as party defendant on the ground that the suit property was a Wakf property and therefore no decree for specific performance could be granted nor the said lands could be sold. The application was allowed and the Wakf Board was added as defendant No.7. Wakf Board have filed their written statement, on the

pleadings of the parties and issues were framed. The issues framed at Sr.No.13, 14, 15 and 16 which were on the basis of the stand taken by the President, Marathwada Wakf Board were tried as preliminary issues. The court of Joint Civil Judge Junior Division, Aurangabad decided the preliminary issues by judgment and order dated 29.11.1963 and held that the property was neither Inam Land nor Wakf property and, therefore, the contentions of Marathwada Wakf Board was rejected. The Wakf Board did not file any proceedings for challenging the said judgment and order dated 29.11.1963.

5. That, the suit bearing RCS No.139/59 filed by Shri. Vijendra Kabra and others for specific performance of contract was heard and decided by the Civil Judge Junior Division, Aurangabad vide judgment and decree dated 14.02.1967. The court partly decreed the suit and claim for specific performance was refused and only decree for refund of earnest amount was granted. Vijendra Kabra and others being aggrieved by the Judgment and Decree passed in RCS No.139/59 filed Appeal before the District Court at Aurangabad bearing Revular Civil Appeal No.55/67. The Extra Assistant Judge, Aurangabad by his judgment and decree dated 04.05.1968 allowed the said Appeal and thereby decree for specific performance was granted in favor of Vijendra Kabra and others and against Nadimulla Hussaini and others. In the said appeal, the President Marathwada Wakf Board had also preferred cross objection the same was also heard and decided by the Hon'ble Extra Asst. Judge, Aurangabad and the cross objection filed by the Marathwada Wakf Board was dismissed. The concurrent findings are recorded by the trial court as well appellate court that the land survey No.83 and 91 are neither Inam Lands nor the Wakf properties. The Marathwada Wakf Board has not challenged the aforesaid findings and the same has attained finality. Shirishchandra Samdani and Laxminarayan Agrawal who had purchased the lands and against whom the decree was passed in RCA No.55/67 filed Second Appeal against the judgment and decree passed in RCA No.55/67 before the Hon'ble High court of Bombay, the said appeal was registered as Second Appeal No.1163/1968. The said Appeal came to be dismissed on 22.11.1968. Shirishchandra Samdani and Laxminarayan Agrawal filed special Leave Petition bearing No.2244(N)/1969 before the Hon'ble Supreme Court against the judgment and order of dismissal of Second Appeal. Leave was granted and matter remained pending before the Supreme Court till 3.10.1972. It is evident from the compromise submitted in Supreme Court that Vijendra Kabra and others on one side and Shirishchandra Samdani and others on the other side submitted a compromise and thereby agreed to share the property as under:

1. Shri. Shirishchandra Samdani & others 3 Acres 20 Guntha from survey No.9.1 & 2 Acres from Survey No.83.
2. Shri. Vrajendra Kabra & others 8 Acres 10 Guntha from Survey No.83.

That, in 1960-61, form of revenue record was changed and 7/12 extracts were

prepared. Names of Shirishchandra Samdani and others, who were purchasers, were recorded in the ownership and possession column of 7/12 extracts till 1968. From 1968, name of Court Receiver was entered in possession column as actual possessor.

6. That, on the basis of the decree passed in Regular civil Appeal No.55/67 the decree holders Shri. Vijendra Kabra and others have filed execution petition bearing Regular Darkhast No.100/68 in the court of Civil Judge S.D. Aurangabad. The decree holders also requested the court to appoint court Receiver to take possession of the said properties to avoid its waste and encroachment etc. Accordingly, by order dated 10th December, 1968, the court was pleased to appoint Court Receiver who took possession of both the lands survey No.83 and 91 on 12.12.1968 and also issued public notice in the daily newspaper "Dainik Ajantha, in its issue dated 21.12.1968 that he has taken possession of the said lands.

