

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH, PUNE**

**APPEAL NO. 91 OF 2026**

*[Under Section 16(h) of the National Green Tribunal Act, 2010 read with Rule 14 of the National Green Tribunal (Practices & Procedures) Rules, 2011]*

Nazre Alam Abdul Bayan & Ors.

... Appellant

*versus*

The State Environment Impact Assessment Authority  
& Ors.

... Respondent

**AFFIDAVIT IN REPLY ON BEHALF OF THE RESPONDENT**

**NO. 2**

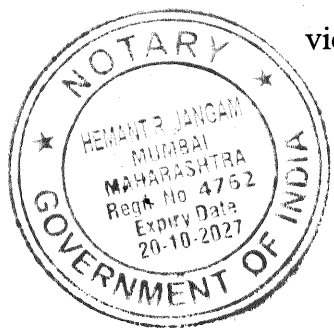
I, Abdul Karim Barudgar, aged 62 years, an adult Indian inhabitant, the authorised representative of the Respondent No. 2 having its office at Flat No. G – 6, Rizvi Nagar, S.V. Road, Santacruz (W), Mumbai – 400054 do hereby solemnly affirm and state as under:

1. I say that an affirmed copy of the captioned Appeal filed under Section 16(h) of the National Green Tribunal Act, 2010 read with Rule 14 of the National Green Tribunal (Practices & Procedures) Rules, 2011 was served upon Respondent No. 2 on 14<sup>th</sup> June 2026. I say that I have perused the contents of the affirmed copy of the captioned Appeal. The Appellant, by way of the present Appeal, is *inter alia* challenging the Environment Clearance dated 13<sup>th</sup> February 2026 (“EC”) granted to the present Respondent No. 2 for the proposed redevelopment project at C.T.S. Nos. 7247, 7247/1 to 4, Village – Kolekalyan,



C.S.T. Road, Kalina, Santacruz (East), Mumbai – 400098  
("Project"). I am aware and fully conversant with the facts of  
the present case and duly authorized to depose to the same.

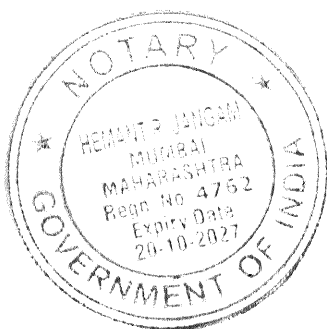
2. At the outset, I deny each and every statement, allegation, averment and contention in the Appeal as if the same were denied herein *verbatim* and traversed *seriatim*. Nothing in the Appeal shall be deemed to be admitted merely by reason of non-traverse. I crave leave of this Hon'ble Tribunal to file further pleadings and/or documents if the need so arises at a later stage. I also crave leave of this Hon'ble Tribunal to file a compilation of documents at the time of hearing of the captioned matter.
3. At the further outset, I respectfully submit that the Environment Clearance dated 13<sup>th</sup> February 2026 has been granted by Respondent No. 1 strictly in accordance with the applicable provisions of law, after due consideration of all material documents, studies, reports, recommendations and information placed before it, and upon being satisfied that the Project satisfies all applicable environmental requirements. The impugned Environment Clearance has been granted following due application of mind and adherence to the prescribed statutory procedure and is neither arbitrary, illegal, perverse nor otherwise liable to be interfered with by this Hon'ble Tribunal.
4. I say and submit that the present Appeal is wholly misconceived, devoid of any merit and liable to be dismissed in limine. The Appellants have failed to demonstrate any violation of the provisions of the Environment (Protection) Act,



1986, the E.I.A. Notification dated 14<sup>th</sup> September 2006, any condition of the Environment Clearance dated 13<sup>th</sup> February 2026 and/or any other applicable environmental law by Respondent No. 2 warranting interference by this Hon'ble Tribunal in exercise of its appellate jurisdiction under Section 16 of the National Green Tribunal Act, 2010.

5. I say that a reading of the Appeal would show that the Appellants have, inter alia, sought to challenge the Environment Clearance on the following broad grounds: (i) the alleged violation of Paragraphs 2 and 6 of the E.I.A. Notification dated 14<sup>th</sup> September 2006 on the premise that redevelopment activities were commenced without obtaining prior Environment Clearance; (ii) the alleged suppression of 17 pending litigations in Form-1 submitted as part of the Environment Clearance application; and (iii) various allegations relating to purported environmental degradation and adverse environmental impacts arising from the Project. Each of the aforesaid allegations is misconceived, factually incorrect, legally untenable and is specifically denied hereinafter.
6. Without prejudice to the aforesaid, I say that the scope of the present Appeal now stands considerably narrowed in view of the order dated 27<sup>th</sup> April 2026 passed by this Hon'ble Tribunal while admitting the Appeal. This Hon'ble Tribunal has specifically recorded:

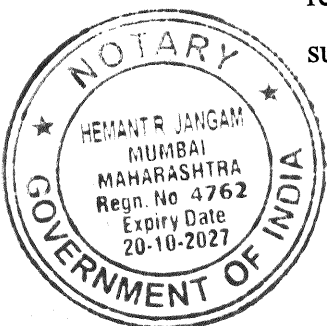
*“After having heard the learned counsel for the appellants, the only ground for quashing the EC dated*



*13.02.2026 for the project at CTS Nos.7247, 7247/1 to 4, Village Kolekalyan, CSR Road, Kalina, Santacruz (East), Mumbai is said to be concealment of 17 cases not being disclosed in Form-1 in Column No.41, which is annexed at Page No.218 of the paper book. Rest of the grounds, the learned counsel for the appellants did not press."*

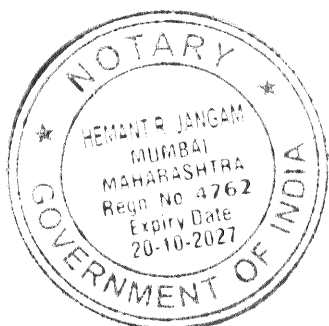
Accordingly, the Appellants have themselves given up all other grounds urged in the Appeal, including the allegations relating to the purported violation of Paragraphs 2 and 6 of the E.I.A. Notification dated 14<sup>th</sup> September 2006 and the objections regarding alleged environmental degradation. Consequently, the only issue that survives for consideration in the present Appeal is the allegation regarding the alleged non-disclosure of 17 litigations in Form-1, which allegation is wholly misconceived and is dealt with hereinafter.

7. Further, it is respectfully submitted that, in view of the aforesaid order dated 27<sup>th</sup> April 2026, the Appellants are not entitled to urge or revive any ground which they expressly chose not to press at the time of admission of the present Appeal. The scope of the present proceedings stands confined to the issue recorded by this Hon'ble Tribunal in the said order, namely, the alleged non-disclosure of litigations in Form-1. In the event the Appellants seek to advance submissions on any other ground abandoned at the stage of admission, Respondent No. 2 expressly reserves all its rights and contentions in that regard, including the right to object to the maintainability of such submissions, to contend that the Appellants are precluded



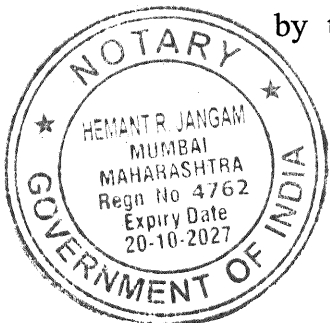
from enlarging the scope of the present Appeal beyond the ground recorded in the order dated 27<sup>th</sup> April 2026, to seek appropriate directions from this Hon'ble Tribunal, to file such further affidavit(s), pleadings and documents as may be necessary to deal with any such additional grounds, and to pursue such other remedies as may be available in law against any order permitting the Appellants to reagitate or revive the grounds which were expressly not pressed.

8. It is emphatically denied that Respondent No. 2 played any fraud upon Respondent No. 1 or obtained the Environment Clearance by suppression or concealment of material facts. At no point did Respondent No. 2 withhold or conceal any information which was required to be disclosed under the applicable statutory framework.
9. I say that the allegation of suppression proceeds on a complete misreading of Form-1 prescribed under the E.I.A. Notification dated 14<sup>th</sup> September 2006. Column No. 41 of Form-1 specifically requires disclosure of ***"litigation pending against the project and/or land in which the project is proposed to be set up."*** Respondent No. 2 accordingly answered the said query in the negative since none of the proceedings relied upon by the Appellants pertain to the Project or the land on which the Project is proposed to be developed. The said proceedings relate to disputes concerning demolition notices issued by Respondent No. 3, disputes inter se members of the Society, disputes concerning resolutions passed by the Society, contractual disputes and other ancillary proceedings, none of which are proceedings concerning the Project or the land on



which the Project is proposed to be developed within the meaning of Column No. 41 of Form-1.

10. Without prejudice to the aforesaid, I say that even before the grant of the Environment Clearance, Respondent No. 2 voluntarily furnished an Indemnity Bond dated 5<sup>th</sup> February 2026 to Respondent No. 1, wherein details of all the proceedings now relied upon by the Appellants were expressly disclosed. Thus, although the said proceedings were not required to be disclosed in response to Column No. 41 of Form-1, Respondent No. 2 nevertheless placed the entire factual position before Respondent No. 1 by way of abundant caution and in the interest of complete transparency. Hereto annexed and marked as Exhibit "A" is a copy of the said Indemnity Bond dated 5<sup>th</sup> February 2026.
11. Accordingly, Respondent No. 1 was fully aware of the existence, nature and status of all the proceedings prior to granting the Environment Clearance. Having considered the material placed before it, including the aforesaid disclosure, Respondent No. 1 consciously proceeded to appraise the Project on its environmental merits and thereafter granted the Environment Clearance in accordance with law. The allegation that the Environment Clearance stands vitiated on account of suppression is therefore wholly misconceived and contrary to the admitted record.
12. The allegation of fraud and suppression is further rendered untenable by the fact that the very proceedings now relied upon by the Appellants were already within the knowledge of



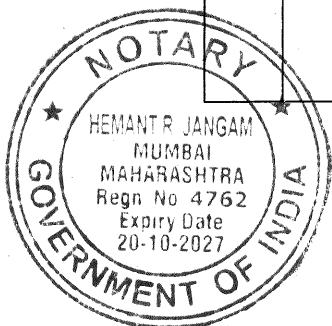
Respondent No. 1 prior to the grant of the Environment Clearance. It is well settled that where the competent authority is in possession of the relevant facts and proceeds to take an informed decision, no allegation of suppression or concealment can be sustained. The burden of establishing fraud or deliberate concealment lies squarely upon the Appellants, which burden has not been discharged.

13. Without prejudice to the aforesaid, several of the proceedings disclosed in the Indemnity Bond had already been disposed of prior to the grant of the Environment Clearance, while several others remain pending. Respondent No. 2 has produced an updated tabular statement setting out the present status of each proceeding, together with the final orders in the disposed matters and copies of the principal pleadings (without annexures) in the pending proceedings. The same clearly demonstrate that none of the proceedings relied upon by the Appellants are proceedings concerning the Project or the land on which the Project is proposed to be developed within the meaning of Column No. 41 of Form-1.
14. A tabular statement setting out the present status as on date and outcome of the proceedings disclosed to Respondent No. 1, together with the nature of the disputes involved therein, is reproduced hereinbelow:

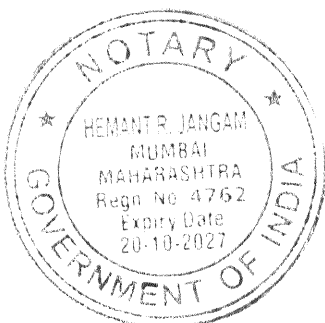
| Sr. No.                                  | Particulars of proceedings  | Parties                     | Status           |
|------------------------------------------|-----------------------------|-----------------------------|------------------|
| <b>Before City Civil Court, Dindoshi</b> |                             |                             |                  |
| 1.                                       | Civil Suit No. 939 of 2023. | Nazare Alam<br>Abul Bayan & | <b>DISMISSED</b> |



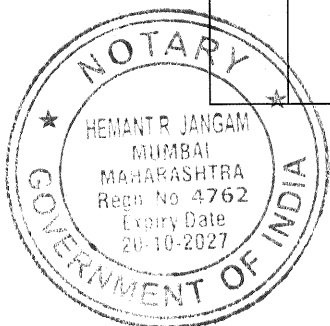
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|    |                                                     | Ors.<br>v.<br>MCGM, Kailash<br>Prabhat CHS Ltd.<br>& Anr.                          | <p>Suit filed by the Appellants herein against the Society and MCGM (Respondent No.3 herein).</p> <p>The Respondent No.2 herein is not a party to this litigation.</p> <p>A copy of Order dated 2<sup>nd</sup> May 2026 whereby the Suit was dismissed for default is annexed hereto and marked as <b><u>Exhibit "B"</u></b>.</p> |
| 2. | Draft Notice of Motion in L.C. Suit No. 939 of 2023 | Kailash Prabhat CHS Ltd. (Applicant)<br>v.<br>Nazare Alam<br>Abul Bayan & Ors.     | <p><b>DISMISSED</b></p> <p>Interlocutory proceeding in the litigation listed at Sr. No.1 above.</p>                                                                                                                                                                                                                               |
| 3. | Civil Suit No. 1265 of 2024                         | Mirza<br>Yadullah<br>Kairkhah<br>v.<br>MCGM, Kailash<br>Prabhat CHS Ltd.<br>& Anr. | <p><b>PENDING</b></p> <p>Suit filed by the Appellants herein against the Society and MCGM (Respondent No.3 herein).</p> <p>The Respondent No.2 herein is not a party to this litigation.</p> <p>Copy of the Complaint without exhibits is</p>                                                                                     |



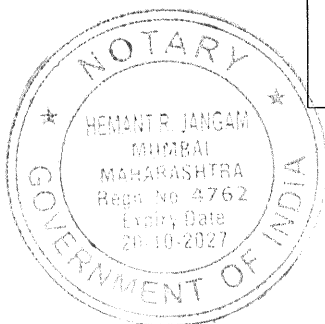
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|    |                                                                                    |                                                                                                      | annexed hereto and marked as <b><u>Exhibit "C"</u></b> .                                                                                                                                                                                                                                                                                                                  |
| 4. | Civil Suit No. 382 of 2025.                                                        | Shakuntala Kutty Shetty<br>v.<br>Kailash Parbhat CHS Ltd., M/s. Galaxy Developers & MCGM.            | <b>PENDING</b><br><br>Suit filed by one of the members of the Society in relation to the dispute as regards the nature of the premises held by the member.<br><br>Thus, this litigation does not concern the Project or the land on which the Project is proposed.<br><br>Copy of the Plaint without exhibits is annexed hereto and marked as <b><u>Exhibit "D"</u></b> . |
| 5. | Notice of Motion No. 933 of 2025 in Civil Suit No. 382 of 2025 at Sr. No. 4 above. | Shakuntala Kutty Shetty (Applicant)<br>v.<br>Kailash Parbat CHS Ltd., M/s. Galaxy Developers & MCGM. | <b>PENDING</b><br><br>Interlocutory proceeding in the litigation listed at Sr. No.4 above.<br><br>Thus, this litigation does not concern the Project or the land on which the Project is proposed.                                                                                                                                                                        |
| 6. | Suit No. 1974 of 2023.                                                             | Nazare Alam Abul Bayan & Ors.                                                                        | <b>DISMISSED</b><br><br>Suit filed by the                                                                                                                                                                                                                                                                                                                                 |



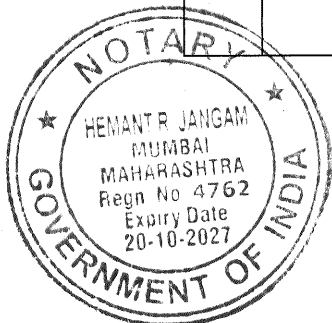
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|                                        |                                                                                               | v.<br>MCGM, Kailash<br>Prabhat CHS Ltd.<br>& Ors.                                                        | Appellants herein<br>against the Society and<br>MCGM (Respondent<br>No.3 herein).<br><br>The Respondent No.2<br>herein is not a party to<br>this litigation.<br><br>A copy of Order dated<br>2 <sup>nd</sup> May 2026 whereby<br>the Suit was dismissed<br>for default is annexed<br>hereto and marked as<br><b><u>Exhibit "E"</u></b> . |
| 7.                                     | Notice of<br>Motion No.<br>2202 of 2024 in<br>Suit No. 1974<br>of 2023 at Sr.<br>No. 6 above. | Nazare Alam<br>Abul Bayan &<br>Ors.<br>v.<br>MCGM, Kailash<br>Prabhat CHS Ltd.<br>& Ors.                 | <b><i>DISMISSED</i></b><br><br>Interlocutory proceeding<br>in the litigation listed at<br>Sr. No.6 above.                                                                                                                                                                                                                                |
| <b>Before City Civil Court, Mumbai</b> |                                                                                               |                                                                                                          |                                                                                                                                                                                                                                                                                                                                          |
| 8.                                     | Suit No. 3465<br>of 2023                                                                      | Shakuntala<br>Kutty Shetty<br>v.<br>Kailash Parbhat<br>CHS Ltd., M/s.<br>Galaxy<br>Developers &<br>MCGM. | <b><i>PENDING</i></b><br><br>Suit filed by one of the<br>members of the Society<br>in relation to the dispute<br>as regards the nature of<br>the premises held by the<br>member of the Society.<br><br>Thus, this litigation does<br>not concern the Project<br>or the land on which the<br>Project is proposed.                         |



