

# Subodh M. Shah

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Date : 1/3/2017

## TITLE CERTIFICATE

**NAME OF THE LAND OWNER:- ANWAR HUSSAIN JAMALUDDIN THIM**

**NAME OF THE DEVELOPER:- M/S. AMIT BUILDERS, PUNE.**

**PROPERTY:-** All that piece and parcel of the properties **situated at Village Pathardi**, Taluka and District Nashik, within Nashik Municipal Corporation and within Registration and Sub Registration District Nashik, S. No., area and bounded as follows :-

| S. NO. | AREA         |
|--------|--------------|
| 1/1    | H. 1-94 Are. |
| 1/2    | H. 1-94 Are. |
| 1/3    | H.2-78 Are   |
| 1/4    | H. 1-93 Are. |
| 1/5    | H.1-93 Are   |
|        | H. 10-52 Are |

Jointly Bounded as follows -

On or towards East :- By S.No. 2,3,4 and 5  
On or towards West :- By 30 Mtrs. D.P. Road  
On or towards South :- By 30 Mtrs. D.P.Road  
On or towards North :- By S.No. 6

**HISTORY:-** After going through the relevant revenue records like, 7/12 extracts and mutation entries and other relevant orders and papers and after taking the search of Index II registers at the office of Sub Registrar, Nashik for last 30 years, my observations are as follows :-

Following documents perused:

- [1] 7/12 extract since last 30 years
- [2] Mutation Entries since last 30 years
- [4] N. A. Order
- [5] Copy of final approval letter
- [6] Copies of different sale deeds dated 23/5/1995, 26/6/1995, 28/6/1995.
- [7] Copy of Gift Deed dated 20/8/2009.
- [8] Copy of Development Agreement(JV) dated 22/12/2007.

It appears from record of rights that Fakir Mohammad Burhan Saheb, Sakharam Kisan Donde and Gangubai Yadav Bhalerao were owners of S. No. 1 since prior to 1980.

M.E.No. 2747 is effected in the record of rights on 13-8-1995 for giving effect to the Indian Coinage Act and Indian Enforcement Act.

Sakharam Kisan Donde was tenant of S. No. 1 and on implementation of the B.T. & A. L. Act he was declared as owner u/s. 37 G by Tehasildar and as such his name was shifted from other rights

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column to owners column under M.E.No. 2758. (Date of the said mutation entry is not readable).

Gangubai Yadav Bhalerao died on 20/6/1981 she has legal heirs namely Shantabai Sitaram Bhalerao, Natha Sitaram Bhalerao, Jagan Sitaram Bhalerao and as per her Will dated 7/6/1979 that the names of said legal heirs are mutated in the owners column under M. E. No.3319 on 10/1/1982 and as such name of Gangubai Yadav Fakirrao is deleted from the owners column.

M. E. No. 3746 is effected on 12/11/1984 but the said mutation entry is in torn condition and can not be readable.

As per the order of Tahasildar Nashik dated 30/9/1991 certificate u/s. 32 M of the B.T. & A. L. Act the names of Sakharam Kisan Donde, Hari Kisan Donde, Malhari Kisan Donde and Gondabai Lahu Donde are mutated in the owners column for the area 11 anas 9 paise under M. E. No. 5276 on 30/10/1991 and name of Fakir Mohamad Burhan Saheb is deleted from the 32 M certificate in respect of S.No. 1.

As per the order of Tahasildar Nashik dated 10/4/1992 Sakharam Kisan Donde and others partitioned S. No. 1 amongst themselves and as such S. No. 1 is sub divided into different hissass, S. No. 1/1 is allotted to Sakharam Kisan Donde etc.7, S. No. 1/2 is allotted to Sakharam Kisan Donde, S. No. 1/3 is allotted to Hari Kisan Donde, S. No. 1/4 is allotted to Malhari Kisan Donde, S. No. 1/5 is allotted to Godabai Lahu Donde and S.No. 1/6 is allotted to Shantabai Sitaram Bhalerao and others and as such the names of the aforesaid allottees are mutated in the owners column for the respective hissass under M. E. No. 5405 on 24/4/1992.

That Hari Kisan Donde died on 1/5/92 and as such name of his legal heirs namely two widows Sunderabai and Shantabai, two sons Raychand and Deepchand Donde are mutated in the owners column while the names of married daughters Kalawati Hiranman Ramraje, Sushila Ashok Bhalerao, Ratan Baburao Kale, Sarala Chandrakant Gade are mutated in the other rights column and one of the son Bhikchand Haribhau Donde (died) name of his legal heirs Shankuntala Bhikchand Donde, two sons Prakash and Gautam, names of daughters Sunita Bhikchand and Suvarna are mutated in the owners column under M. E. No. 5461 on 3/6/1992 for S. No. 1/1 and 1/3.

M. E. No. 5601 is effected on 28/9/1992 for correcting the remark of Restricted Ownership u/s. 43 of the B.T. & A. L. Act on the property owned by Shantabai Sitaram Bhalerao in respect of S.No. 1/6 and the name of Sakharam Kisan Donde as protected tenant is mutated in the other rights column. The said name of the tenant is deleted from the other rights column under order of Tehasildar under M. E. No. 5641 on 13/1/1993.