7. That, during the pendency of execution petition No.100/68, number of litigations were initiated by various parties including Qamruddin Aulia Pasha who claimed to be the owner of the properties so also, Qutubuddin and Sayeeduddin and their brother, Gaus Mohiuddin also claimed ownership of the property by filing suit bearing RCS No.749/74. There was a claim made by Syed Razzakali s/o Ahmedali by filing petition under order 21, Rule 97 of the C.P.C. in R.D.100/68 on the ground that they are in actual possession as a tenant. Later on said objection was withdrawn on 17.11.2006. Jabbar Ali and his brothers and sons of Ahmedali claimed to be in actual possession as tenants, filed suit bearing RCS NO.52/80 in respect of the survey No.83 and 91 against Vijendra Kabra and others. Due to various objections, the execution petition remained pending. The suit bearing RCS No.52/80 was withdrawn on 23.08.2005. M/s. Nirman Bharti Landmarks Pvt.Ltd., (CIN NO.U45201PN2005PTC020604) purchased the land survey No.83 and 91 from the decree holders and judgment debtors of RCS No.139/59 as well as number of other persons including those who had filed objections and had claimed alleged tenancy

right, share or Possession in the property. The said sale deed is executed by following vendors :

- (1) Shri Shirishchandra s/o. Asaram Samdani,
- (2) Shri. Anil Asaram samdani,
- (3) Shri. Madhusudan Asaram Samdani,
- (4) Sow. Rukhmabai w/o' Asaram Samdani,
- (5) Shri. Asaram s/o. Mohanlal Samdani,
- (6) Smt. Kamalabai w/o. Lakshminarayan Agrawal,
- (7) Shri. Suresh s/o. Lakshminarayan Aganrual,
- (8) Smt. Leelabai w/o. Ramesh Agrawal,
- (9) Smt. Meena d/o. Ramesh Agrawal,
- (10) Shri Punit s/o. Ramesh Agrawal,
- (11) Shri. Satish s/o. Laxminarayan Agrawal,
- (12) Shri. Prakash s/o. Laxminarayan Agrawal.

The Sale Deed is also signed by following (22) persons as "**Consenting Party No.1**"

- (1) Smt. Kalpana w/o. Subhash Zhavar,
- (2) Smt. Ranjana w/o. Dilip Sarda,
- (3) Smt. Ujjawala w/o. Ravindra Zhavar,
- (4) Smt. Pournima w/o. Rakesh Mehta,
- (5) Smt. seema w/o. Sudhir Joshi,
- (6) Smt. Rajkuwar w/o. late Tarachand Verma,
- (7) Shri. Younus s/o. Haji Janmohammad Motiwala,
- (8) Shri. Siddique s/o. Haji Janmohammad Motiwala,
- (9) Smt. Kulsum s/o. Abdul Gaffar,
- (10) Smt. Shirin Banu Mo. Amanulla Motiwara,
- (11) Smt. Rizwana w/o. Mohammad Idris,
- (12) Mohammed Zuber s/o' Amanulla Motiwala;
- (13) Smt. Farinabanu s/o. Shabeer Rajuani,
- (14) Smt. Zubeda Banu w/o. Muhammad Iqbal Lakhani,
- (15) Smt. Rabiyananu w/o. Muhammad Haroon,
- (16) Smt. Zeba w/o. Javeed Lakhani,
- (17) Shri. Mohammed Imran s/o. Haji Arif,

- (18) Smt. Kausar Banu w/o. Mohammed Yousuf Mukati,
- (19) Shri. Haji Arif s/o. Haji Muhammad,
- (20) Smt. Sharifa Banu w/o. Muhammad Idris,
- (21) Smt. Roshanbanu w/o. Muhammad Farooque and
- (22) Smt. Bilqis Banu w/o. Muhammad Iqbal.