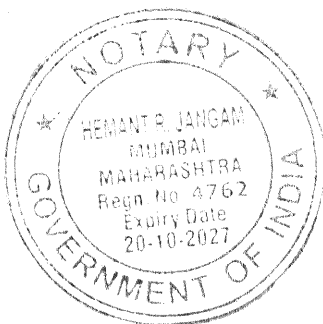
|                                          |                                                                                |                                                                                                                              |                                                                                                                                                                                                    |
|------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                          |                                                                                |                                                                                                                              | Copy of the Plaint without exhibits is annexed hereto and marked as <b><u>Exhibit "F"</u></b> .                                                                                                    |
| 9.                                       | Notice of Motion No. 5635 of 2025 in Suit No. 3465 of 2024 at Sr. No. 8 above. | Shakuntala Kutty Shetty (Applicant) v. Kailash Parbhat CHS Ltd., M/s. Galaxy Developers & MCGM.                              | <b>PENDING</b><br><br>Interlocutory proceeding in the litigation listed at Sr. No.8 above.<br><br>Thus, this litigation does not concern the Project or the land on which the Project is proposed. |
| 10.                                      | Notice of Motion No. 6281 of 2025 in Suit No. 3465 of 2024 at Sr. No. 8 above. | Shakuntala Kutty Shetty (Applicant) v. Kailash Parbhat CHS Ltd., M/s. Galaxy Developers, Sattva New Heights Private Limited. | <b>PENDING</b><br><br>Interlocutory proceeding in the litigation listed at Sr. No.8 above.<br><br>Thus, this litigation does not concern the Project or the land on which the Project is proposed. |
| <b>Before Co-operative Court, Mumbai</b> |                                                                                |                                                                                                                              |                                                                                                                                                                                                    |
| 11.                                      | Declaration & Injunction No. 350 of 2025.                                      | Nazre Alam Abul Bayan & Ors. v. Kailash Parbhat CHS Ltd.                                                                     | <b>PENDING</b><br><br>Application filed by the Appellants against the Society.<br><br>The Respondent No.2 herein is not a party to this litigation.                                                |



|                                                    |                                           |                                                                        |                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------|-------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12.                                                | Declaration & Injunction No. 295 of 2023. | Abul Bayan Khan & Ors.<br>v.<br>Khan Mohammed Rashid & Ors.            | <b>PENDING</b><br><br>Application filed by the Appellants against the Society.<br><br>The Respondent No.2 herein is not a party to this litigation.                                                                                                                                                                                                                  |
| <b>Before Co-operative Appellate Court, Mumbai</b> |                                           |                                                                        |                                                                                                                                                                                                                                                                                                                                                                      |
| 13.                                                | Appeal against Order No. 43 of 2025.      | Abul Bayan Khan & Ors.<br>v.<br>Kailash Parbhat CHS Ltd. & Ors.        | <b>DISPOSED OF</b><br><br>Appeal arising from the litigation mentioned at Sr. No. 12 above.<br><br>The Respondent No.2 herein is not a party to this litigation.<br><br>Copy of the Order dated 18 <sup>th</sup> February 2026 disposing of the Appeal and upholding the order of the Co-operative Court is annexed hereto and marked as <b><u>Exhibit "G"</u></b> . |
| <b>Before Bombay High Court</b>                    |                                           |                                                                        |                                                                                                                                                                                                                                                                                                                                                                      |
| 14.                                                | Suit (L) No.30728 of 2024.                | Nazre Alam Abul Bayan and Ors.<br>v.<br>Kailash Parbhat CHS Ltd., M/s. | <b>DISMISSED</b><br><br>Suit filed by the Appellants herein against the Society and the Respondent No.2                                                                                                                                                                                                                                                              |

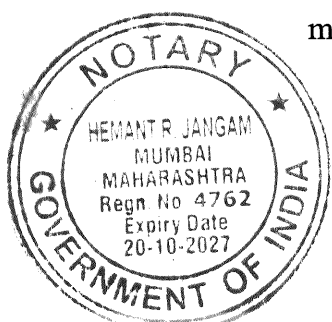


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|-----|----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                              | Galaxy Developers, MCGM & Ors.                                                                               | herein.<br><br>Copy of the order dated 9 <sup>th</sup> January 2026 dismissing the Suit along with case status as reflected on the website of Bombay High Court is annexed hereto and marked as <b><u>Exhibit "H (Colly)"</u></b> .                                                                                                                                              |
| 15. | Interim Application (L) No. 30734 of 2024 in Suit (L) No. 30728 of 2024 at Sr. No. 14 above. | Nazre Alam Abul Bayan and Ors. (Applicants) v. Kailash Parbhat CHS Ltd., M/s. Galaxy Developers, MCGM & Ors. | <b><i>DISMISSED</i></b><br><br>Interlocutory proceeding in the litigation listed at Sr. No.14 above.                                                                                                                                                                                                                                                                             |
| 16. | Appeal from Order (L) No. 33132 of 2025 pertaining to Suit at Sr. No. 8 above.               | Shakuntala Kutty Shetty v. Kailash Parbhat CHS Ltd., M/s. Galaxy Developers & MCGM                           | <b><i>PENDING</i></b><br><br>Appeal filed challenging the order dated 23 <sup>rd</sup> September 2025 passed by the Hon'ble City Civil Court, Mumbai in the litigation listed at Sr. No.8 above which is a dispute in relation to the nature of the premises held by a member of the Society.<br><br>Thus, this litigation does not concern the Project or the land on which the |



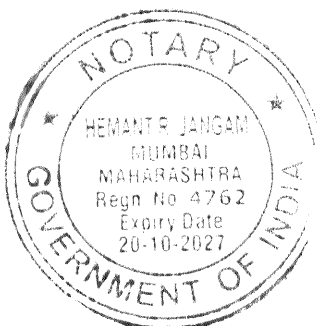
|                                     |                                                                                                           |                                                                                                 |                                                                                                                                                                                                     |
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|                                     |                                                                                                           |                                                                                                 | Project is proposed.                                                                                                                                                                                |
| 17.                                 | Interim Application (L) No. 33133 of 2025 in Appeal from Order (L) No. 33132 of 2025 at Sr. No. 16 above. | Shakuntala Kutty Shetty (Applicant) v. Kailash Parbhat CHS Ltd., M/s. Galaxy Developers & MCGM. | <b>PENDING</b><br><br>Interlocutory proceeding in the litigation listed at Sr. No.16 above.<br><br>Thus, this litigation does not concern the Project or the land on which the Project is proposed. |
| <b>Before Hon'ble Supreme Court</b> |                                                                                                           |                                                                                                 |                                                                                                                                                                                                     |
| 18.                                 | Special Leave Petition No. 12866 of 2024.                                                                 | Nazare Alam Abul Bayan & Ors. v. MCGM, Kailash Parbhat CHS Ltd. & Ors.                          | <b>DISMISSED</b><br><br>Copy of the Order dated 7 <sup>th</sup> June 2024 by which the SLP was dismissed is annexed hereto and marked as <b><u>Exhibit "I"</u></b> .                                |

15. From the tabular statement reproduced hereinabove, it is abundantly clear that the entire foundation of the present Appeal is misconceived. A substantial number of the proceedings relied upon by the Appellants have already been dismissed or otherwise disposed of. Several other proceedings are merely interlocutory applications arising therefrom. In respect of the pending proceedings, copies of the principal pleadings (without annexures) have been placed on record to demonstrate that none of the said proceedings concern the Project or the land on which the Project is proposed to be developed. Many of the proceedings are disputes between members of the Society inter se, proceedings challenging



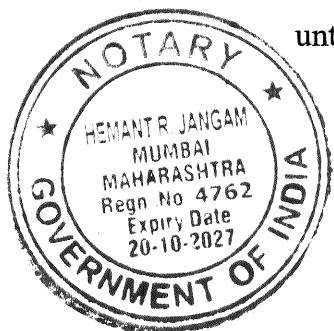
demolition notices issued by Respondent No. 3, proceedings relating to resolutions passed by the Society, or disputes concerning the nature of the premises occupied by individual members. Several of the proceedings do not even implead Respondent No. 2 as a party.

16. Respondent No. 2 therefore correctly answered Column No. 41 of Form-1, which requires disclosure only of litigation pending against the Project and/or the land on which the Project is proposed to be set up. Since none of the proceedings relied upon by the Appellants answer the said description, Respondent No. 2 was under no obligation to disclose them in response to the said query.
17. Without prejudice to the aforesaid, Respondent No. 2 voluntarily furnished the Indemnity Bond dated 5<sup>th</sup> February 2026 to Respondent No. 1. Respondent No.1 consciously proceeded to grant the Environment Clearance after considering the said disclosure. Respondent No. 1 was, therefore, fully aware of the existence, nature and status of the said proceedings and, after considering the entire material placed before it, consciously proceeded to grant the Environment Clearance. It is, therefore, wholly untenable for the Appellants to contend that the Environment Clearance was obtained by fraud, concealment or suppression of material facts.
18. The updated tabular statement, together with the final orders in the disposed proceedings and copies of the principal pleadings in the pending proceedings, conclusively demonstrates that the



proceedings relied upon by the Appellants are not proceedings pending against the Project or the land on which the Project is proposed to be set up within the meaning of Column No. 41 of Form-1. The allegation of suppression is therefore founded on an erroneous interpretation of the disclosure requirement and deserves to be rejected.

19. I say and submit that the Appellants, having unsuccessfully pursued proceedings before various judicial forums in relation to disputes distinct from the Project and the land on which the Project is proposed to be developed, have now sought to invoke the jurisdiction of this Hon'ble Tribunal on a wholly misconceived premise. The present Appeal is devoid of merit, constitutes an abuse of the process of law and deserves to be dismissed with costs.
  
20. Therefore, I say and submit that the allegation that the Environment Clearance stands vitiated on account of alleged suppression of pending litigations is wholly misconceived and contrary to the record. The proceedings relied upon by the Appellants do not constitute litigations pending against the Project or the land on which the Project is proposed to be developed within the meaning of Column No. 41 of Form-1. Without prejudice thereto, Respondent No. 2 had, prior to the grant of the Environment Clearance, voluntarily disclosed all the said proceedings to Respondent No. 1 by way of the Indemnity Bond dated 5<sup>th</sup> February 2026. The allegation of fraud, concealment or suppression is, therefore, wholly untenable and liable to be rejected.



21. I say that the Appellants have failed to establish any ground warranting interference with the Environment Clearance granted by Respondent No. 1 after due appraisal of the Project in accordance with law. The present Appeal proceeds on conjectures, surmises and an erroneous interpretation of the disclosure requirement under Form-1. It is, therefore, devoid of merit and deserves to be dismissed with costs.
22. Without prejudice to the aforesaid, with respect to the judgments relied upon by the Appellants in the Appeal, I say that the same are clearly distinguishable on facts and have no application to the facts and circumstances of the present case. Respondent No. 2 craves leave to make detailed submissions on the applicability of the said judgments at the time of hearing, if so required.
23. Save and except what is expressly admitted herein, Respondent No. 2 denies each and every allegation, averment, submission and contention contained in the Appeal.

**For Galaxy Developers**

Dated this 10<sup>th</sup> day of July 2026 )

Solemnly affirmed at Mumbai )

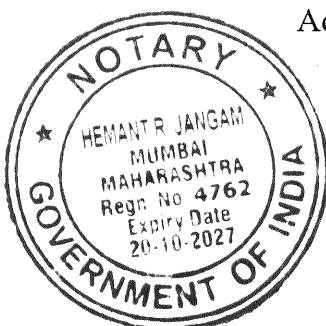
Before me

For Lexicon Law Partners

  
Partner

Advocates for the Respondent No. 2

  
Proprietor  
  
Abdul Barudgar  
for Resp No. 2



## VERIFICATION

I, Abdul Karim Barudgar, aged 62 years, an adult Indian inhabitant, the authorised representative of the Respondent No. 2 having its office at Flat No. G – 6, Rizvi Nagar, S.V. Road, Santacruz (W), Mumbai - 400054 do hereby solemnly affirm and state that the facts mentioned in the foregoing paragraphs are true to the best of my knowledge, on the basis of the record made available to me, and are as per legal advice.

Solemnly affirmed at Mumbai )

This 10<sup>th</sup> day of July 2026 )

**For Galaxy Developers**

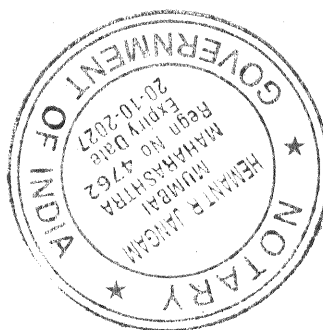
Before me  
Proprietor

*Abdul Barudgar*  
for Resp. No. 2

For Lexicon Law Partners

*[Signature]*  
Partner

Advocates for the Respondent No. 2



**BEFORE ME**  
*[Signature]*  
**HEMANT R. JANGAM**  
NOTARY, GOVT. OF INDIA  
MUMBAI, MAHARASHTRA.

10 JUL 2026

| NOTED & REGISTERED   |            |
|----------------------|------------|
| Sr. No. 684          | Pg. No. 92 |
| Book No. MAR/2026/19 |            |
| Date 10 JUL 2026     |            |

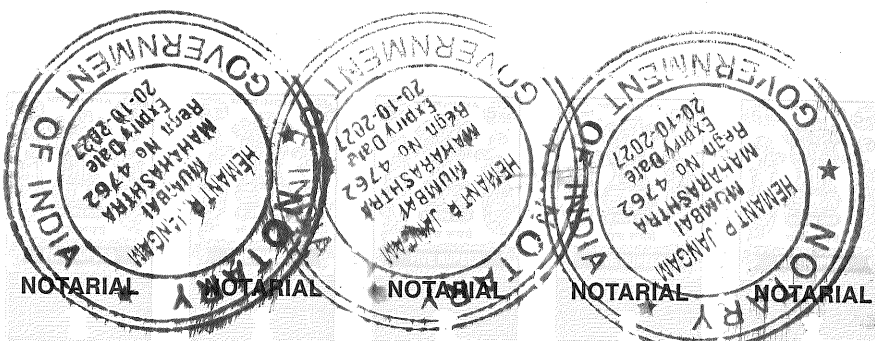


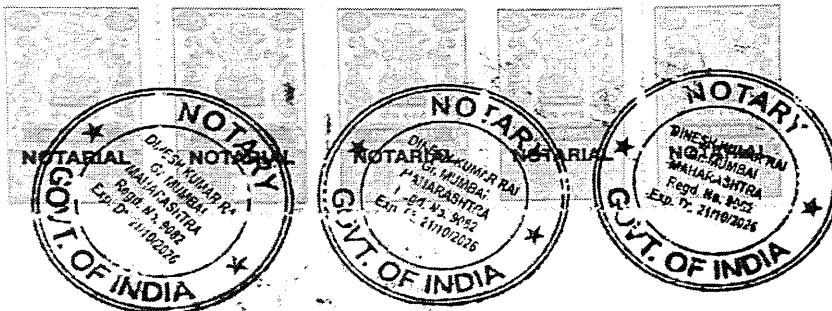
EXHIBIT - 'A'



महाराष्ट्र MAHARASHTRA

© 2025 ©

EN 119723

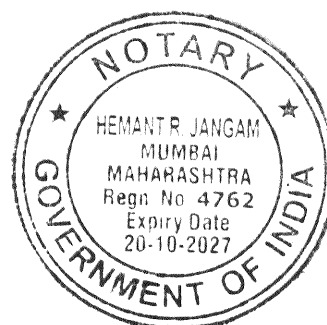


प्रधान मुद्रांक कार्यालय, मुंबई  
प.मु.वि.क्र. ८००००९०  
18 DEC 2025  
सक्षम अधिकारी

श्रीमती रुक्मा यव्हाण

INDEMNITY BOND

This Indemnity Bond is executed on 5<sup>th</sup> February, 2026, by Mr. Abdul Rahim Abdul Karim Barudgar, sole proprietor, of M/s. Galaxy Developers having its registered office Flat No. G-6, Rizvi Nagar, S.V.Road, Santacruz (W), Mumbai 400054 (Hereinafter referred to as the "Indemnifier"), in favor of State Expert Appraisal Committee (SEAC-II) & State Environmental Assessment Authority (SEIAA) (hereinafter referred to as the "Indemnatee")



*Amar S. Singh (Advoc. le)*

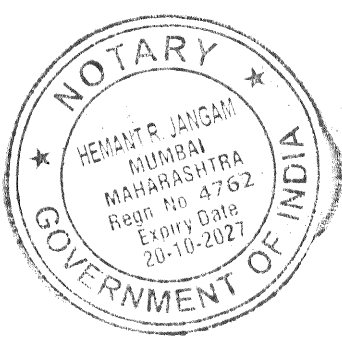
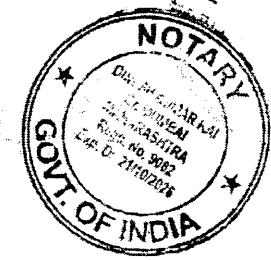
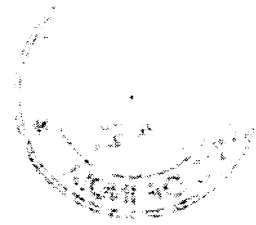
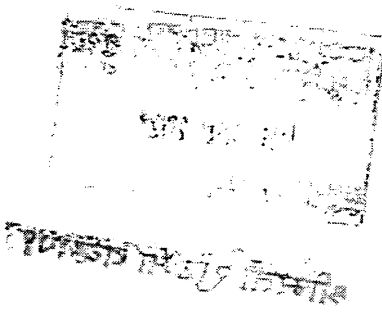
अधिवक्ता प्रतिभापुत्राजी चव्हाण, Jindani Road,  
मुंबई, महाराष्ट्र, India.  
मुद्रांक विकत घेणाऱ्याचे नाव: SHREE Sank. Virat (E), Thane.  
मुद्रांक विकत घेणाऱ्याचे रहिवासी पत्ता: 10, Kalyan  
मुद्रांक विक्रीबाबतची नोंद घेई अतः क्रमांक 10, Kalyan



मुद्रांक विकत घेणाऱ्याची सही पर्यायाधारक मुद्रांक विकल्याची सही  
रखाला क्रमांक: 0000090

दस्तावेजाचे विवरण/पत्ता: श्री. कल्पेश चव्हाण  
ऑफिस: शांतीनंदन विस्डोम, ७९, शांतीनंदन रोड, फ्लॉर ०९,  
राष्ट्रीय कार्यालय/महाराष्ट्र शासनाचे सादर करणेसाठी मुद्रांक  
नमूनाची आवश्यकता नाही. (शासन आदेश दि. ०९/०९/२००४) नसार  
या कारणासाठी ज्यांनी संपादक खरेदी केला त्यांनी त्याच कारणासाठी  
नसादी या कारणासाठी.