That as per the hissa form No. 12 hissass of S. No. 1 are rearranged whereby new S.No. 1/1 is allotted to Malhari Kisan, S. No.1/2 is allotted to Sundarabai Hari Donde etc. , S.No. 1/3 is allotted to Natha Sitaram Bhalerao etc., S.No. 1/4 is allotted to Sakharam Kisan Donde and S.No. 1/6 is allotted to Godabai Lahu Donde under M. E. No. 5842 on 6/11/1993.

That Sakharam Kisan Donde died on 16/10/1994 and as such names of his legal heirs namely widow Sitabai, son Gopichand are mutated in the owners column while the names of married daughters

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Sumanbai Devram Pawar, Vimal Bai Somnath More, Leelabai Sampat Bhalerao Vatsalabai Bhalerao are mutated in the other rights column M. E. No. 6077 on 8/2/1995.

That Sumanbai Devram Pawar, Vimalbai Somnath More, Leelabai Sampat Bhalerao and Vatsalabai Sampat Bhalerao are released their rights in favour of Gopichand Sakharam Donde for S. No. 1/4 and as such their names are deleted from the other rights column under M. E. No. 6166 on 7/6/1995.

That Rajendrakumar Pyarelal Arora purchased S.No. 1/3 from Shantabai Sitaram Bhalerao and others by sale deed dated 23/5/1995 and as such name of the said purchaser is mutated in the owner column under M. E. No. 6203 on 13/9/1995.

Sakharam Kisan Donde died on 16/10/1994 and as such names of legal heirs namely widow Geetabai son Gopichand Sakharam Donde are mutated in the owners column and names of married daughters Sumanbai Devram Pawar, Vimalbai Somnath More, Leelabai Sampat Bhalerao and Vatsalabai Sampat Bhalerao are mutated in the other rights column under M. E. No. 7743 on 10/3/2000 for S. No. 1/4.

M. E. No. 7748 is not pertaining to the aforesaid property.

That the remark of u/s. 43 of B. T. & A. L. Act is deleted from the other rights column as per order of Sub Divisional Officer for sell of the property for S. No. 1/1, 1/2, 1/4, 1/5 under M. E. No. 7969 on 6/11/2000.

That Anwar Hussain Jamaluddin Thim purchased S. No. 1/2 from Sundarabai Haribhau Donde and others by sale deed dated 30/11/1995 and as such name of the said purchaser is mutated in the owner column under M. E. No. 8000 on 22/11/2000.

That Anwar Hussain Jamaluddin Thim purchased S. No. 1/5 from Gondabai Lahu Donde and others by sale deed dated 26/6/1995 and as such name of the said purchaser is mutated in the owner column under M. E. No. 8001 on 22/11/2000.

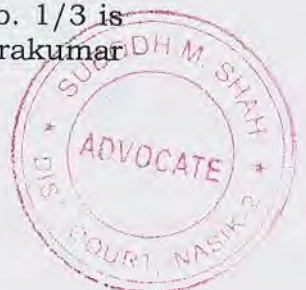
That Anwar Hussain Jamaluddin Thim purchased S. No. 1/1 from Malhari Kisan Donde and others by sale deed dated 28/6/1995 and as such name of the said purchaser is mutated in the owner column under M. E. No. 8002 on 22/11/2000.

That Anwar Hussain Jamaluddin Thim purchased S. No. 1/4 from Gopichand Sakharam Donde and others by sale deed dated 26/6/1995 and as such name of the said purchaser is mutated in the owner column under M. E. No. 8003 on 22/11/2000.

Due to the mistake of Talathi, the name of Anwar Husain Jamaluddin Thim is mutated in the owners column of S.No. 1/5 instead of Rajendrakumar Pyarelal Arora and as such as per order of Tehasildar Dated 27-8-2008 the said mistake is corrected and name of Rajendrakumar Pyarelal Arora is mutated in the owners column under M. E. No. 13939 on 29-8-2008.

The charge of Income Tax in other rights column of S. No. 1/3 is deleted under M.E.No. 13786 on 17-7-2008 as Mr. Rajendrakumar Pyarelal Arora repaid the amount of Income Tax.

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That Mr. Rajendra Pyarelal Arora died on 20-5-2004 at Mumbai and as such names of his legal heirs namely widow Premlata Rajendra Arora and daughters Ushalata Vinod Bishwas, Swapna Rammohan Nayar, Gitanjali Samir Sablok and Kavita Subir Samanta under M.E. No. 13941 on 29-8-2008 for S.No. 1/3 and 1/5.

That Ushalata Vinod Bishwas, Swapna Rammohan Nayar, Gitanjali Samir Sablok and Kavita Subir Samanta released right in favour of their mother Smt. Premlata Rajendra Arora under M.E.No. 14092 on 18-10-2008 for S.No. 1/3 and 1/5.