The Sale Deed is also signed by following (9) persons as "**Consenting Party No.2**"

- (1) Shri. Syed Qutubuddin Quadri s/o. Syed Kamruddin Aulia Pasha,
- (2) Shri. Syed Saifuddin s/o. Syed Saiduddin,
- (3) Shri. Syed Faizuddin s/o. Syed Saiduddin,
- (4) Shri. Vikharuddin s/o. Syed Saiduddin,
- (5) Smt. Syeda Haji Begum w/o. Syed Saiduddin,
- (6) Shri. Syed Gaus Mohiuddin Quadri s/o. Syed Kamruddin Aulia Pasha,
- (7) Shri. Syed Zahiruddin s/o. Syed Saiduddin,
- (8) Shri. Syed Merajuddin s/o. Syed Saiduddin,
- (9) Shri. Syed Laiquddin s/o. Syed Saiduddin

8. The Sale Deed is also signed by Shri. Mir Jabbar Ali s/o MirAhmed Ali as "**Consenting Party No.3**" and by Shri. Madhukarrao s/o. Haribhau Muley as "**Consenting Party No.4**".

9. In all 45 persons have executed the sale deed in favor of M/s. Nirman Bharti Landmarks Pvt.Ltd., (CIN NO.U45201PN2005PTC020604) on 21.07.2005 registered at Day Book serial No.AGG-5-2589. After execution of the said sale deed, on the application of M/s. Nirman Bharti Landmarks Pvt. Ltd., it was added as Decree Holder No.5 in R.D. No.100/68. The parties in R.D. No.100/68 who had executed the above sale deed, filed compromise petition and admitted that they have executed sale deed in favor of M/s. Nirman Bharti Landmarks Pvt. Ltd., and requested the court to direct the court receiver to hand over possession of lands situated at survey No.83 admeasuring 10 acres 10 Guntha and survey No.91 admeasuring 3 acre 20 guntha to the said purchaser.

10. That, from the record and proceedings of the execution petition, it is evident that the court receiver appointed in R.D.No.100/68, applied to the Court for granting him permission to hand over possession of the property i.e. land survey No.83 and 91 to the purchaser. The Hon'ble Civil Judge Senior Division, Aurangabad was

pleased to direct the receiver to get the land admeasuring 10 Acres 10 Guntha out of survey No.83 and admeasuring 3 Acres 20 Guntha out of survey No.91 measured and demarcated. The measurement was carried out by TILR and on the basis of said measurement, report was given by the Court Receiver to the Court of CJSO Aurangabad. Thereafter, the Hon'ble Court directed the receiver to hand over actual possession of open and clear land admeasuring 20037.03 square meter out of Survey No.83 and land admeasuring 10566.00 square meter out of Survey No.91 and to hand over symbolic possession of the remaining land which was occupied by encroachers to M/s. Nirman Bharti Landmarks Pvt. Ltd. The receiver thereafter put the purchaser in actual and symbolic possessions of the lands as directed by learned C.J.S.D. Aurangabad.

11. That, when the property was in possession of the Court Receiver, a portion of 8515.6 square meters area from Survey No.83 was acquired for Government library and area admeasuring 2805.00 square meters from land Survey No.91 and area admeasuring 4949.00 square meters from Survey No.83 was acquired for 80 feet D.P. road and possession was taken by the land acquisition officer from the Court Receiver.

12. That, in pursuance to the sale deed dated 21.07.2005, name of M/s. Nirman Bharti Landmarks Pvt.Ltd., (CIN NO.U45201PN2005PTC020604) has been mutated in the revenue records as owners and possessors of land admeasuring 10 Acres 10 Guntha of survey No.83 and land admeasuring 3 Acres 20 Guntha of Survey No.91 vide mutation entry No.893.

13. That, after execution of aforesaid sale deed, on the application of M/s. Nirman Bharti Landmarks Pvt. Ltd., it was added as Decree holder No.5 in RD No. 100/1968. The parties in RD No.100/1968 who had executed the above sale deed, filed compromise petition and admitted that they have executed sale deed in favour of M/s. Nirman Bharti Landmarks Pvt. Ltd., and requested the court to direct the Court Receiver to hand over possession of lands survey no.83(CTS No.17850) admeasuring 10 Acres 10 Gunthas and survey No.91(CTS No. 17849) admeasuring 3 Acre 20 Guntha to the said purchaser.