19 DEC 2025  
19 DEC 2025  
20 DEC 2025  
20 DEC 2025



2

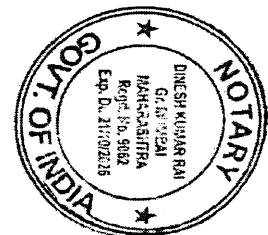
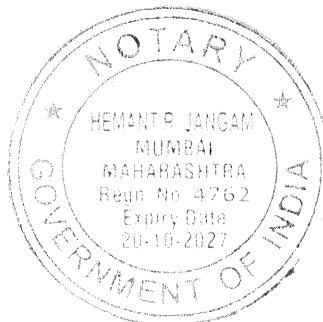
**WHEREAS:**

The Indemnifier is the Proponent of Proposed Redevelopment project on plot bearing C.T.S. No. 7247, 7247/1 to 4 of Village Kolkalyan, Kalina, Santacruz (East), Mumbai 400098 in H/E ward, Mumbai, Maharashtra (hereinafter referred to as the "Project")

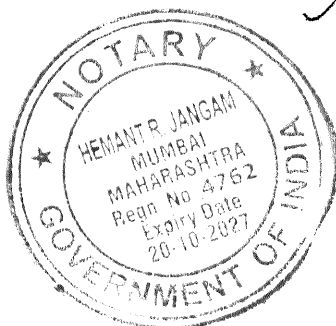
Details of litigation pending against the Indemnifier in respect of the project are as below:

| Sr. No.                                  | Particulars of proceedings                                                         | Parties                                                                                              | Status                                                                                                                                                                                                           |
|------------------------------------------|------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Before City Civil Court, Dindoshi</b> |                                                                                    |                                                                                                      |                                                                                                                                                                                                                  |
| 1.                                       | Civil Suit No. 939 of 2023.                                                        | Nazare Alam Abul Bayan & Ors.<br>v.<br>MCGM, Kailash Prabhat CHS Ltd. & Anr.                         | <i>Suit for dismissal.</i><br><br>The Suit is filed against the impugned notices issued in the year 2023 by Municipal Corporation of Greater Mumbai for demolition of the Society's buildings.                   |
| 2.                                       | Draft Notice of Motion in L.C. Suit No. 939 of 2023                                | Kailash Prabhat CHS Ltd. (Applicant)<br>v.<br>Nazare Alam Abul Bayan & Ors.                          | <i>Pending.</i><br><br>Filed by Society to restrain the Plaintiffs from carrying out any repairs to the Society's buildings.                                                                                     |
| 3.                                       | Civil Suit No. 1265 of 2024                                                        | Mirza Yadullah Kaikhah<br>v.<br>MCGM, Kailash Prabhat CHS Ltd. & Anr.                                | <i>For filing of written statements by the Defendant.</i><br><br>For quashing and setting aside the impugned 72 hours eviction notice dated 24 <sup>th</sup> June 2024 issued by MCGM u/s. 354 of MMC Act, 1888. |
| 4.                                       | Civil Suit No. 382 of 2025.                                                        | Shakuntala Kutty Shetty .<br>v.<br>Kailash Parbhat CHS Ltd., M/s. Galaxy Developers & MCGM.          | <i>Notice of Motion for hearing.</i><br><br>Dispute with respect to nature of premises to which the Plaintiff is entitled.                                                                                       |
| 5.                                       | Notice of Motion No. 933 of 2025 in Civil Suit No. 382 of 2025 at Sr. No. 4 above. | Shakuntala Kutty Shetty (Applicant)<br>v.<br>Kailash Parbat CHS Ltd., M/s. Galaxy Developers & MCGM. | <i>For hearing.</i><br><br>Dispute with respect to nature of premises to which the Plaintiff is entitled.                                                                                                        |

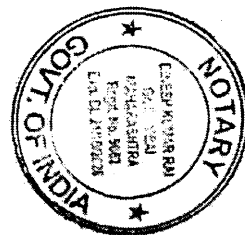
*John*



|                                                    |                                                                                |                                                                                                                                    |                                                                                                                                                                                                                             |
|----------------------------------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6.                                                 | Suit No. 1974 of 2023.                                                         | Nazare Alam Abul Bayan & Ors.<br>v.<br>MCGM, Kailash Prabhat CHS Ltd. & Ors.                                                       | <i>Suit for dismissal.</i><br><br>Against the order dated 10.05.2023 passed by Technical Advisory Committee whereby a third party auditor was to be appointed for carrying-out structural audit of the Society's buildings. |
| 7.                                                 | Notice of Motion No. 2202 of 2024 in Suit No. 1974 of 2023 at Sr. No. 6 above. | Nazare Alam Abul Bayan & Ors.<br>v.<br>MCGM, Kailash Prabhat CHS Ltd. & Ors.                                                       | <i>Suit for dismissal.</i><br><br>For dismissal of Suit No. 1974 of 2023.                                                                                                                                                   |
| <b>Before City Civil Court, Mumbai</b>             |                                                                                |                                                                                                                                    |                                                                                                                                                                                                                             |
| 8.                                                 | Suit No. 3465 of 2024                                                          | Shakuntala Kutty Shetty<br>v.<br>Kailash Parbhat CHS Ltd., M/s. Galaxy Developers & MCGM.                                          | <i>For draft issues.</i><br><br>Dispute with respect to nature of premises to which the Plaintiff is entitled.                                                                                                              |
| 9.                                                 | Notice of Motion No. 5635 of 2025 in Suit No. 3465 of 2024 at Sr. No. 8 above. | Shakuntala Kutty Shetty (Applicant)<br>v.<br>Kailash Parbhat CHS Ltd., M/s. Galaxy Developers & MCGM.                              | <i>For draft issues.</i><br><br>Dispute with respect to nature of premises to which the Plaintiff is entitled.                                                                                                              |
| 10.                                                | Notice of Motion No. 6281 of 2025 in Suit No. 3465 of 2024 at Sr. No. 8 above. | Shakuntala Kutty Shetty (Applicant)<br>v.<br>Kailash Parbhat CHS Ltd., M/s. Galaxy Developers, Sattva New Heights Private Limited. | <i>For draft issues.</i><br><br>Dispute with respect to nature of premises to which the Plaintiff is entitled.                                                                                                              |
| <b>Before Co-operative Court, Mumbai</b>           |                                                                                |                                                                                                                                    |                                                                                                                                                                                                                             |
| 11.                                                | Declaration & Injunction No. 350 of 2025.                                      | Nazre Alam Abul Bayan & Ors.<br>v.<br>Kailash Parbhat CHS Ltd.                                                                     | <i>For filing of written submissions.</i><br><br>Against 2 resolutions passed in the Special General Body Meeting dated 05.07.2025.                                                                                         |
| 12.                                                | Declaration & Injunction No. 295 of 2023.                                      | Abul Bayan Khan & Ors.<br>v.<br>Khan Mohammed Rashid & Ors.                                                                        | <i>For issues.</i><br><br>Against resolutions passed by the Society.                                                                                                                                                        |
| <b>Before Co-operative Appellate Court, Mumbai</b> |                                                                                |                                                                                                                                    |                                                                                                                                                                                                                             |
| 13.                                                | Appeal against Order No. 43 of 2025.                                           | Abul Bayan Khan &                                                                                                                  | <i>For Arguments.</i>                                                                                                                                                                                                       |



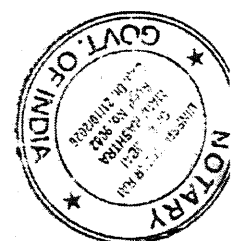
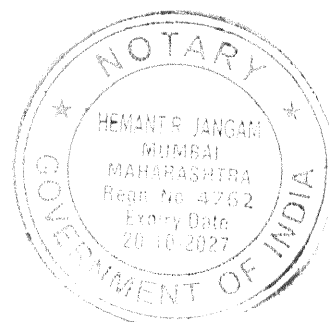
*John*



|                                     |                                                                                                                       |                                                                                                                             |                                                                                                                                                                |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     |                                                                                                                       | Ors.<br>v.<br>Kailash Parbhat CHS Ltd. &<br>Ors.                                                                            | Against the order dated 17 <sup>th</sup><br>October 2023 passed by the<br>Hon'ble Co-operative Court No.<br>II.                                                |
| <b>Before Bombay High Court</b>     |                                                                                                                       |                                                                                                                             |                                                                                                                                                                |
| 14.                                 | Suit (L) No.30728 of<br>2024.                                                                                         | Nazre Alam Abul<br>Bayan and Ors.<br>v.<br>Kailash Parbhat CHS Ltd.,<br>M/s. Galaxy Developers,<br>MCGM & Ors.              | <i>Pre-Admission.</i><br><br>Dispute with certain members of<br>the Society.                                                                                   |
| 15.                                 | Interim Application (L)<br>No. 30734 of 2024 in<br>Suit (L) No. 30728 of<br>2024 at Sr. No. 14<br>above.              | Nazre Alam Abul Bayan and<br>Ors. (Applicants)<br>v.<br>Kailash Parbhat CHS Ltd.,<br>M/s. Galaxy Developers,<br>MCGM & Ors. | <i>Pre-Admission.</i><br><br>Seeking interim relief against the<br>Developer to restrain him to<br>create any third party rights on<br>the Society's building. |
| 16.                                 | Appeal from Order (L) No.<br>33132 of 2025 pertaining<br>to Suit at Sr. No. 8 above.                                  | Shakuntala Kutty Shetty<br>v.<br>Kailash Parbhat CHS Ltd., M/s.<br>Galaxy Developers & MCGM                                 | <i>Pre-Admission.</i><br><br>Against order dated 23.09.2025<br>passed by the Hon'ble City Civil<br>Court, Mumbai.                                              |
| 17.                                 | Interim Application (L)<br>No. 33133 of 2025 in<br>Appeal from Order (L)<br>No. 33132 of 2025 at Sr.<br>No. 16 above. | Shakuntala Kutty Shetty<br>(Applicant)<br>v.<br>Kailash Parbhat CHS Ltd.,<br>M/s. Galaxy Developers &<br>MCGM.              | <i>Pre-Admission.</i><br><br>Against order dated 23.09.2025<br>passed by the Hon'ble City Civil<br>Court, Mumbai.                                              |
| <b>Before Hon'ble Supreme Court</b> |                                                                                                                       |                                                                                                                             |                                                                                                                                                                |
| 18.                                 | Petition for Special<br>Leave to Appeal No.<br>12866 of 2024.                                                         | Nazare Alam Abul Bayan &<br>Ors.<br>v.<br>MCGM, Kailash Parbhat<br>CHS Ltd. & Ors.                                          | <i>Disposed vide Order dated 07<sup>th</sup><br/>June 2024.</i>                                                                                                |

\* Note:

1. The proceedings listed at Sr. No. 4, 8, 14 and 16 are main suits in which M/s. Galaxy Developers is a party.
2. The proceeding listed at Sr. No. 5 forms a part of the matter reflected at Sr. No. 4.
3. The proceedings listed at Sr. No. 9 and 10 form a part of the matter reflected at Sr. No. 8.
4. The proceeding listed at Sr. No. 15 forms a part of the matter reflected at Sr. No. 14.
5. The proceeding listed at Sr. No. 17 forms a part of the matter reflected at Sr. No. 16.
6. The remaining matters are proceedings to which M/s. Galaxy Developers is not a party.



5

We hereby indemnify Environment Department; Government of Maharashtra and SEAC/ SEIAA Maharashtra for any legal consequences arises on account of disputes in respect of ownership of the land.

There is no Stay or adverse order in above petitions as far as granting of Environment Clearance is concerned.

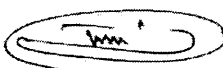
Yours faithfully,

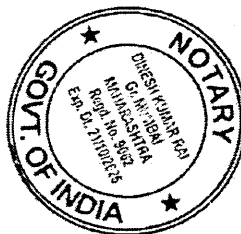
**FOR GALAXY DEVELOPERS**  
**For Galaxy Developers**

  
**Proprietor**

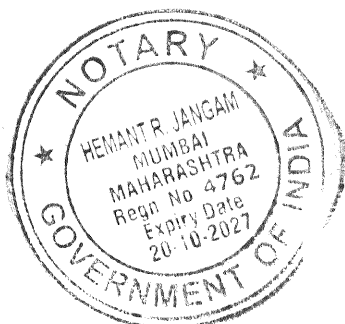
**MR. ABDULRAHIM ABDULKARIM BARUDGAR**  
**PROPRIETOR**

Before Me,

  
**DINESH KUMAR RAI**  
**ADVOCATE & NOTARY**  
**(Govt. Of India)**  
Bldg. No. B-1, Gr. Floor, 1/A,  
Datta Krupa CHSL, Off. S.V. Road,  
Santacruz (W), Mumbai-400 054.



- 5 FEB 2028



Civil Court, Dindoshi

EXHIBIT - 'B'

In The Court Of : Judge City Civil Court and Additional Sessions Judge

CNR Number : MHCC040029052023

Case Number : Civil Suit/0000939/2023

Date : 02-05-2026

Nazare Alam Abul Bayan Versus MCGM

## Daily Status

| Business                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Nature of Disposal      | Disposal Date  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|----------------|
| 02/05/2026 CORAM H.H. JUDGE SHRI. B. D. PAWAR (CR.NO.14) SU 939/2023 None present for plaintiff. Adv. Rutuja Korde for Deft./MCGM present. KB, later on, Adv. Harmindar Anand for def. no. 3 present. Adv. Rutuja S. Korde for Deft./MCGM present. Nobody appeared for the plaintiff. Despite order dated 24-07-2025 steps not taken by the plaintiff to proceed with suit. It appears that plaintiff is not interested to proceed with suit. Hence suit is dismissed in default. As the suit is dismissed, NM No. 1281/2023, NM No. 2015/2024 and NM No.1580/2023 are also dismissed in default. | DISMISSED<br>IN DEFAULT | 02-05-<br>2026 |

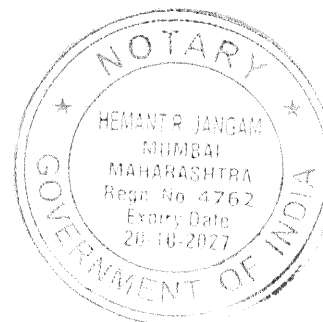


EXHIBIT - 'C'

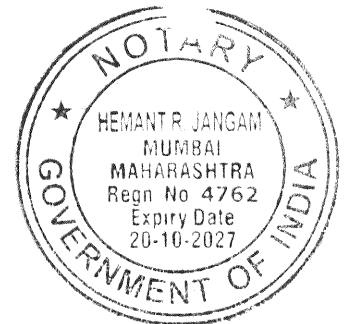
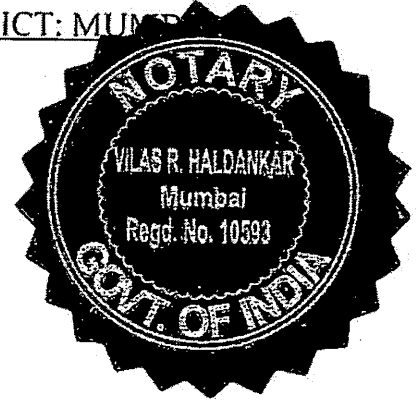
IN THE BOMBAY CITY CIVIL COURT AT DINDOSHI

[BORIVALI DIVISION] GOREGAON, MUMBAI.

L. C. SUIT NO. 1265 OF 2024

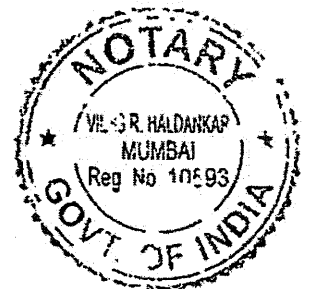
DISTRICT: MUMBAI

1. Mirza Yadullah Kairkhah  
Legal Heir of Saiyedeh Khairkhah,  
Age – 53 years, Occ. – Advocate,  
A/2/ 403, Kailash Prabhat, Vidyanagri  
Colony, Santacruz [East], Mumbai – 400 098,
2. Naela R. Kaniyattil  
Age – 46 years, Occ. – Housewife,  
C2/ 17, Kailash Prabhat, Vidyanagri  
Colony, Santacruz [East], Mumbai – 400 098,
3. Rafeeqe Kaniyattil  
Age – 52 years, Occ. – Business,  
C2/ 18, Kailash Prabhat, Vidyanagri  
Colony, Santacruz [East], Mumbai – 400 098,
4. Murtuza Shaikh  
Age – 42 years, Occ. – Business,  
A3/ 107, Kailash Prabhat, Vidyanagri  
Colony, Santacruz [East], Mumbai – 400 098,
5. Anam Qureshi  
Age – 46 years, Occ. – Service,  
A3/ 007, Kailash Prabhat, Vidyanagri  
Colony, Santacruz [East], Mumbai – 400 098. ... Plaintiffs



VERSUS

1. Municipal Corporation of Greater Mumbai,  
Through its Municipal Commissioner,  
MCGM Head Office, Mahapalika Marg,  
Mumbai CST, Mumbai – 400 001.
2. The Designated Officer, H/East Ward,



(2)

Office of Assistant Commissioner, H/East Ward,  
137, TPS-V, 2<sup>nd</sup> Road, Prabhat Colony,  
Santacruz [East], Mumbai – 400 055.