Premlata Rajendra Arora gifted S.No. 1/3 and 1/5 to the present holder Answar Husain Jamaluddin Thim and as such name of the present holder is mutated in the owners column of S.No. 1/3 and 1/5 under M.E. No. 14791 on 21-8-2009.

M.E.No. 14792 is not pertaining to the aforesaid property.

One Sharda Deochand Donde has filed Special Civil Suit No. 324/2011 in the matter of S.No. 1/1 and accordingly the Talathi had entered M.E.No. 20998 which was objected by the present owner and in view of the order by Nayab Tehasildar Dated 2-11-2013 the said mutation entry is cancelled.

That the present developer has prepared a building plan on the said property which is duly approved by Nashik Municipal Corporation on 17-3-2015 under commencement certificate No. LND/BP/ CD/B5 / 871 /2623 on 29/8/2011. The developer is entitled to sell, alienate and dispose off the super structure and share the sale proceeds of 70% and land owners share the sale proceeds of 30% and as such for each sell, mortgage or any indenture for disposing off the super structure shall be jointly executed by the developers and the land owners. The joint venture agreement has given powers to the developer to create mortgage and raise loan for the construction.

That Kamalabai Krishna Pawar and others executed Lis Pendency Notice which is duly registered at the office of Sub Registrar Nashik at Sr. No. 2055/2013 on 18/2/2013 and as such M. E. No. 21323 is recorded but not certified till today and the said mutation entry pertains to S. No. 1/5.

That Sarla Chandrakant Gade and others have filed RCS No. 144/2014 in the Civil Court, Nashik and executed Lis Pendency Notice which is duly registered at the office of Sub Registrar Nashik at Sr. No. 51122/2014 on 10/12/2014, M.E.No. 22998 is entered on 23-12-2014 in the mutation entry register but is not certified as on date and therefore effect of this mutation entry has not come in the other rights column of the 7/12 extracts.

That the aforesaid holder executed a Development Agreement for Joint Venture in respect of S.No. 1/1, 1/2 and 1/4 in favour of M/s. Amit Builders on 22-12-2007 which is duly registered at the office of Sub Registrar, Nashik 5 at Sr. No. 3092 on 28-3-2008.

That the aforesaid holder executed a Development Agreement for Joint Venture in respect of S.No. 1/3 and 1/5 in favour of M/s. Amit Builders on 24-12-2009. The said agreement was not registered and was executed on Rs. 100/- stamp and therefore the said document was

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impounded and necessary deficit of stamp duty is deposited in the Govt. treasury and the Collector of Stamps certified the said agreement duly stamped and both the parties have executed a deed of confirmation on 1-11-2010 which is duly registered at the office of Sub Registrar, Nashik at Sr. No. 10458 on 1-11-2010.

That as per the aforesaid documents the aforesaid developer is entitled to develop the said property by constructing buildings thereon and share the super structure with the land owners in the manner as detailed in the said agreements.

In view of the aforesaid observations it appears that there are three suits pending, the details are as follows:

[1] Sharda Devchand Donde has filed Civil Suit No. 324/2011 regarding partition of the property i.e. S.No. 1/1. No injunction appears to have been granted in the matter.

[2] RCS No. 31/2011 is filed by Kamalabai Krishna Pawar etc. 5 for partition of the property i.e. S. No. 1/5. No injunction appears to have been granted in the matter. In the said suit the present holder Mr. Anwar Husain Thim is made as defendant No. 15. From the documents produced it appears that the present holder and the plaintiff have entered into compromise and filed compromise term on 21-3-2011 wherein the plaintiff on receipt of the consideration from the present holder have given up their claim on the subject property although no order have been passed till date and therefore it seems that there is no substance in the said suit.

[3] RCS No. 144/2014 is filed by Sarla Chandrakant Gade etc. 2 for partition of the property. No injunction appears to have been granted. The present holder is made defendant No. 5 in the said suit. As per sale deed dated 28-6-1995 the present holder have paid entire amount of consideration by cheque to the said plaintiffs who are the vendors in the said sale deed. The suit is filed in 2014, about 18 years after the execution of sale deed and the present holder is in possession and occupation of the said property since the date of sale deed, moreover the said plaintiff have not sought any relief of cancellation of sale deed dated 28-6-1995 and therefore the court has to consider this facts while deciding the said suit.

In all the aforesaid suits, no lis-pendence is recorded in the other rights column of the record of rights as on today so also the suits are pertaining to number of properties and the plaintiff have claimed right of inheritance which is difficult to be proved.

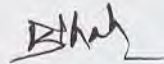
The search of Index II registers is conducted in the office of Sub Registrar, Nashik vide receipt No. 1551 on 28/2/2017 under application No. 247/2017 and no adverse entries is observed during the course of the search.

No charge, encumbrance or defect in title is observed during the course of the aforesaid observation, in respect of the aforesaid property.

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**OPINION:-** In consistence with my above observations, I am of the opinion that the title of the aforesaid holder to the aforesaid property is clear, negotiable and marketable without any charge, encumbrance and defect in title subject to the disposal of the aforesaid suits.



**SUBODH M. SHAH**  
Advocate