14. That, on perusal of the record and proceedings of the execution petition, it is evident that the court receiver appointed in RD No. 100/1968, applied to the court

for granting him permission to hand over possession of the property i.e. land survey no. 83(CTS No.17850) and 91(CTS No.17849) to the purchaser. The Hon'ble civil Judge senior Division, Aurangabad was pleased to direct the court receiver to get the suit land situated at survey No. 83(CTS No.17850) and survey No. 91 (CTS No.17849) measured and demarcated. Accordingly, measurement was carried out by T.I.L.R. and on the basis of said measurement, report was given by the court receiver to the court of C.J.S.D. Aurangabad. Thereafter, in compliance of the order passed by C.J.S.D. Aurangabad, on 22.03.2007 the court receiver handed over possession of the aforesaid lands land survey no. 83(CTS No.17850) and 91(CTS No.17849) to M/s. Nirman Bharti Landmarks Pvt. Ltd.

15. That, M/s. Nirman Bharti Landmarks Pvt Ltd sold land admeasuring 1653.63 sq. mtrs., out of land S.No.91, bearing CTS No.17849/4/part to Shri. Shaikh Zuber Ahmed s/o. Khurshid Ahmed vide registered Sale Deed No.AGG-5-4650 dated 27.06.2012.

16. That, the name of Shri. Shaikh Zuber Ahmed s/o. Khurshid Ahmed has been mutated in the revenue record i.e. P.R.Card of CTS No.17849/4 totally admeasuring 4397.46 sq.mtrs., situated at Silleshana Road, Veer Savarkar Marg, Aurangabad, vide mutation entry dated 26.09.2014 taken on the basis of Order No.NA.BHU.1/PO.VI./NA.BHU.KRA. 17850 dated 24.09.2014 to the extent of 1653.63 sq.mtrs.

17. That, registered Development Agreement No.AGG-5-4666 dated 27.06.2012 has been executed by Shri. Shaikh Zuber Ahmed s/o. Khurshid Ahmed in favour of M/s. City Bharati Techno Heritage LLP through its designated partners (1) Shri. Navin Hanumanprasadji Bagdiya and (2) Shri. Ramesh Bodhraj Nagpal in respect of CTS No.17849/4 to the extent of 1653.63 sq.mtrs., situated at Silleshana Road, Veer Savarkar Marg, Aurangabad. As per the development agreement, 47% construction shall come to the share of the owners and 53% construction shall come to the share of the developer.

18. That, as per clause (33) of the Development Agreement, the developers are not entitled to execute final sale deed in favour of the purchasers in respect of their portion of 53% construction, unless owners share of constructed / developed 47% area is handed over to the owners.

19. That, as per clause (22) of the Development Agreement, the developers are entitled to mortgage their share of 53% of the construction in favour of the Bank for obtaining loan.

20. That, as per clause (31) of the development agreement, the developers shall not be entitled to assign the development rights to any third party. The developers are also not entitled to enter into sub-development agreement with any third party. The developers are also not entitled to change the constitution of the partnership firm by retiring any partner without prior consent of the owners but are entitled to add any partner in the firm without taking consent / permission from the owners subject to condition that, the share of Navin Bagadia and Nitin Bagadia is not reduced.

21. That, registered General Power of Attorney No.AGG-5-4667 dated 27.06.2012 has been executed by Shri. Shaikh Zuber Ahmed s/o. Khurshid Ahmed in favour of Shri. Navin Hanumanprasad Bagdiya Managing Partner of M/s. City Bharati Techno Heritage LLP in respect of CTS No.17849/4 to the extent of 1653.63 sq.mtrs., situated at Silleshkhana Road, Veer Savarkar Marg, Aurangabad.