3. Kailash Prabhat Co-operative Housing Society Ltd.  
Through its Secretary /Chairman,  
[Co-operative Housing Society bearing  
Registration No. HSG/BOM/970 of 1965  
under the provision of Maharashtra Co-operative  
Societies Act, 1960]  
123, Vidya Nagari Colony,  
Santacruz (East), Mumbai – 400 098.      ...DEFENDANTS

TO  
HON'BLE THE PRINCIPAL JUDGE AND  
HIS COMPANION JUDGES OF THE  
BOMBAY CITY CIVIL COURT,  
AT DINDOSHI, MUMBAI.



SUIT U/S. 9 OF CPC R/W.  
SPECIFIC RELIEF ACT, 1963.

MAY IT PLEASE YOUR HONOUR :-

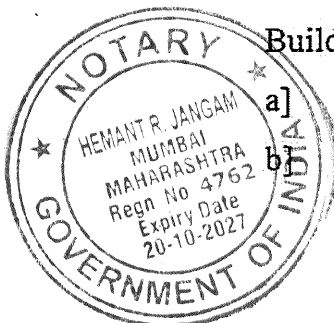
1. STATUS OF THE PLAINTIFFS :-

- 1.1 Plaintiffs are all Indian inhabitants and permanent residents  
of Mumbai. Plaintiffs are the fiat purchasers of their  
respective flats situated in the property described as  
below :-

1.2 DESCRIPTION OF THE SUIT PROPERTY :-

The Suit Property namely "Kailash Prabhat Co-operative  
Housing Society Ltd." consists of total three buildings viz.  
Building Nos.

- a) A1, A2 [Ground + 4 Upper Floors],  
b) A3 [Ground + 3 Upper Floors],



*[Signature]*



(3)

c] B [Ground + 7 Upper Floors],

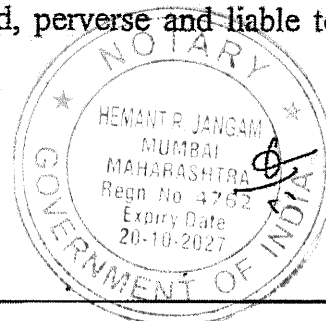
d] C [Ground + 3 Upper Floors]

Total plot area of the Suit Property bearing C.T.S. No. 7247, 7247/1/2, 7247/4, Survey No. 173 [Pt] of Village - Kolekalyan, Taluka - Andheri, Vidya Nagari Colony, C.S.T. Road, Santacruz [East], Mumbai - 400 098 admeasuring 6127.6 sq. mtrs.

### 1.3 CAUSE OF ACTION :-

Cause of action for filing of the instant Suit has arisen on 27.04.2024 at around 4:00 pm when the Defendant Corporation officers along with the Police officers from Vakola Police Station visited the Suit building and orally directed the residents, occupants to vacate immediately failing which on 29.04.2024 at 11:00 am forceful eviction action will be done pursuant to 72 hours eviction notice pasted on the Suit building on 26 April 2024 at 11:00 a.m. Therefore, on this cause of action dtd 27.04.2024, the Plaintiffs invoke jurisdiction of this Hon'ble Court for seeking urgent reliefs by filing this suit. A true and correct copy of impugned notice No. A.C./B.F./95 dtd. 26.04.2024 pasted by the MCGM on the Suit Building at about 11:00 a.m. is EXHIBIT - A.

1.4 Plaintiffs state that the impugned notice is in violation of the below stated two Judgements of the Hon. High Court, flouting MCGM Circular dated 25.05.2018, in contravention of Sec. 2 (7), 45 (2) of MR&TP Act, 1966 as such, it is illegal, null, void, perverse and liable to be set aside by this Hon'ble Court.



(4)

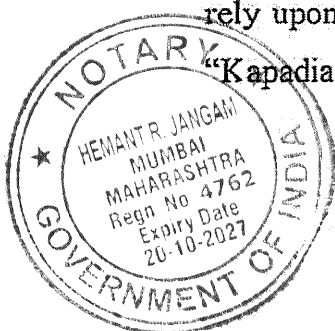
2. **STATUS OF DEFENDANTS :-**

- 2.1 Defendant No. 1 and 2 are the Municipal Corporation of Greater Mumbai who have issued 72 hours eviction notice to the Plaintiffs and other resident of the Suit Building claiming powers u/s. 354 of MMC Act, 1888.
- 2.2 Defendant No. 3 is the Kailash Prabhat Co-operative Housing Society Ltd. through its Secretary / Chairman.

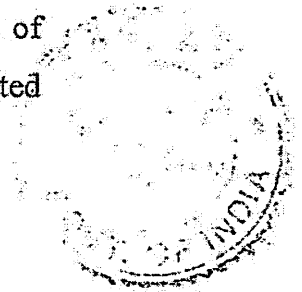
3. **FOLLOWING ARE THE RELEVANT FACTS OF THE CASE :-**

- 3.1 Plaintiffs are the members of Kailash Parbhat CHSL situated at 123/ Vidya Nagari Colony, Santacruz (East), Mumbai – 400 098. This Society consists of three buildings viz. Wings A, B and C. By Development Agreement dated 14.10.2022 Society and Developer agreed to redevelop the Society Buildings by admitting that the Suit Buildings viz. Wings A, B, C are **not in dilapidated condition** vide para no. 3.2 as admitted by the Society and Developer of implementing the scheme under Reg. 33 [7] [B] as per said Development Agreement. A true and correct copy of memo of the Development Agreement dated 14.10.2022 is **EXHIBIT – B.**

- 3.2 However, before the Society filed Structural Audit Report dated 16.12.2022 of “Kapadia and Kapadia” holding the buildings in dilapidated condition and in ‘C – 1’ category. Plaintiffs crave leave of this Hon’ble Court to refer to and rely upon the Structural Audit Report dated 16.12.2022 of “Kapadia and Kapadia” holding the buildings in dilapidated



Φ  
c



(S)

condition and in 'C-1' Category and exhibits enclosed therein as and when produced.

3.3 Before this Report, there are two more Structural audits holding the building in C-2B Category [repairable condition] viz:-

- i] Audit Report of Wing A done by MCGM through "Prime Management Consultant";
- ii] Audit Report done by MMRDA of Wings A, B through "VJTI".

Plaintiffs crave leave of this Hon'ble Court to refer to and rely upon the abovesaid two structural audit reports holding the building in C - 2B [repairable condition] and exhibits enclosed therein as and when produced.

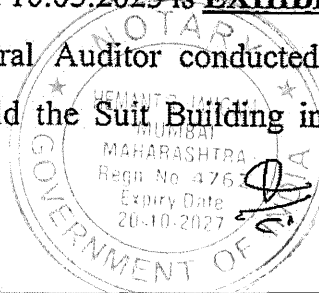
3.4 There are following Reports of C - 2B Category submitted by the residents of the buildings are as follows:-

- i] Structural Audit Report prepared by Saurabh and Associates;
- ii] 3 Structural Audit Report prepared by M/s. Orchid Consultant;

Plaintiffs crave leave of this Hon'ble Court to refer to and rely upon the abovesaid Structural Audit Report holding the building in C - 2B [repairable condition] and exhibits enclosed therein as and when produced.

3.5 Technical Advisory Committee by Order dated 10.05.2023, directed for conducting fresh structural audit through independent Auditor i.e. I.I.T. A true and correct copy of TAC Committee Order dated 10.05.2023 is **EXHIBIT - C**.

3.6 Subsequently, I.I.T. Structural Auditor conducted survey and by Report to D. O. held the Suit Building in C -



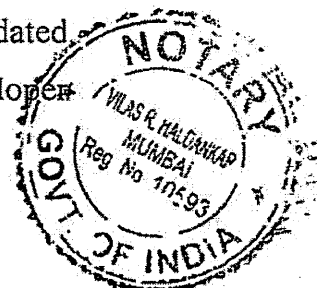
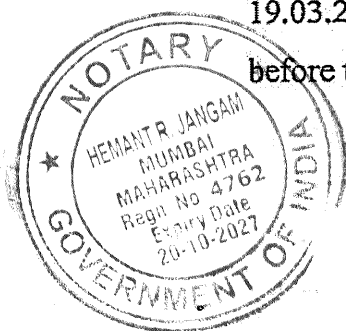
⑥

Category. Subsequently, TAC held hearing and declared the Suit Building in C1 category by accepting the IIT Report. A true and correct copy of the TAC order dated 16.01.2024 is EXHIBIT – D.

4. In these facts and circumstances, the Plaintiffs challenge the impugned notice dated 26<sup>th</sup> April, 2024 directing the Plaintiffs and other residents/occupiers to vacate within 72 hours, on following amongst other grounds which grounds are taken without prejudice to one another: -

**:- GROUNDS :-**

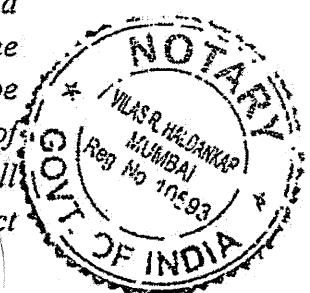
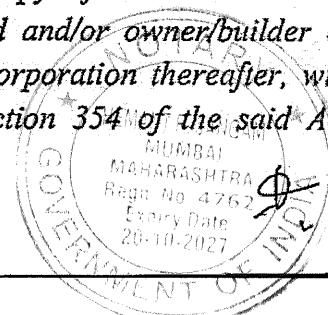
- 4.1 Grounds seeking reliefs herein are fairly elaborated in the statement of facts stated hereinabove, hence the same are not repeated and be considered as if forming part of these grounds to avoid the repetition. Additional grounds are stated in *infra*.
- 4.2 That, based on Report dated 16.12.2022 by Kapadia and Kapadia of Society, MCGM declared the Suit Buildings in C – 1 category and liable to be pulled down by issuing the Notices 14.03.2023, 15.03.2023 and 20.03.2023. On 19.03.2024, Defendant and Society applied before the building proposal department of the MCGM for redevelopment scheme under Reg No. 33 [7B] of DCPR-2034, which provides incentive F.S.I. for the buildings situated in Mumbai Suburbs **not falling in dilapidated category**. A true and correct copy of the application dated 19.03.2024 filed by the Society through its Developer before the MCGM is EXHIBIT – E.



(7)

- 4.3 That, the impugned notice dated 26.04.2024 pasted on the Suit Building at about 11:00 a.m. is in direct violation of the Hon. High Court's judgement where by minimum 5 working days "notice" has been made mandatory for any eviction action. A true and correct copy of the Judgement of Hon. High Court in the case of *Devidas Anandrao Pingale Vs. Agricultural Produce Market Committee Nashik & Ors.* [Civil Writ Petition No. 3973 of 2023] is **EXHIBIT – F**.
- 4.4 The impugned notice was pasted on 26.04.2024 at about 11:00 a.m. on the Suit Building and it provides only one day time i.e. Friday because Saturday, Sunday are the Holidays and on 29.04.2024 at 11:00 a.m., said 72 Hours will get expired giving no time to the Plaintiffs to even breath. This is brazen violation nay willful disobedience of the above judgement of the Hon'ble High Court.
- 4.5 Moreover, the impugned notice also willfully flouts the directions contained in the Judgment of Hon Bombay Highh Court in the case of *Hind Rubber Industries Pvt. Ltd. and Others Versus State of Maharashtra [(2023) 1 Bom CR 342]*, whereby the Hon'ble High Court has recorded the MCGM guidelines as,

*"If it is found after due notice that the building (s) is in a highly dangerous or in dilapidated condition, then in that event, the Corporation shall also make a list of the names of the tenants and/or occupiers in the said building and the carpet area of the premises in their respective occupation and possession including the floor at which the same has been occupied. A copy of such list will be furnished to the landlord and/or owner/builder of the said building. The Corporation thereafter, will issue a notice under section 354 of the said Act*



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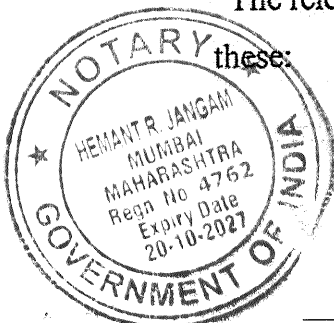
calling upon such tenants and/or occupiers to vacate the said premises and if such notice under section 354 of the said Act has already been issued, then in that event the Corporation will give 7 days' notice to such tenants/ occupiers. copies whereof will be furnished to the landlord for vacating the said building (s). If such tenant and/or occupier is not available, the Corporation shall affix such notice or Letter of Evacuation on any part of such premises. The Corporation shall then take steps to turn off the water, supply, electric power and gas to such building immediately before the removal of occupiers".

A true and correct text of the Judgement passed in the case of *Hind Rubber Industries Pvt. Ltd. and Others Versus State of Maharashtra [(2023) 1 Bom CR 342]* is EXHIBIT – G.

4.6 In case privately owned buildings are demolished by the Corporation in exercise of power under Section 354 read with the present order, then the Corporation shall, while granting sanction of redevelopment, impose a condition in IOD (Intimation of Disapproval) that no Commencement Certificate will be issued under section 45 of the MRTP Act, 1966 unless and until an Agreement either providing a Permanent Alternate Accommodation in a newly constructed building or a settlement is arrived at by and between the tenants and/or occupiers and the landlord in respect of the said demolished premises, is filed with the Corporation at the earliest.

"The relevant principles of law culled from the decisions are

these:



Ⓢ



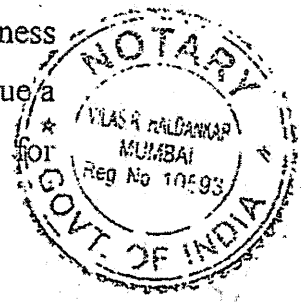
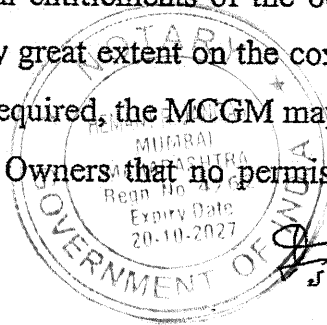


In order to succeed a Petitioner before the Court must be able to show that the impugned action suffers from Wednesbury unreasonableness, *i.e.*, it is so unreasonable that no rational person could, having regard to the fact of the case, ever have reached it. There is no scope in such cases for any larger judicial review or invoking the doctrine of proportionality. In other words, the decision must be shown to be utterly perverse, or in excess of authority or manifestly illegal.

It might have been different had the TAC not cared to make a site visit or to record its own observations. But the procedural infirmity cannot go unaddressed.

What these concerns require, first and foremost, is a process of transparency. These are not entirely private actions. The MCGM, the planning authority under the Maharashtra Regional & Town Planning Act, 1966, is fully involved. It has statutory functions and duties. These must be discharged and performed in a completely transparent manner. The right to know has been broadened considerably, and not just under the RTI Act.

Even if that categorization is as a C-1 category it is not open to the owner to have the building brought down without first finalizing the area statements regarding every occupant. This is essential because the legal entitlements of the occupants and tenants depend to a very great extent on the correctness of those area statements. If required, the MCGM may issue a notice to the 7<sup>th</sup> Defendant Owners that no permission for



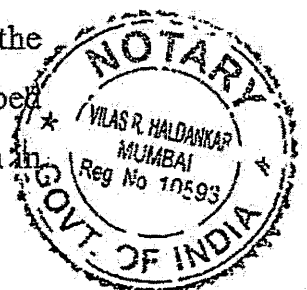
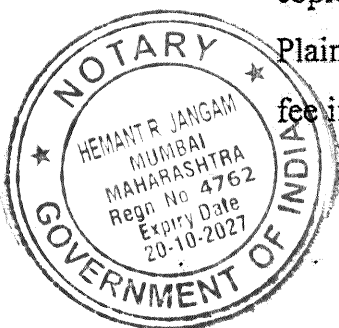
(10)

demolition nor any proposal for redevelopment of the building will be granted until the area statements are finalized.

It goes without saying that without finalizing the area statement the Plaintiffs cannot possibly be expected to vacate the premises. Equally, essential services such as water and electricity cannot be disconnected. We say this because the purpose of the TAC was never to give the owners/developers an undue or unfair advantage over occupants or tenants. It was simply to ensure the structural stability of buildings in Mumbai. This cannot possibly come at the cost of the interest of the occupants. All occupants do so at their own risk, and we make it clear that those who choose to continue in physical occupation will also be responsible for any third-party injury or loss.

The 7<sup>th</sup> Defendant Owners are put to notice that any delay on their part in compliance with the TAC Guidelines of the MMC Act will result in their being held solely and entirely responsible for all third-party losses, including loss of property as well as loss of life, and that all possible liability, civil and criminal, will be attracted if there is non-compliance or continued non-compliance with MCGM requirements.

Further, copies of all submitted plans, sanctioned plans and copies of all approvals will be given to the advocates for the Plaintiffs, free of cost if in soft copy, and for a prescribed fee if in hard copy. All plans and drawings must be given in



(11)

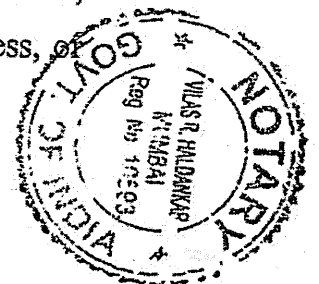
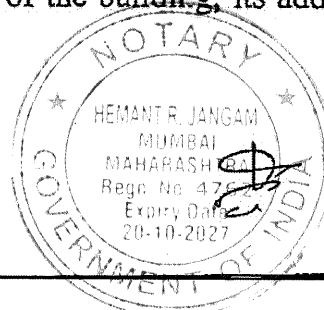
secured PDF format. Other documents may be in secured PDF or image format. No documents are to be shared in readily editable formats.