21. As per clause (xiii) of the General Power of Attorney, the developer is entitled to execute Agreement to Sale in "**prescribed form**" in favour of the purchasers in respect of its share of 53% construction. **However, the developer is not entitled to execute final sale deed and the same has to be executed jointly by the owners and the developer.**

22. That, the Aurangabad Municipal Corporation has issued Construction Permission No.1014/2013-14 in file No.919/17/2012-13 dated 06.03.2014 in favour of (1) Shri. Ramesh Bodhraj Nagpal and others, (2) Shri. Ranjit Ashok Darak and Others, (3) Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed through their GPA M/s. City Bharati Techno Heritage LLP. **As per the approved construction plan perused by me, the proposed building to be constructed on the plot of land owned by Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed is demarcated as "Building-C".**

23. That, the Asst. Director of Town Planning, Aurangabad Municipal Corporation has given his recommendations for grant of N.A. Permission vide letter No.MANAPA/ NARAVI/ SASANAR/ 425/2015 dated 28.04.2015 in respect of land totally admeasuring 23325.07 sq.mtrs., situated at CTS No.17849 and 17850, Sillekhana Road, Veer Savarkar Marg, Aurangabad.

24. That, the Collector, Aurangabad has granted N.A. permission u/s. 44 of the MLR Code vide No.JA.KRA.2007/MASHAKA/JAMIN-1/NAP-34/MOUJE AURANGABAD, TA. AURANGABAD/PRA.KRA.315 dated 01.08.2015 in favour of M/s. Bharati Landmarks Pvt.Ltd., (CIN NO.U45201PN2005PTC020604) through its director Shri. Ranjit Ashok Darak in respect of CTS No.17850/2, 17850/4, 17850/5, 17850/6, 17850/8, 17849/2, 17849/4 and 17849/5 totally admeasuring 23325.07 sq.mtrs., situated at Sillekhana Road, Veer Savarkar Marg, Aurangabad.

25. That, the Superintendent of Land Records, Aurangabad has approved the sub-division of plot CTS No.17849 and CTS No.17850 vide his Order No.NA.BHU.1/PO.VI./ NA. BHU. KRA.178501 dated 24.09.2014 as under :

Sr.No.	Sub-divided CTS No.	Area (Sq.mtrs.)
1	17849/1	4572.78
2	17849/2	2703.45
3	17849/3	1000.00
4	17849/4	4397.46
5	17849/5	1562.84
6	17850/1	8815.60
7	17850/2	6864.18
8	17850/3	10074.18
9	17850/4	1231.17
10	17850/5	3640.10
11	17850/6	1691.33
12	17850/7	7911.37
13	17850/8	1234.54

26. That, that Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed and Developer City Bharati Techno Heritage LLP entered and executed registered Deed of Rectification / Addendum bearing document No.AGG-2-6943 dated 13.10.2014 thereby amending certain terms and conditions of the Development Agreement.

27. **That, as per clause (8) of the Deed of Rectification, the Agreement to Sale as well as the final Sale Deed in favour of the purchasers of the units in the building will be executed "Jointly" by the owners and the developers.**

28. That, in pursuance to the execution and registration of sale deed in favour of Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed, in respect of said plot after taking into consideration inspection of the deeds and documents which are placed before me for my perusal and submitted to me for the purpose of giving this report I am submitting this report. During my inspection of the documents, I have not come across any subsisting charge or mortgage over the said property.

29. A Special Civil Suit No.351/2008 has been filed by Shri. Mir Jabbar Ali against the present M/s. Nirman Bharti Landmarks (Pvt) Ltd., and others seeking cancelation of registered sale deed No.2589/2005 dated 21.07.2005 executed by him in favour of M/s. Nirman Bharti Landmarks (Pvt) Ltd., in which, the plot owners i.e. Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed have been added as defendant. However, in my opinion, institution of the said suit does not affect the right and title of the plot owners over the said property. Therefore, on the basis of the documents and the papers as mentioned above which have been given for my perusal and subject to whatever has been said hereinabove, I am of the opinion that, mortgagor/owner i.e. has clear and marketable title on the said plot by virtue of the sale deed No.AGG-5-4650 dated 27.06.2012.

30. On perusal of aforesaid documents and record, I am of the opinion that, Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed is the absolute owner and M/s. City Bharati Techno Heritage LLP, is the GPA holder and possessors of aforesaid plot of land. Their title is clear, marketable and free from all encumbrances and the pending Special Civil Suit No.351/2008 filed by Shri. Mir Jabbar Ali, in my opinion (which is based on the documents placed before me), is likely to be dismissed.

31. That, from the documents and record produced before me, it is seen that, that Shri. Mir Jabbar Ali s/o. Mir Ahmed Ali, who is the Consenting Party No.3, to the registered Sale Deed No.AGG-5-2589 dated 21.07.2005 executed by Shri. Shirishchandra Asaram Samdani and others in favour of M/s. Nirman Bharati Landmarks Pvt. Ltd., has instituted Special Civil Suit No.351/2008 before Civil Judge Senior Division, Aurangabad against M/s. Nirman Bharati Landmarks Pvt. Ltd., and others for cancellation of aforesaid registered sale deed.

32. The Plaintiff i.e. Shri. Mir Jabbar Ali has added Mortgagors/Owners i.e Shri. Shaikh Zuber Ahmed s/o. Shaikh Khurshid Ahmed as defendant.

33. The relief which is sought from the court is cancellation of sale deeds and injunction. In the said Suit Shri. Mir Jabbar Ali has also filed application for temporary Injunction below Exh.5 against M/s. Nirman Bharati Landmarks Pvt. Ltd. However, no interim order has been passed against M/s. Nirman Bharati & Others.

34. That, the suit documents and pleadings of the parties, reveal that suit is filed with intention of extortion of money from the defendants. It is revealed from the pleadings and documents, that Shri. Mir Jabbar Ali had earlier filed objection petition in Regular Darkhast No.100/68 before Civil Judge, Sr. Division, Aurangabad claiming rights, title and interest in the property bearing survey No. 83 & 91, Sillekhana, Aurangabad which was subsequently withdrawn by filing withdrawal purshis admitting the execution of sale deed dated 21.07.2005. In the said withdrawal purshis the plaintiff has stated/declared that he will not claim any right, title, interest in the said property. Further in the said purshish, he has also accepted that neither himself nor his father were in possession of the said property as tenant and has no objection for delivering actual and physical possession of said property to M/s. Nirman Bharati through court receiver. It is also revealed that Shri. Mir Jabbar Ali has suppressed material fact about dismissal of Writ Petition bearing No. 3475/2007 filed before Hon'ble High Court, Bombay Bench at Aurangabad wherein he claimed rights, title and interest in said property and also suppressed material fact about dismissal of appeal bearing No.126/2006 filed before Sub-Divisional Officer, Aurangabad challenging the Mutation Entry No.893 sanctioned in favour of M/s. Nirman Bharati.

35. That, it is further seen that, Shri. Mir Jabbar Ali has received consideration amount of Rs.1,89,00,000/- as per terms of the sale deed dated 21.07.2005 and has withdrawn Complaint u/s. 138 of the Negotiable Instruments Act, 1881 filed by him against M/s. Nirman Bharati, thereby confirming right, title and ownership of M/s. Nirman Bharati Landmarks Pvt. Ltd., and others.

36. As such, in my opinion, the Special Civil Suit No.351/2008 filed by Shri. Mir Jabbar Ali is less likely to be decreed and more likely to be dismissed.

37. In view of the foregoing facts and circumstances, it is clear that there is no legal impediment for mortgaging plot admeasuring 1450.00 sq.mtrs., forming part of CTS No. 17850/2 owned by (1) Shri. Shaikh Fuzel Ahmed s/o. Shaikh Zuber Ahmed and (2) Shri. Shaikh Sohail Ahmed s/o. Shaikh Zuber Ahmed in favour of any Bank or Financial Institution.