We also note that there is a concern about what it is that the Owners will seek when submitting development plans and what the MCGM will finally sanction. Specifically, the concern is that these plans will not be shared with the Plaintiffs and there will be ongoing disputes. We believe these to be valid concerns.

To ensure transparency, we also propose to frame a set of recommendations or suggestions - not mandatory directions - with a direction to the MCGM to consider these seriously at the highest level for incorporation either as part of the T A C guidelines or as a supplementary set of guidelines to ensure transparency in all C-1 category re-development projects. We clarify that we are not issuing guidelines ourselves.

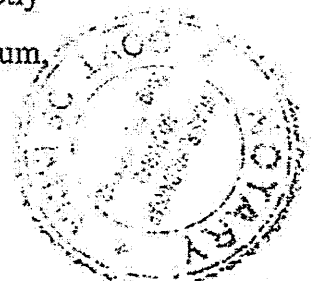
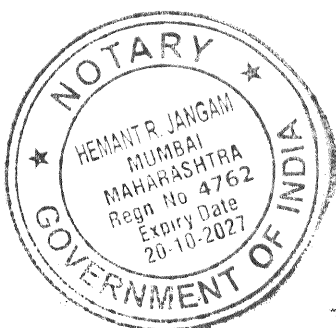
Our recommendations and suggestions are as follows:

- (a) All area statements prepared by the owners should to be sent to the Advocates for the residents/occupants/tenants, where there is an advocate representing those persons.
- (b) In any case, the owners' area statements should be uploaded to a suitable section of the MCGM website, searchable by the name of the building, its address, or the name of the owner/s.



(12)

- (c) If the area statement is prepared by the MCGM because the owners do not respond, a draft area statement should be placed at site and also uploaded. The final area statement of the MCGM should consider (with freedom to accept or reject) inputs from the owners as also all tenants/occupants. These inputs should be required by a specified date. All must be clearly put to notice that in the event of any dispute, it is the municipal record alone that will govern.
- (d) Any plans a building owner submits for reconstruction or re-development of a C-1 Category building should also be (i) made available to the advocate for the Plaintiffs/occupants or tenants, where there is an advocate; and (ii) in any case, should be uploaded to a searchable database on the MCGM website. A copy of the sanctioned plan/s must be made available in similar fashion. The occupants or tenants or their association should be entitled to obtain a hard copy of these plans on payment of stipulated fees.
- (e) In all cases where there may not be a litigation the MCGM should devise an appropriate protocol by which such inspection can be availed of by those with direct interest in the project or in the property, such as occupants, tenants etc.
- (f) No development permission for commencement of reconstruction or re-development should be permitted without such disclosure to those who are directly affected by the proposed development or, at a minimum, the online availability of this information.



(13)

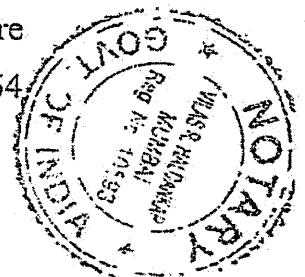
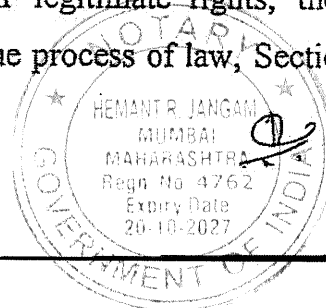
- (g) The MCGM is at liberty to proceed against the developer if the owner continues to be non-responsive.
- (h) If the occupants/tenants are entitled in law to transit protection, this must be told to and approved by the MCGM.

We would expect the MCGM to consider these recommendations and suggestions within three months. Mr. Patil assures us that a copy of this order will be placed before the Municipal Commissioner and the highest authorities for their consideration. That is sufficient for the present. "

4.7 The impugned notice dated 26.04.2024 nowhere records that the MCGM has prepared and shared any inventory. Similarly, the Defendant Society is not submitting the Plans showing alternate, permanent accommodation having area = existing area + 35% of ~~(1.2 existing carpet area)~~ + 15% of <sup>+ 35% fungible FSI</sup> Built-up area of flat as provided under Regulation No.

33(7B) of DCPR-2034, *nor such individual agreement is executed with the Plaintiffs till date.*

4.8 Plaintiffs submit that before categorization of C-1 category, the stand of Defendant Society and its Developer was that building is not in dilapidated condition and the same has been also maintained even after categorization of the buildings under C-1 category by TAC Order dtd. 16.01.2024. This shows that the Defendant Society and its Developer actually on one hand admit that the buildings namely Wings-A, B and C are not in dilapidated condition, on the other hand, because the Plaintiffs are members of the Society are demanding their legitimate rights, therefore without compliance of the due process of law, Section 354.



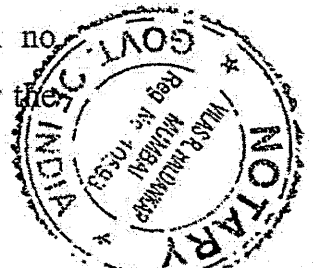
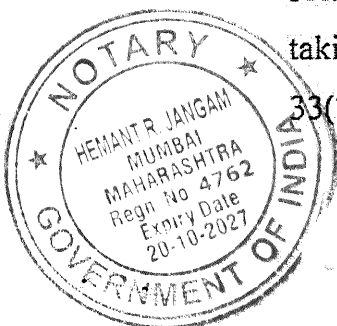
(14)

of MMC powers are intended to be used for forcefully evicting these Plaintiffs. This is malafide exercise of power by the Corporation at the instance of the Defendant Society and its Developer who are admitting before the building proposal department that buildings are safe and not in dilapidated condition. But before Designated Officer, Defendant Society and its Developer are making contrary claim that buildings are in dilapidated conditions.

4.9 Plaintiffs state that the Defendant No.3 [Society] and its developer have accepted the conditions of obtaining the IOD and furnishing Bank Guarantee before vacating the existing flats in Para Nos. T [internal page no 30] and para no. 4.13 [internal page No. 44] of the said development agreement. In para no.6 [vacation of building (internal page no 48.)) it is stated that society shall give vacation notice for members to vacate, the society needs sanctioned building plans for issuing the vacation notice. To the best of the Plaintiffs' knowledge, the Society has applied for IOD only on 19.03.2024 before the corporation and it is pending.

4.10 It is clearly mentioned in the development agreement in para no. T that building is in dilapidated condition whereas, actually it is false, hence, and to prove the said statement that the society is acting in collusion with the Corporations same the said exercise has been done by the Society in connivance with the Corporation.

4.11 In the Application filed by the Architect of the Developer seeking the IOD, the developer has admitted that he is taking the benefit of incentive FSI under regulation no 33(7)(B) of DCPR 2034. This is express admission by the

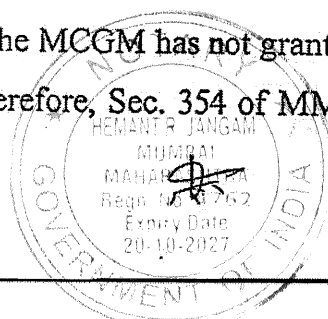


(15)

developer and Defendant Society that the said building is excluded from Reg. No 33 (7A) and it is not in dilapidated condition, therefore it is covered by Reg. Bo. 33(7)(B) of DCPR 2034.

4.12 This Proves that at this stage of executing the Development Agreement on 14.07.2022 the Defendant society and developer admitted that building was not in dilapidated condition and hence stated in para no 3.2 of said D.A to implement Regulation No 33 (7B). Therefore, the Defendant Society and developer started making false claims by claiming the building in dilapidated condition. After issuance of the TAC report dated 16.01.2024 holding the building in C-1 Category. they suppressed the vital fact but defying the same, on 19.03.2024, the Defendant Society through their Architect filed application on 19.03.2024 in which they reconfirmed and readmitted for redevelopment under Reg. No. 33 (7B) which applied only when the building is not in the dilapidated (C-1) condition.

4.13 That, the demolition of existing building is 'development' u/s. 2(7) of MR&TP Act, 1966, which demolition is permitted only after obtaining development Order u/s. 45(2) of MR&TP Act, 1966 known as "Commencement Certificate" [C.C.]. Plaintiffs submit that without first obtaining the C.C., the demolition of existing building u/s. 354 of MMC Act is not permitted as provisions of the Special law [Sec. 45(2) r/w. Sec. 2(7) of MR&TP Act, 1966] shall override the general law viz. Sec. 354 of the MMC Act, 1888. In the present case, so far the MCGM has not granted CC to the Defendant Society, therefore, Sec. 354 of MMC



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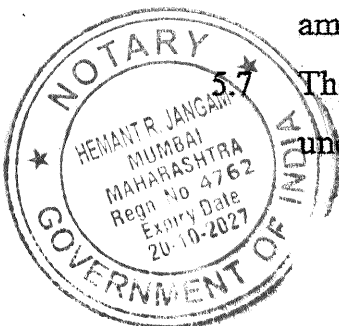
Act notice alone shall not empower the MCGM to demolish the existing building.

Hence, this Suit.

5. **CONCLUDING PARAGRAPHS :-**

- 5.1 Proper Court fee of Rs. \_\_\_\_\_ is paid u/s. 6(iv)j of the Maharashtra Court fees Act, 1959.
- 5.2 The Plaintiffs have not filed any other Suit either before this Hon'ble Court or before the Hon'ble High Court on this cause of action.
- 5.3 The cause of action for filing of present Suit has arisen on 27.04.2024 at 4:00 pm when, the Defendant Corporation and police visited the suit building orally dictating the occupants to vacate based on eviction notice pasted on the Suit Building on 26.04.2024 at 11:00 a.m. on site. Accordingly, the Plaintiffs consulted their lawyer and as per legal advice given, they approach this Hon. Court by filing this Suit.
- 5.4 That, the Plaintiffs do not possess any other alternative, efficacious remedy available to them except to approach to this Hon'ble Court by invoking its ordinary jurisdiction under Sec. 9 of CPC r/w. Specific Relief Act, 1963.
- 5.5 That, the Suit Property is situated within the original territorial jurisdiction of this Hon'ble Civil Court at Kalina, Santacruz (E), as such this Hon. Court possesses the jurisdiction to entertain, try and adjudicate present Suit.
- 5.6 The Plaintiffs seek leave of this Hon'ble Court to add, amend, alter the memo of this Suit as and when required.

The present Suit is filed within limitation. It is not barred under any law.

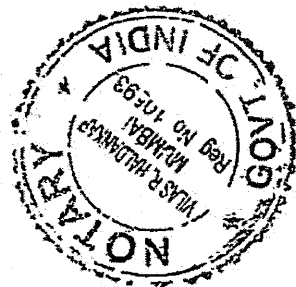
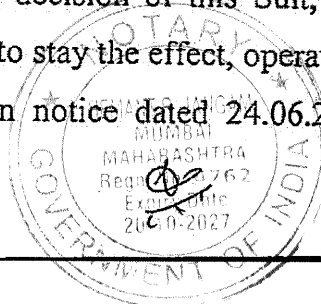


(17)

- 5.8 The Plaintiffs shall rely upon the list of documents enclosed hereto.
- 5.9 The Plaintiffs have not been served with any Caveat and submit that no Caveat is filed.
6. Therefore, the Plaintiffs respectfully pray before this Hon'ble Court as under:-

**:-PRAYERS:-**

- A] That, this Hon'ble Court may be pleased to grant a decree for quashing and setting aside the impugned 72 hours eviction notice dated 24.06.2024 issued by Defendant MCGM u/s. 354 of MMC Act, 1888 as pasted on 26.04.2024 at 11:00 a.m. on Suit Building namely "Kailash Prabhat Co-operative Housing Society Ltd." situated at C.T.S. No. 7247, 7247/1/2, 7247/4, Survey No. 173 [Pt] of Village – Kolekalyan, Taluka – Andheri, Vidya Nagari Colony, C.S.T. Road, Santacruz [East], Mumbai – 400 098 admeasuring 6127.6 sq. mtrs. by holding it in violation of the Judgments of the Hon'ble Division Bench in the matter between *Devidas Anandrao Pingale Vs. Agricultural Produce Market Committee Nashik & Ors.* [Civil Writ Petition No. 3973 of 2023] and *Hind Rubber Industries Pvt. Ltd. and Others Versus State of Maharashtra [(2023) 1 Bom CR 342]* and also in contravention of Sec. 2 (7), 45(2) of MR&TP Act, 1966, and by further holding the said impugned notice as illegal, null, void, bad-in-law and perverse.
- B] Pending the hearing and final decision of this Suit, this Hon'ble Court may be pleased to stay the effect, operation, implementation of the eviction notice dated 24.06.2024



(18)

issued by the Corporation u/s. 354 of the MMC Act with respect to the Suit Building namely "Kailash Prabhat Co-operative Housing Society Ltd." situated at bearing C.T.S. No. 7247, 7247/1/2, 7247/4, Survey No. 173 [Pt] of Village – Kolekalyan. Taluka – Andheri. Vidya Nagari Colony. C.S.T. Road, Santacruz [East]. Mumbai – 400 098 admeasuring 6127.6 sq. mtrs. in all manners.

- C] Ad-interim, interim reliefs in terms of Prayer Clause [B] hereinabove may be granted in favour of the Plaintiffs and against the Defendants.
- E] Cost of this Suit be provided for:
- F] And for such further orders as this Hon'ble Court may deem fit and proper to pass in the interest of justice.

**AND FOR SUCH ACTS OF KINDNESS, THE PLAINTIFFS SHALL DUTY BOUND EVER PRAY.**

MUMBAI

DATE: 28.04.2024

Advocate for the Plaintiffs

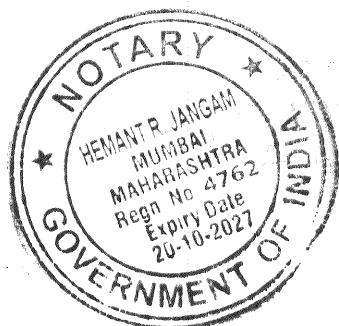
Mirza Yadullah Kairkhah  
Legal Heir of Saiyedeh Khairkhah,  
Plaintiff No. 1

N. Azmi  
Naela R. Kaniyattil  
Plaintiff No. 2

Rafeeque Kaniyattil  
Plaintiff No. 3

M. Murtuza  
Murtuza Shaikh  
Plaintiff No. 4

Anam Qureshi  
Plaintiff No. 5



(19)

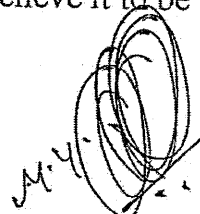
VERIFICATION

I, Mirza Yadullah Kairkhah, Age – 53 years, Occ. – \_\_\_\_\_,  
the Plaintiff No. 1, abovenamed, do hereby state on solemn  
affirmation that whatever facts are stated in the foregoing paras  
are true and correct to my personal knowledge, whereas, rest of  
submissions are made on belief, which I believe it to be true.

Solemnly declared,

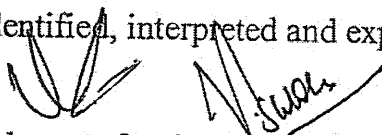
MUMBAI:

DATE: 28.04.2024



[Mirza Yadullah Kairkhah]

Identified, interpreted and explained by me, DEPONENT



Advocate for the Plaintiffs.

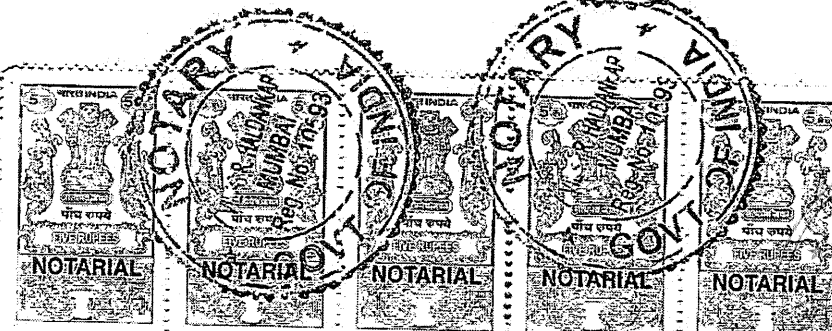
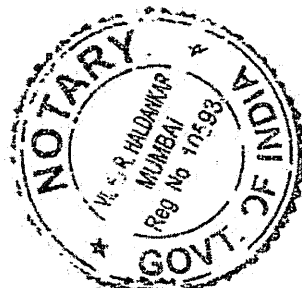
Seen Adhokar 5170 87383603

BEFORE ME,

BEFORE ME

*Haldankar*  
28/4/2024

Adv. VILAS R. HALDANKAR  
NOTARY GOVT. OF INDIA  
Valid till 06/01/2029  
Haldankar Niwas, Kesharbai Compd.,  
Sahar Cross Rd; Andheri (E), Mumbai-68.  
Mob: 9821402304



Notary Reg. No. 10593  
Sr. No. 1278/2024  
Page No. 010  
Register No. 02  
Date 28/4/2024

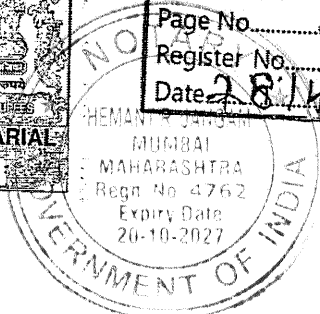
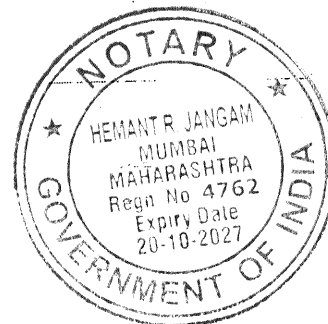


EXHIBIT - 'D'  
**IN THE CITY COURT OF BOMBAY AT DINDOSHI**  
**BORIVALI DIVISION**  
**L. C. SUIT NO. 382 OF 2025**

Shakuntala Kutty Shetty  
 Age 73 years, of Mumbai, Indian Inhabitant,  
 Having her premises at Shop No.2/3,  
 Ground Floor, Corer of the Building A-1  
 Kailash Co-operative Housing Society  
 Santacruz (West), Mumbai 400 098  
 Through its C.A Deepak Kutty Shetty. ...Plaintiff

Versus

1. Kailash Prabhat Co-operative Housing Society Limited,  
 173, Vidyanagari Marg, Kalina).  
 Marg, Kalina, Santacruz (West),  
 Mumbai 400098.
2. Galaxy Developers,  
 Through its Sole Proprietor  
 Mr. Abdul Rahim AK. Barudjar  
 having address at G/6, Rizvi Nagar)  
 S.V. Road, Santacruz (West),  
 Mumbai-400 054.
3. Municipal Corporation of Greater  
 Mumbai, a body constituted under  
 the provisions of the Mumbai  
 Municipal Corporation Act, 1888  
 Having its head office at Mahapalika  
 Bhavan, Mahapalika Marg,  
 Opp. CSMT, Mumbai 400 001. ...Defendants



**SUIT FOR DECLARATION &**  
**INJUNCTION**

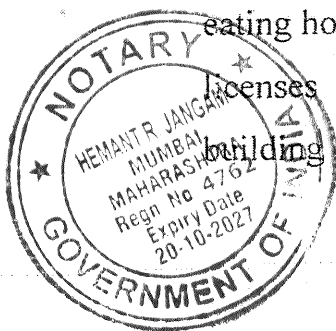
1. **STATUS OF PLAINTIFF AND DESCRIPTION OF**  
**SUIT PROPERTY :-**

- 1.1 The Plaintiff is a member and the owner of Shop premises  
 bearing Shop Nos. 2 and 3, a combined shop together ✓

admeasuring approximately 1192 square feet built up or 1074 square feet of carpet area on the ground floor in the corner of the Building A-1 of Kailash Prabhat Co-operative Housing Society Limited, a housing society situate at 173, Vidvanazari Marg, Santacruz (East), Mumbai in the building of Defendant No.1 and carrying on business in the name and style of "Ravi Hotel". The said premises are hereinafter called the "*Suit premises*" for the sake of brevity and conceive. The suit premises were acquired by the Plaintiff along with her husband Kutty Kantappa Shetty.

1.2 Plaintiff states that the aforesaid Suit premises was originally purchased by one Vithal Shetty. Said Vithal Shetty was brother-in-law of the Plaintiff i.e. Plaintiff and the wife of Vithal Shetty named Appi Shetty were direct or real sisters. After the demise of the Vithal Shetty, the suit premises was transferred in the name of his wife Appi Shetty from whom the Plaintiff had acquired the rights in the Suit property vide. Agreement dtd. 05.08.2010. The Agreement was duly registered before the Sub-Registrar vide No. BDR-1/8220/ 2010 on 5<sup>th</sup> August 2010, wherein the suit property was acquired, as referred therein as AS002 and AS003 admeasuring 1192 square feet. Plaintiff accordingly, paid the Stamp duty and other charges as per the market rate on the aforesaid registered documents.

1.3 The said suit premises was acquired and used as Commercial Shop, being Shop Nos. 2 and 3 for running an eating house i.e. restaurant after obtaining all the necessary licenses from Defendant No.3 from the inception of the building which business is continued right from the year

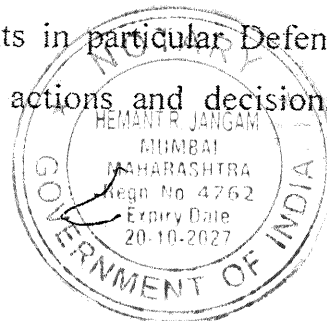


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1978 to the knowledge of all concerned including the Society [Defendant No. 1] and Defendant No.2. Plaintiff leave to and refer to the aforesaid permissions and produce the same as and when required.

1.4 Defendant No.1 [Society] now intends to go for redevelopment and has entered into a Development Agreement with Defendant No. 2. The Development Agreement was duly registered by the Defendant no. 1 and 2 before the Sub-Registrar of Assurances, Bandra Division under the Serial no. BDR-4/10702/2022 on dtd. 31.10.2022. A true and correct copy of the Development Agreement Dtd. 14.10.2022 duly registered on 31.10.2022 is **EXHIBIT -A**. On bare perusal of the recitals/ covenants/Annexures of the Development Agreement, it is evident that the Suit property was used as Commercial / Shop.

1.5 Since some of the Members of the Society [Defendant no. 1] have ulterior mindset and have grudges started conspiracy to cause loss, inconvenience, hardship to the Plaintiff's, they in connivance with Defendant No. 2 started pressuring Plaintiff to take Residential flat instead of his Suit Property. On denial of defendants demands they used the Corporation as a tool thereby depriving and bereaving the legitimate rights of the Plaintiffs in the Suit premises on frivolous grounds. The approach of Defendant Nos. 1 and 2 is collusion and in conspiracy to pressurize the Plaintiff to give up her commercial premises from the said location, cause wrongful loss to the Plaintiff and wrongful gain to the Defendants in particular Defendant No. 2. The unwarranted acts, actions and decisions of ✓



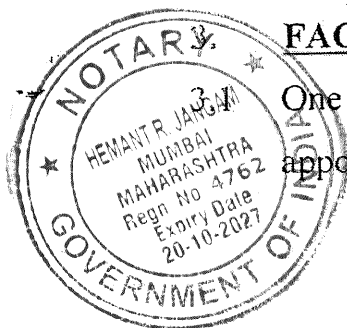
defendant no. 1 [Society] are illegal, bad-in-law and perverse as it was taken with ulterior and malafide intentions to cause unjust enrichment themselves thereby defrauding the Plaintiff from her valuable rights in the Suit property. Hence, the Plaintiff is approaching this Hon'ble Court for the reliefs as mentioned hereinafter and hence, the Suit.

## 2. STATUS OF DEFENDANTS:-

- 2.1 Defendant No.1 is a Co-operative Housing Society, who owns a large plot of land admeasuring approximately 6127.60 square metres of land consist of 3 buildings namely Kailash Prabhat CHSL, in Building A there are 3 [three] Wings A-1, A-2 and A-3 and Building B comprising of 2 Wings and Building C comprising of 2 Wings on the plot of land bearing Plot No.173, CTS Nos.7247, 7247/1 to 7247/4 and Old Survey No. 173(Part) and Plot No.173 at Vidyanagari Marg, Kalina, Santacruz Mumbai 400 098.
- 2.2 Defendant No.2 is the sole proprietary concern of one Abdul Rahim AK Barudgar carrying on business under the name of 'Galaxy Developers' having his office at the address mentioned in the cause title.
- 2.3 Defendant No.3 is the Municipal Corporation of Greater Mumbai, a planning authority under the Maharashtra Regional and Town Planning Act 1966 who is responsible for granting development permission and a necessary and proper party in the circumstances mentioned hereinafter.

## FACTS OF THE CASE:-

One Nene Gadgil Associates, a. partnership firm was appointed as a developer by Defendant No.1 Society.

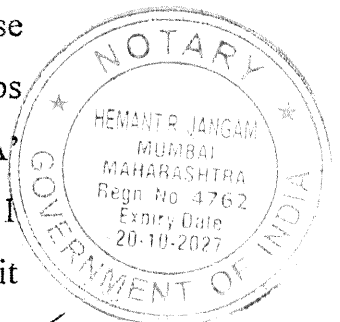


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Under an Agreement dated 12<sup>th</sup> August 1976 entered into between the said developers and the society Developer was entrusted to develop to construct - building on the open portion of the plot. The said Nene Gadgil Associates sold two units premises on the ground floor i.e. 02 and 03 therein referred to as Flats with the confirmation of the Defendant No.1 Society in favour of one Vithal S. Shetty who was the husband of the Plaintiff's sister. Later on, the rights of the Suit Property were acquired vide Agreement dated 12<sup>th</sup> December 1976 by the erstwhile owner via Agreement through Developer Nene Gadgil Associates.

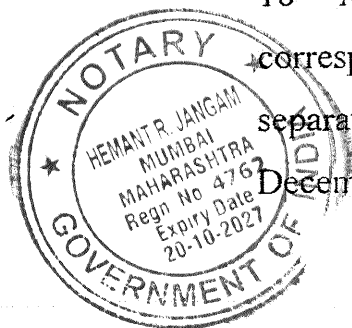
- 3.2 It is pertinent to note that the Defendant No.1 were the confirming party in the Agreement dtd. 12.12.1976. True and Correct copy of the Agreement dtd. 12.12.1976 executed between Developer Nene Gadgil and erstwhile owner is **EXHIBIT -B**. Significantly, Vithal S. Shetty after purchasing the Suit Property applied to Defendant No.1 as early as in the year 1977 for change of user and converting the suit premises being Premises Nos.002 and 003 as eating house or a restaurant. On 17.12.1977, Defendant No.1 [Society] issued No Objection in favour of the Plaintiff. The Plaintiff craves leave to refer to and rely upon the said letter dated 17<sup>th</sup> December 1977, when produced. It seems that the Society and Defendant no. 2 despite knowing the correctness of matter suppressed those facts to gain undue benefits. Notably, the Suit shops bearing Shop Nos. 2 and 3 situated at ground floor of 'A' building having an area admeasuring approximately 99.81 square metres equivalent to 1074 square feet. The Suit Property was used for Hotel run in the name and style as ✓



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“RAVI HOTEL”.

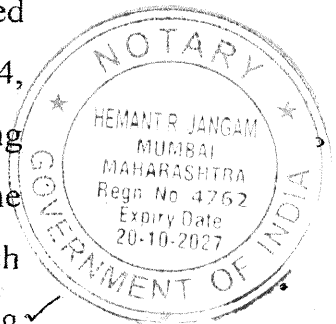
- 3.3 In the year 1978 the said Vithal Shetty who carried on the business of restaurant applied to the Defendant No. 3 [Corporation] and got registration under Bombay Shops and Establishment Act 1948 for running the business of tea, coffee, snacks etc. The said Registration Certificate continues to be valid from 1978 onwards and renewed every year thereafter. In fact, the Plaintiffs husband himself was running the said hotel personally on behalf of his brother. One Vilas Joshi [Architect of the Society] and also a developer personally aware of the fact that two premises were acquired by Vithal Shetty for carrying on the restaurant business. He had applied to the Municipal Corporation of Greater Mumbai for necessary change of user and changes in the Premises as to the information of the Plaintiff and her late husband, Therefore, the said Vilas Joshi applied to the Municipal Corporation of Greater Mumbai at the instruction of the Plaintiff's husband and the said Vithal Shetty and with the approval of the Defendant No.1's committee, for regular commercial water connection along with an approved plan, which was duly sanctioned by the Municipal Corporation of Greater Mumbai. The Plaintiff has obtained through RTI, a copy of the said approved plan dated 16.03.1978 submitted by the said Vilas Joshi to Defendant No.3. Hereto annexed and marked as **EXHIBIT -C** is the copy of the said Plan dated 16" March, 1978. The Plaintiff has copies of the correspondence with the Defendant No.3 who approved a separate water connection by their letter dated 27<sup>th</sup> December, 1978 after visiting the premises in question.



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Hereto annexed and marked as EXHIBIT-D is the copy of the letter dated 27th December, 1978 granting a separate water connection.

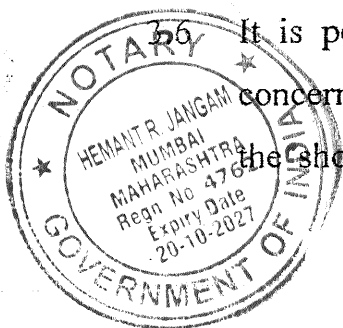
- 3.4 The Municipal Corporation of Greater Mumbai assessed the entire building including the said shop i.e. Shop Nos. 2 & 3. It was first assessed from 1<sup>st</sup> April 1977 being the property assessment year from April to March 1977-1987 though the building was completed as to the information of the Plaintiffs in the year 1978. The Plaintiff has an extract of the Municipal Corporation of Greater Mumbai register of inspection which shows the shop No.1 as a tailor shop and shop nos. 2 and 3 as commercial shops with total area as shop and the assessment also at commercial rate. A copy of the extract obtained from the Municipal Corporation of Greater Mumbai showing the first date of assessment and the Annexure A of the said inspection extract showing the descriptions and details of the capital value, wherein the premises of the Plaintiff are shown as Shop Nos. 2 and 3, the commercial user from 1977 is annexed hereto and marked as EXHIBIT-E.
- 3.5 The Plaintiff understands that the Defendant No.1 had objected to the gas cylinders near the open space and threatened to disconnect water supply from the water tank. The said Appi Shetty i.e. the wife of Vithal Shetty filed civil proceedings in the Co-operative Court and obtained an Award against Defendant No.1 in September 2004, whereby defendant no. 1 were restrained from obstructing or disconnecting the gas and the Water supply. The Plaintiff craves leave to refer to the said award which considers the running of hotel business after considering



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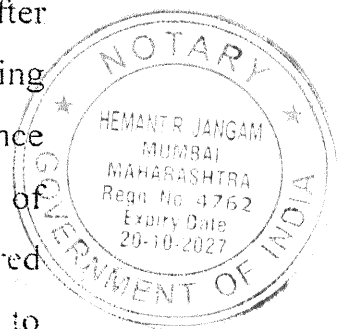
various issues involved. The Plaintiff and her predecessors have obtained all required permissions and also obtained letters from the Assessor and Collector regarding the levy of commercial property taxes, the necessary food license, necessary permissions for installation of gas cylinders, necessary copy of the blueprint of plan showing the non-residential user etc. The permission for fire NOC from the Municipal Corporation of Greater Mumbai, water connection and its necessary documents, all are in order in respect of the said premises. The Defendant No.1 Society was from the inception of the construction of the A Wing of the building is aware that there is a restaurant business being carried on in the said premises with all the necessary permissions. The Municipal Corporation of Greater Mumbai officials visited on each of the occasions prior to the issuance of registration certificate, prior to the issuance of fire NOC, prior to the issuance of food license, prior to the issuance of gas cylinder installment and the water tank exclusively required for hotel business. All copies of these were also in the record of the Society which the Plaintiff craves leave to, refer to and rely upon by a separate set of compilation in order to avoid — annexures to the Plaint. The Plaintiff has a necessary health license issued under Section 394 of the MMC Act which is valid till 31<sup>st</sup> December 2023, a copy of the license under Section 394 is annexed hereto and marked as **EXHIBIT-F**. The same is renewed every year.

It is pertinent to note that Defendant No.3 and all the concerned officers of Defendant No.3 have been visiting the shop premises whenever a renewal of the license is ✓



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required and have not taken any objection from any department of the Municipal Corporation of Greater Mumbai. It is only the present Defendant No. 2 in connivance with Defendant No.1 has created the flimsy story that the shop premises was a residential flat, when initially it was sanctioned in the year 1977. However, for the reasons best known to the Society [Def. No. 1] have suppressed the vital facts, that immediately after the initial sanctions and approval of the Building the erstwhile Owner had applied for change of user to Corporation and Society *inter alia* Application in year 1978 was filed through the Architect of the Society submitted a plan both for water and for users with necessary changes in the premises for running hotel business. The said application was allowed by the Municipal Corporation of Greater Mumbai which are within the knowledge of the Defendant No. 1, as all correspondences were exchanged and in the custody of the said Architect Mr. Joshi. Concededly, the copies are also in the record of the Defendant no. 1 [Society]. The said Mr. Joshi is not presently found or the Plaintiff has his office address. The Defendant No.1 however is suppressing those facts for obvious reasons to give an undue advantage to Defendant No. 2. However, some of the documents, the Plaintiff could secure after various personal visits under RTI which she is relying upon and copies of which are being annexed. Since running a hotel business requires storing and use of commercial gas. Fire compliance certificate is required from the Fire Department, for which a plan is required to be submitted to the Municipal Corporation of Greater ✓

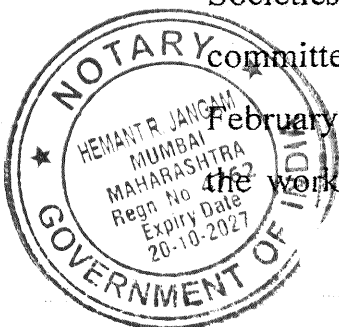


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Mumbai Portal. Accordingly, a plan is also submitted showing the restaurant area, kitchen, storage etc. A copy of the plan produced before the Municipal Corporation of Greater Mumbai portal i.e. Defendant No.3 for Fire Compliance Certificate is produced and marked as **EXHIBIT-G.**

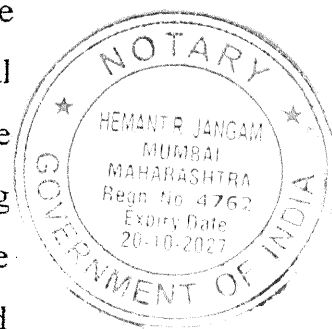
3.7 The Suit premises is in the corner of A-1 "Wing" of the Building, Photographs showing the business and the shop premises as commercial premises are annexed hereto and collectively marked as **EXHIBIT-H.** From the year 1978, till the new managing committee took over and till the Defendant No.2 entered the redevelopment work of the Society; there was never any objection for running the hotel or the conversion from residential to commercial for running the hotel since inception i.e. 1978. The Defendant No.1 and its members were personally aware of all the situation including the then managing committee members who had not objected or rather gave consent. The present managing committee however intends to undo what was 44 years ago only with a view to collude with the Defendant No.2 for obvious reason of enriching the Defendant No.2 at the cost of Plaintiff.