38. Xerox copy of registered Mortgage Deed No.AGG-1-6621 dated 01.01.2015 has been executed by (1) M/s. City Bharati Techno Heritage LLP through its partners and (2) Shri. Zuber Ahmed s/o. Khurshid Ahmed in favour of Sunderlal Savaji Urban Co-operative Bank Ltd.,in respect of "Building-C" to be constructed on plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhana, Behind M.P.Law College, Aurangabad.

39. Original registered Agreement to Sale No.AGG-6-1782 dated 28.04.2017 executed by (1) M/s. City Bharti Techno-Heritage LLP through its authorized signatories Shri. Navin Hanumanprasad Bagadiya and (2) Shri. Shaikh Zuber Shaikh Khurshid Ahmed in favour of Shri. Chandrakumar Bansilal Malani in respect of Shop No.B-001 admeasuring 59.70 sq.mtrs. carpet area, Ground Floor, in commercial condominium known as "NIRMAN BHARATI CITY CENTRE" constructed on Plot CTS No.17849/4/part to the extent of 1653.63 sq.mtrs., situated at Sillekhana Road, Veer Savarkar Road, Aurangabad, within the limits of Aurangabad Municipal Corporation, Aurangabad.

vii) Details of the encumbrances, if any observed by the Advocate need to be clearly brought out including any court cases.

THE PROJECT IS ALREADY MORTGAGED TO THE SUNDERLAL SAVAJI CO-OPERATIVE BANK LTD.

- viii) *The advocate shall make searches or to verify the non-encumbrance certificate, as the case may be. If it is of a Society, NOC from Society may also be demanded. If it is in builder's possession, NOC from builder may also be demanded.*

(1) NO DUES/ NO LIEN CERTIFICATE OF SUNDERLAL SAVAJI CO-OPERATIVE BANK SHOULD BE OBTAINED.

- ix) *Whether any minor's interest is involved, if involved what are the steps to be taken for effective mortgage and to protect the interest of the Bank.*

NOT APPLICABLE.

- x) *The Advocate shall discuss whether the land holdings of the title holders are affected by any land ceiling legislation in force. The Advocate shall also suggest remedial measures and safeguards required if any.*

NOT APPLICABLE.

- xi) *The report should clearly state that the title is clear, marketable, valid and binding on the mortgagor and a valid mortgage (equitable or simple – to be mentioned) can be created by the mortgagor in favour of the Bank.*

That, I have perused the original sale deed, in respect of the aforesaid property, which disclose an un-broken chain of ownership and show that the present owners are in un-disturbed ownership of the property since the date of its purchase & mutation of the property in their name & they have derived their title from previous lawful owner of the said shop.

On perusal of the aforesaid revenue record and documents, I am of the opinion that (1) M/s. City Bharti Techno-Heritage LLP through its authorized signatories Shri. Navin Hanumanprasad Bagadiya and (2) Shri. Shaikh Zuber Shaikh Khurshid Ahmed are the absolute owners and possessors of Shop No.B-001 admeasuring 59.70 sq.mtrs. carpet area, Ground Floor, in commercial condominium known as "NIRMAN BHARATI CITY CENTRE" Plot CTS No.17849/4/part to the

extent of 1653.63 sq.mtrs., situated at Silleshana Road, Veer Savarkar Road, Aurangabad, within the limits of Aurangabad Municipal Corporation, Aurangabad. Their title is clear, perfect, marketable and free from all encumbrances **except existing charge of Sunderlal Savaji Urban Co-operative Bank Ltd.** and the same will pass on to the intending purchaser Shri. Chandrakumar Bansilal Malani after execution of registered Sale Deed in his favour by the present owner.

That, valid registered mortgage can be created by the present owner in favour of our Bank.

That, after execution of registered mortgage, it is necessary to record Bank's charge in the record of rights i.e. P.R.Card and keep certified copy on Bank's record.

I have inspected the record of registry and Index - II of the Office of Sub-Registrar, Aurangabad for last 13 years through "online search" and have deposited the requisite charges towards search fees vide GRN No.MH003094148201718E dated 03.07.2017 which is annexed herewith. Hence this report.


P.B. Parthankar
Advocate