3.8 There were complaints and disputes amongst the managing committee members which resulted in the dissolving the earlier managing committee and an Administrator was appointed by the Assistant Registrar of Co-operative Societies. The said registrar conducted an election and a committee came to be elected and constituted on 7<sup>th</sup> February 2022. The new managing committee entertained the work of redevelopment and received offers as to the



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Plaintiff's information including the offer of the Defendant No.2 and within few days hardly about a month or two Defendant No.2 was selected as a developer by the Managing Committee. It seems that certain exchange offers were exchanged between Defendant Nos.1 and 2 wherein Defendant No.1 Society in total disregard to the interest of the members particularly A wing and more particularly that of the Plaintiff negotiated that the front wing existing A Building also will be demolished and in that place the entire space for new building of a commercial building will be given to the developer and all members can be accommodated behind. It also seems that secretly they appears to have agreed that all shopkeepers will not be on the front side but would be given the side line and the premises occupied by the Plaintiff would be treated as flats as the initial agreement of 1976 was shown as flat and therefore, it will not be a commercial structure for hotel notwithstanding the fact that it was a commercial structure of hotel, registered as such, assessed as such, run as such with all the necessary licenses, electricity water, gas etc. they would allot two flats. This was the secret understanding which the Society through its managing committee appears to have agreed so that the commercial value of the Plaintiff's structure would be totally and the flat would be allotted and in that place a commercial building will come for free sale to the developer. The reason for this arrangement is only known to the managing committee and the said developer. It is obvious that there is a collusion and conspiracy between Defendant No.1 and the Developer to enrich themselves at the cost of the ✓



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Plaintiff.

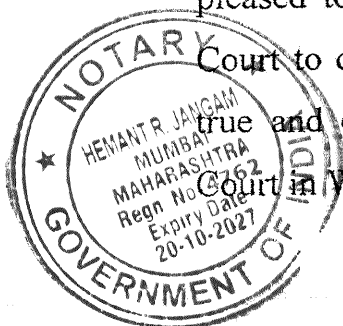
- 3.9 Being aggrieved and disgruntled with the unlawful acts of Defendants, Plaintiff approached the Hon'ble High Court Vide. Suit No. 65 of 2023, which was transferred to Hon'ble City Civil Court vide Suit No 3465 of 2024 due to pecuniary jurisdiction. A correct copy of the Memo of Suit No. 3465 of 2024 is EXHIBIT-I. Plaintiff taken out Interim Application [Notice of Motion] seeking the appointment of Court Commissioner to ascertain the actual position on site, however Hon'ble Court was please to dismiss the Notice of Motion on the ground that

*"The Plaintiff filed Photographs of the said premises which are not deniea by the defendants. The defendant No.1 also filed certain photographs alongwith compilation dtd 23.07.2024. It is seen from the said photographs that the demolition of the suit premises is already started."*

*" The said photographs are not denied by the Plaintiff. It means whatever photographs are filed by the either side are not disputed by the other side."*

A true and correct copy of the Order passed by Hon'ble City Civil Court in NM No. 2877 Of 2024 is EXHIBIT-J.

- 3.10 Plaintiff being dissatisfied with the Order passed in the Notice of Motion, challenged the same before Hon'ble High Court in W.P. No. 10467 of 2024 wherein vide. Order dated 29.07.2024 the Hon'ble High Court was pleased to expedite the Suit and directed the City Civil Court to decide the suit within a period of 06 months. A true and correct copy of order passed by Hon'ble High Court in W.P No.10467 of 2024 is EXHIBIT-K. ✓



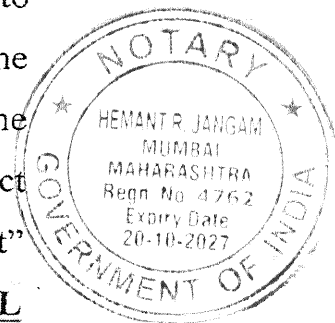
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3.11 Thereafter, Plaintiff filed chamber summons for seeking the amendment in the plaint to bring the subsequent event on record. The Hon'ble Court was pleased to allow the Chamber Summons. On 18.01.2025 the Plaintiff filed an Interim Application [Notice of Motion] taken out under O.12 R. 6 of CPC, 1908, as the Defendant no. 1 (Society) and Defendant No 2 (developer) have accepted that the Suit premises as 'Shop' in the registered Development Agreement. However, for the first time on 27.01.2025 the Defendant No 1 (Society) orally informed the Hon'ble Court that they have entered in to "Addendum to the Development Agreement" with the Defendant No. 2 (developer) hence, the application filed by the Plaintiff under O. 12 R 6 of CPC, 1908 is not maintainable. However, the Copy of the said "Addendum" was not supplied to the Plaintiff either by Defendant No 1 and 2. Hence, in order to confirm the alleged claim of the Defendants [Society and developer], Plaintiff inquired with the other members of the society, wherein, one member provided the copy of 'addendum' to the Plaintiff wherein plaintiff was shock to see that the plaintiff suit premise referred as "shop" in the registered Development, at various place has been changed/alterd/modified to "Flat". In the said addendum there is reference to the Society resolution dated 26.02.2023. Pursuant to which the addendum is entered and registered. A true and correct copy of Memo of "Addendum to development Agreement" and Society Resolution dated 26.02.2023 are EXHIBIT- L

3.12 The Plaintiff states that the suit seeking the registration of Permanent Alternate Accommodation Agreement in ✓

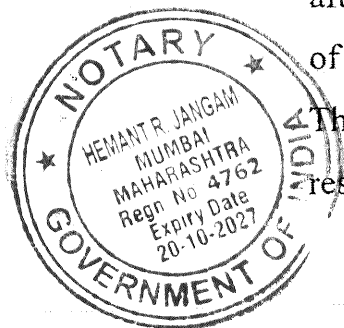
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 favour of plaintiff was filed January 2023. thereafter, on 26.02.2023 the Society passed alleged resolution seeking registration of the "Addendum to the Development Agreement" this present action of the defendant No 1 and 2 is nothing but, clear abuse of the power by the Committee of the society as society was not having any mandate to infringe upon the Individual right of the Plaintiff (member) on basis of alleged resolution. Once it is unequivocally admitted in the registered development Agreement that the suit premises of the Plaintiff is 'Shop' now the Society and developer cannot change their stand and neither can withdraw from such admission. Plaintiff states that the Development Agreement was registered on 31.10.2022 after the resolution dated 29.09.2022 was passed hence, the resolution of date 29.09.2022 cannot be relied upon and cannot be used as a defense and cannot be termed as an 'error' hence, this ground for seeking changes in the Development Agreement by registering the Addendum to Development Agreement is not maintainable. It is pure admission on part of Society and developer that the suit premise is "Shop". And hence, they are bound by 'Doctrine of Estoppel'.

3.13 Intriguingly, the unlawful acts of Defendant no. 1 [Society] manifest from the timeline that the alleged Resolution dtd. 26.02.2023 was passed after filing of the Suit *inter alia* Jan-2023 Suit was filed. It is nothing, but an afterthought of the defendants to defeat the entire process of law by defrauding the Plaintiff and this Hon'ble Court.

Thus it is apparent from the record that the subsequent resolution was passed for Addendum in Development ✓



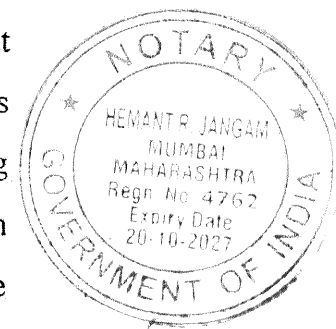
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Agreement to make the suit infructuous and meaningless. Nevertheless, the acts of the defendant no 1 and 2 to get the Addendum Registered under the pretext of some correction as inadvertent errors in the development agreement etc. is the travesty of justice.

3.14 Furthermore, that out of total 132 members only 47 were present at the said meeting scheduled on 26.02.2023 seeking the registration of "Addendum to Development Agreement" even the said Meeting conducted, resolution passed is nullity and void as the society was not having consent of 51% of the total member.

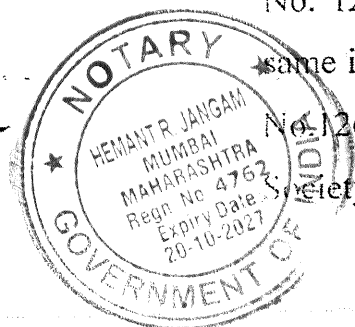
3.15 The Plaintiff states that Defendant Nos. 1 & 2 entered into a Development Agreement on 14<sup>th</sup> October 2022 and registered on 31.10.2022 expressly admitted a clear, unambiguous and unconditional admission that Plaintiff possess Commercial premises in nature of Shop no 2 and 3. In the said Agreement, there is a tabular form of the premises at Page No.63 showing the name of the Plaintiff at Serial Nos.124 as A1 Shop 2 on the ground floor, similarly, in Page 82 at Serial No.124 showing A1 Shop No.2 with the Plaintiff's name Shakuntala Kutty in Page No.99 at Serial No.124 the Plaintiffs premises is shown as Shop No.2 /3, name of the Plaintiff with the area shown as 105 6.6 square feet with the remark "shop". Similarly, at Page 109 at Serial No.124 shown as Premises AS/2/3 as 1056.06 square feet and shop with the final area being 1351.76. square feet and at Page 111 is the same position with the amount which according to them is payable same is the position at Pages 113, 115, 137, 179, 183, 188, 217 and 226. Therefore, the defendant no 1 and 2 have ✓



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admitted that the suit premise of plaintiff is regular Shop and commercial premises.

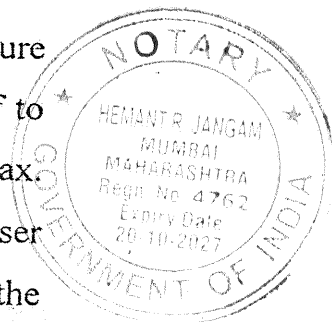
3.16 The Plaintiff states that the defendant Nos. 1 and 2 have admitted the suit premises of the Plaintiff as shop as per the Registered Development Agreement dated 14.10.2022 hence defendant nos. 1 and 2 now cannot take contrary stand as admitted by them in the said deed. Moreover, relying on this Development Agreement, the Defendant Society and Developer got the subject buildings declared in C-1 and in dilapidated category and proceeded for its redevelopment. Defendant Society and Developer consistently relied upon this Development Agreement in the judicial proceedings before the Hon Civil Court in LC Suit No.939 of 2023, wherein, the present Plaintiff is party **Defendant No 6 in said Suit.** Hon. High Court in AO No. 331 of 2024 and Hon Supreme Court of India in SLP (Civil) Nos. 12866 of 2024 and obtained orders. A true and correct copy of Memo of Suit No 839 of 2023 is **EXHIBIT-M**, whereas, copy of Order passed by Hon'ble City Civil Court in Notice of Motion in Suit No. 939 of 2024, reply, written arguments filed by Defendant No.1 Society are collectively **EXHIBIT-N**. A true and correct copy of Order passed by Hon'ble High Court is A.O No 331 of 2024 is **EXHIBIT-O**. Whereas, a copy of Judgment passed By Hon. Supreme Court is **EXHIBIT-P**. Some of the members of defendant society have filed Suit No. 1265 of 2024 against the Society and developer and same is pending. A true and correct copy of Memo of Suit No. 1265 of 2024 is **EXHIBIT-Q**, whereas, reply filed by Society and Developer in the said Suit are collectively



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**EXHIBIT-R.** Plaintiff shall rely upon and produce the records and orders of the said proceedings in the present proceedings and submits that it is well settled principle laid down by various Judgments passed by Hon'ble Supreme Court of India and others various courts that Registered Document is admissible as evidence and valid in the eyes of law and once the party admits a fact in a judicial proceeding then that admission is binding on the parties and they are not allowed to withdraw the said admission. Believing the claim of the Defendant Society and Developer that they will rehabilitate the Suit Shops that the same got vacated. After demolishing the Suit Shops by promising its redevelopment, the retraction of the said admission is not permissible to the Defendant Developer and Society otherwise it is bound to cause miscarriage of justice to the Plaintiff.

3.17 It is in these circumstances, the Plaintiff is approaching this Hon'ble Court. The collusion, conspiracy, writ large on the face of the alleged decision, correspondence and action of Defendant Nos.1 and 2. Initially, the Defendant No.1 called upon the Plaintiff after the new managing committee came into power, after the Defendant No.2 came in the picture, to show the sanctioned plan of 1977-1978, to show that this was a commercial structure sanctioned as such. They also called upon the Plaintiff to produce the tax paid as a commercial tax i.e. property tax. In response to those queries, the Plaintiff being a purchaser in the year 2010, sought to verify the record of the Municipal Corporation of Greater Mumbai. From the record of the Municipal Corporation of Greater Mumbai, ✓

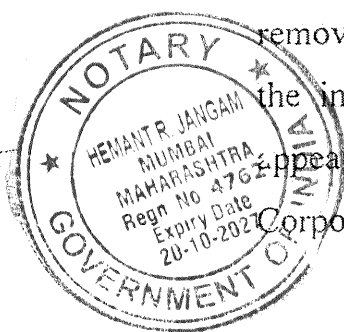


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the Plaintiff could get some of the documents which showed that as early as in the year 1978, the very architect of the developer Vilas Joshi had submitted the plan which is found in the Municipal Corporation of Greater Mumbai file being a combined shop of two premises i.e. Shop Nos. 2 and 3. The Plaintiff could not get the copies of all those papers except few which are relied upon by the Plaintiff in the Compilation. This shows the hidden intention of Defendant Nos. 1 and 2 to somehow harass the Plaintiff.

3.18 From the inception of its use the year 1978 as Hotel was never objected by any one including the Defendant No.1 society, it is only after the entry of Defendant No. 2 who has colluded with the present committee members to make the old records unavailable including the plan submitted by the architect Mr. Joshi to Municipal Corporation of Greater Mumbai. Some of the files in the Municipal Corporation of Greater Mumbai are also been missing which would show the legality of Plaintiff use of the premises. It is submitted that the Plaintiff has seen the copies of the plans submitted by the said Architect Mr. Joshi of Defendant No.1 as early as in 1978 on behalf of the earlier owner of the suit premises, It is the similar plan which was required to be submitted to the water Department showed the internal alteration and removal of the wall between the two shops. However, the present opportunities 'members has suppressed or clandestinely removed or made the papers missing in the Society. After the introduction of Defendant No.2 developer, even it appears s that the original papers in the Municipal Corporation of Greater Mumbai record have also gone

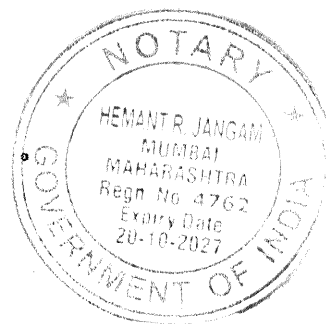


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missing. Luckily, the Plaintiff could get some of the documents for which the Plaintiff has taken the copies thereof. It is in these circumstances, the Municipal Corporation of Greater Mumbai is made as a party to the Suit as the only objection taken malafide is there is no paper or record of sanctioning the amalgamation or user. According to Defendant No.1, all the permissions licenses granted by the Municipal Corporation of Greater Mumbai is immaterial as according to them the Defendant No.1 should not give even an NOC, even now if without prejudice is required to be regularized as it does not consume any FSL. It is pertinent to note that even now the Municipal Corporation of Greater Mumbai permits and has a policy of regularizing the removal of internal wall and running of the shop on the ground floor. The Defendant No.1 Society is taking advantage of the fact that old papers are missing and that their legal advisor has advised them not to give NOC. The Municipal Corporation of Greater Mumbai being Defendant No.3 a public authority is gone to act in accordance with law, they have already without prejudice submitted the plan which is still pending only to satisfy the ego of Defendant No.1.

3.19 The Plaintiff submits that she is not against redevelopment of the building but against the committee members of Defendant No.1 Society for single out the Plaintiff and making the Defendant No.2 developer to take advantage by illegal decision of frivolous grounds and deprive the Plaintiff of her valuable property.

3.20 The Plaintiff further submits that depriving the commercial or non-residential unit holders to shift to a bye-lane, from ✓



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the existing front side location and permitting the Defendant No.2 to fully construct the commercial building and not to provide any commercial tenements to the existing members amounts to total malafide, illegal act and the Plaintiff is entitled for a declaration for the same.

3.21 The Plaintiff states that the Plaintiff being of old age, having several health issues, is not in a position to travel to court to attend the court proceedings and hence the Plaintiff has given a Power of Attorney to her son Mr. Deepak Kutty Shetty for filing the above suit.

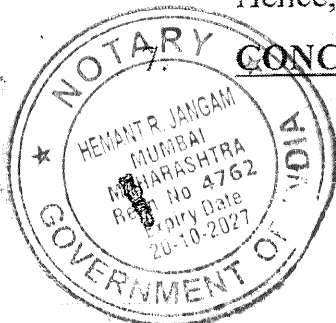
4. The Plaintiff states that the cause of action for filing the Suit arose on 27.01.2025, when for the 1<sup>st</sup> time the defendant society informed about the registration of the "Addendum to the Development" in the Open Court at the time of hearing on 27.01.2025 in LC Suit No 3465 of 2024.

5. The Plaintiff states that the cause of action and the present grievances does not touch the business of the Society; there is no need to give notice as required under Section 164 of the MCS. Act.

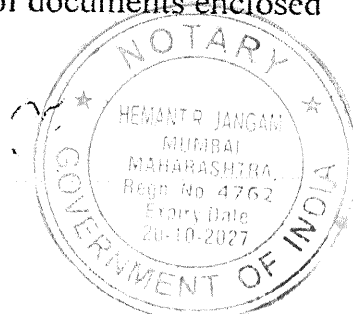
6. The cause of Action arose when the Defendant No.1 and the Defendant No.2 Developer entered in to "Addendum to Development Agreement" dated 09.09.2024 which came to the Knowledge of Plaintiff only on 27.01.2025 at the time of hearing in Suit No. 3465 of 2024. Hence, the Suit is within limitation.

Hence, this Suit.

CONCLUDING PARAGRAPHS - ✓



- 7.1 The Plaintiff values the Suit at Rs 1,000 and accordingly pays Court fee of Rs. ~~1,000~~ <sup>200</sup> u/s. 6(iv)j of the Maharashtra Court Fee Act is paid.
- 7.2 That, this Hon'ble Court possesses the jurisdiction to entertain, try and adjudicate the present Suit as the suit property is situated at Kalina, Santacruz East, within the territorial jurisdiction of this Hon'ble Court.
- 7.3 The Plaintiff has not filed any other Suit or any other proceedings either before this Hon'ble Court or before Hon'ble High Court on this cause of action, hence this Suit is maintainable.
- 7.4 That, the Plaintiff has no other efficacious, alternative remedy available to him except to approach this Hon'ble Court by way of present Suit for seeking mandatory injunction order and direction for the MCGM to perform its statutory imperatives. Therefore, the present Suit is maintainable.
- 7.5 Plaintiff files the present suit on the cause of action which has arisen on 27.01.2025.
- 7.6 Plaintiff states that due to urgency in the matter the Statutory Notice U/s 527 be waived off.
- 7.7 The Plaintiff approaches this Hon'ble Court without any delay, laches and negligence on his part. Therefore, this Suit is maintainable.
- 7.8 The present Suit is filed within limitation. Present Suit is not barred under any law.
- 7.9 Plaintiff seeks leave of this Hon'ble Court to add, amend, alter the memo of this Plaint as and when required.
- 7.10 The Plaintiff shall rely upon the list of documents enclosed herewith. ✓



7.11 The Plaintiff has not been served with the caveat in this matter and as such submits that no caveat is filed in the matter.

8. The Plaintiff therefore humbly prays as under:

**:-PRAYERS:-**

[A] That, this Hon'ble Court be pleased to grant a decree for declaration that the "Addendum to Development Agreement" dated 09.09.2024 registered with Joint-Su-Registrar as illegal, null, void, bad in law, perverse and this Hon'ble Court be pleased to cancel the said document as the same is contrary to the rights of the Plaintiff;

[B] That, this Hon'ble Court be pleased to grant a decree for declaration that the Resolution dated 26.02.2023 passed by Defendant No 1 as illegal, null, void, bad in law, perverse and this Hon'ble Court be pleased to cancel the said resolution as the same infringe the rights of the Plaintiff;

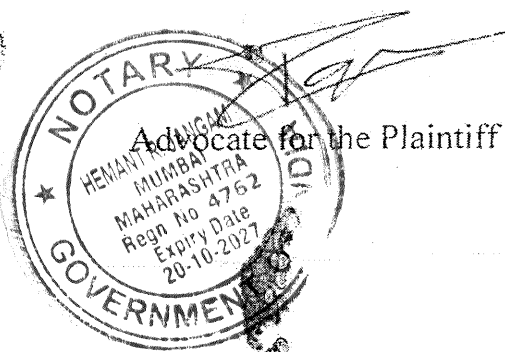
[C] Pending the hearing and final disposal of the present suit this Hon'ble Court be please to stay the effects, operations, implementations of the "Addendum to Development Agreement" dated 09.09.2024 registered with Sub-Registrar in all manner;

[D] Ad-Interim, interim reliefs in terms of prayer clauses [C] above be granted;

[E] For costs; and

[F] Such other and further reliefs as the nature and circumstances of the case may require. ✓

Dated this      day of January, 2023



Plaintiff

VERIFICATION

I, Deepak Kuty Shetty, age 51 years, of Mumbai, Indian  
 Inhabitant, C.A. of Plaintiff above named, solemnly declare that  
 what is Stated in Paragraph Nos. 1 to \_\_\_ is true to my own  
 knowledge, and that what is stated in the remaining Paragraph  
 Nos. \_\_\_ to \_\_\_ is stated on 1 information and belief, and believe  
 the same to be true.

Solemnly declared at Mumbai )

On this day of \_\_\_ January, 2025 )

Identified by me,

Advocate for the Plaintiff

(59)

1) Aadhar Card No. 7405 6824 6277

2) Pan No.

3) Driving License No

4) ...

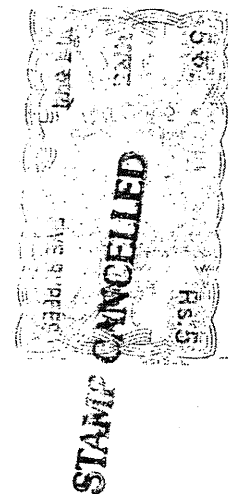
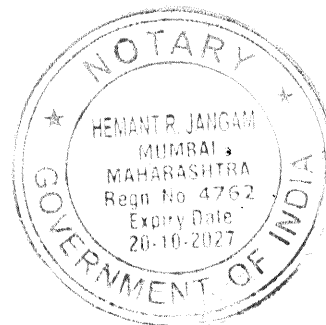
5) ... 30/12/2024

6) ...

7) ...

Seen Original / Copy / Verified & Returned Back

29/11/25  
 ...  
 ...  
 ...



Civil Court, Dindoshi

EXHIBIT - 'E'**In The Court Of :** Judge City Civil Court and Additional Sessions Judge**CNR Number :** MHCC040063892023**Case Number :** Civil Suit/0001974/2023**Date :** 02-05-2026Nazare Alam Abul Bayan **Versus** MCGM

### Daily Status

| Business                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Nature of Disposal      | Disposal Date  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|----------------|
| 02/05/2026 CORAM H.H. JUDGE SHRI. B. D. PAWAR (CR.NO.14) SU 1974/2023<br>None present for plaintiff. Adv. Rutuja Korde for Deft./MCGM present. Adv. Harmindar Anand for def. no. 3 present. Adv. Rutuja S. Korde for Deft./MCGM present. Nobody appeared for the plaintiff. Despite order dated 24-07-2025 steps not taken by the plaintiff to proceed with suit. It appears that plaintiff is not interested to proceed with suit. Hence suit is dismissed in default. As the suit is dismissed, NM No. 2202/2024 is also dismissed in default. | DISMISSED<br>IN DEFAULT | 02-05-<br>2026 |

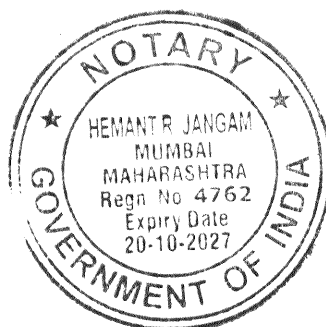


EXHIBIT - 'F'

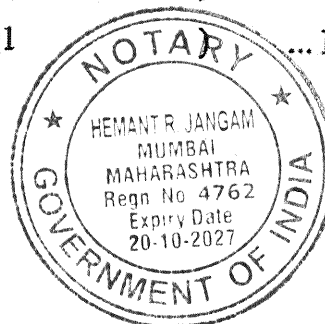
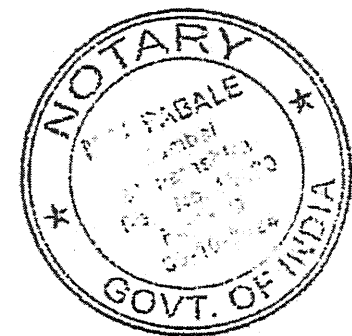
①

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
SUIT NO. 3465 OF 2023

Shakuntala Kutty Shetty )  
Age 72 years, of Mumbai, Indian Inhabitant )  
Having her premises at Shop No.2/3, )  
Ground Floor, Corner of the Building A-1 )  
Kailash Co-operative Housing Society )  
Limited, 173, Vidyanagari Marg, Kalina )  
Santacruz (West), Mumbai 400 098 )  
Through its C.A Deepak Kutty Shetty ) ... Plaintiff

Versus

1. Kailash Prabhat Co-operative Housing)  
Society Limited, 173, Vidyanagari )  
Marg, Kalina, Santacruz (West), )  
Mumbai 400 098 )
2. Galaxy Developers, )  
Through its Sole Proprietor )  
Mr. Abdul Rahim A.K. Barudjar )  
having address at G/6, Rizvi Nagar )  
S.V. Road, Santacruz (West), )  
Mumbai - 400 054 )
3. Municipal Corporation of Greater )  
Mumbai, a body constituted under )  
the provisions of the Mumbai )  
Municipal Corporation Act, 1888 )  
Having its head office at Mahapalika )  
Bhavan, Mahapalika Marg, Opp. )  
CMST, Mumbai 400 001



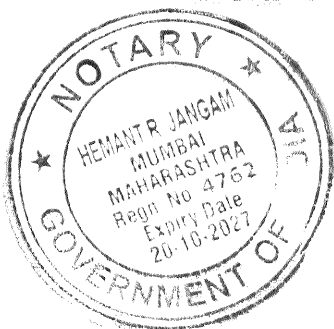
... Defendants

Suit for declaration & injunctionClaim amount: Rs.2,00,00,000/-Court fee paid Rs. 2,53,230/-Computer Code: - 643Act Code:

Not Commercial Suit

THE PLAINTIFF ABOVE NAMED STATES AS UNDER:

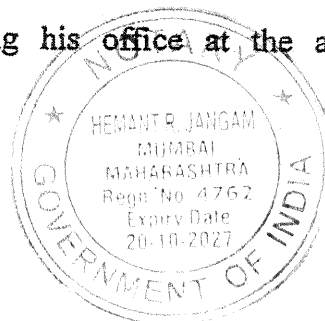
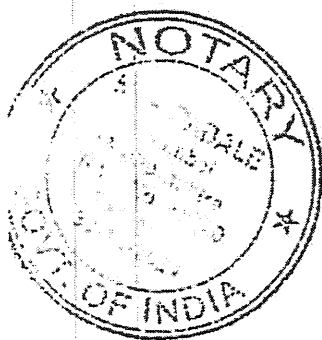
1. The Plaintiff is a member and the owner of shop premises bearing Shop Nos. 2 and 3, a combined shop together admeasuring approximately 1192 square feet built up or 1074 square feet of carpet area on the ground floor in the corner of the Building A-1 of Kailash Prabhat Co-operative Housing Society Limited, a housing society situate at 173, Vidyanagari Marg, Santacruz (East), Mumbai in the building of Defendant No.1 and carrying on business in the name and style of "Ravi Hotel". The said premises are hereinafter called the "suit premises" for the sake of brevity. The said premises were acquired by the Plaintiff along with her husband Kutty Kantappa Shetty.
2. The Plaintiff state that the aforesaid Suit premises was originally purchased by one Vithal Shetty. Vithal Shetty was the brother in law of the Plaintiff i.e. the Plaintiff and



(3)

the wife of Vithal Shetty named Appi Shetty were direct sisters. After the death of the said Vithal Shetty, the suit premises was transferred in the name of his wife Appi Shetty from whom under an Agreement duly registered before the Sub-Registrar dated 5<sup>th</sup> August 2010 acquired the said premises which was referred to therein as AS002 and AS003 admeasuring 1192 square feet. The stamp duty and other charges were paid as per the market rate under the aforesaid registered documents.

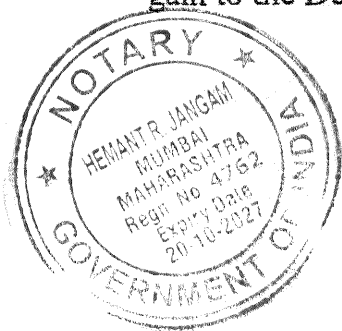
3. Defendant No.1 is a co-operative housing society who owns a large plot of land admeasuring approximately 6127.6 square metres of land on which there are 3 buildings namely which again has three Wings A-1, A-2 and A-3 and Building B comprising of 2 Wings and Building C comprising of 2 Wings on the plot of land bearing Plot No.173, CTS Nos.7247, 7247/1 to 7247/4 and Old Survey No. 173(Part) and Plot No.173 at Vidyanagari Marg, Kalina, Santacruz Mumbai 400 098. Defendant No.2 is the sole proprietary concern of one Abdul Rahim AK Barudgar carrying on business under the name of 'Galaxy Developers' having his office at the address



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mentioned in the cause title. Defendant No.3 is the Municipal Corporation of Greater Mumbai, a planning authority under the Maharashtra Regional and Town Planning Act 1966 who is a necessary and proper party in the circumstances mentioned hereinafter.

4. The said suit premises being Shop Nos.2 and 3 was acquired for running an eating house i.e. restaurant with all the necessary licenses from Defendant No.3 from the inception of the building which business is continued right from the year 1978 to the knowledge of all concerned including the society and Defendant No.2. Defendant No.1 now intends to go for redevelopment and has entered into an Agreement with Defendant No.2 for redevelopment and both of them have for the reasons best known to them and to cause loss, inconvenience, hardship to the Plaintiffs have connived with each other to deprive the premises on frivolous ground. The approach of Defendant Nos. 1 and 2 is collusion and in conspiracy to pressurize the Plaintiff to give up her commercial premises of hotel from the said location, cause wrongful loss to the Plaintiff and wrongful gain to the Defendants in particular Defendant No.2 and in



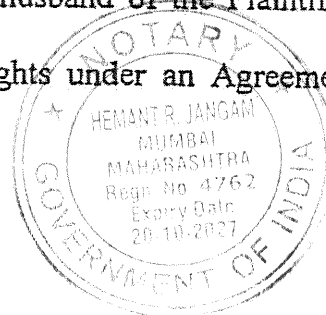
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connivance and a secret understanding with the current Managing Committee of Defendant No.1 and somehow deprive the Plaintiff of their potentiality of the present premises. Therefore, their action, their decision is wrongful and illegal with malafide intention only to get unjust enrichment themselves they have devised a mode to deprive the Plaintiff of her valuable property. Hence, the Plaintiff is approaching this Hon'ble Court for the reliefs a mentioned hereinafter and hence, the Suit.



The facts leading to filing of the present Suit is as under:

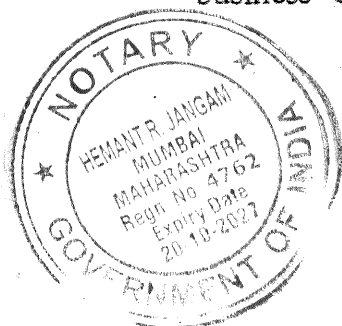
5. One Nene Gadgil Associates, a partnership firm was appointed as a developer by Defendant No.1 Society. Under an Agreement dated 12<sup>th</sup> August 1976 entered into between the said developers and the society Developer was entrusted to develop to construct a building on the open portion of the plot. The said Nene Gadgil Associates sold two units premises on the ground floor mentioned as flat Nos. 002 and 003 therein referred to as Flats with the confirmation of the Defendant No.1 Society in favour of one Vithal S. Shetty who was husband of the Plaintiff's sister and who acquired the rights under an Agreement



(6)

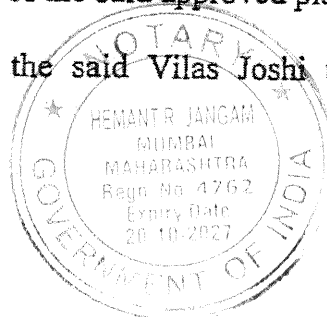
dated 2<sup>nd</sup> December 1976 entered into between Nene Gadgil Associates as the Developer, Defendant No.1 as the confirming party and Vithal S. Shetty as the purchaser. The said Vithal S. Shetty after purchase applied to Defendant No.1 as early as in the year 1977 for converting and using the said premises being Premises Nos.002 and 003 as eating house or a restaurant. At that time, Defendant No.1 Society by its letter dated 17<sup>th</sup> December 1977 issued No Objection. The Plaintiff craves leave to refer to and rely upon the said letter dated 17<sup>th</sup> December 1977, when produced. The said two shops bearing Shop Nos. 2 and 3 on the ground floor of A building which together admeasures approximately 99.81 square metres i.e. 1074 square feet where the business under the name RAVI HOTEL is carried in the property of Defendant No.1 is the referred as suit premises. The Plaintiff herself was personally aware of this fact as the said Vithal Shetty and the Plaintiff's husband Kutty Kantappa Shetty were co-brothers.

6. In the year 1978 the said Vithal Shetty who carried on the business of restaurant applied to the Defendant No.3



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Corporation and got registration under Bombay Shops and Establishment Act 1948 for running the business of tea, coffee, snacks etc. The said Registration Certificate continues to be valid which was initially granted from the year 1978 onwards and renewed every year thereafter. In fact, the Plaintiff's husband himself was running the said hotel personally on behalf of his brother. One Vilas Joshi was the architect of the Society and also of the developer who was personally aware of the fact that two premises were acquired by Vithal Shetty for carrying on restaurant business. He had applied to the Municipal Corporation of Greater Mumbai for necessary change of user and changes in the premises as to the information of the Plaintiff and her late husband. Therefore, the said Vilas Joshi applied to the Municipal Corporation of Greater Mumbai at the instruction of the Plaintiff's husband and the said Vithal Shetty and with the approval of the Defendant No.1's committee, for regular commercial water connection along with an approved plan, which was duly sanctioned by the Municipal Corporation of Greater Mumbai. The Plaintiff has obtained through RTI, a copy of the said approved plan dated 16.03.1978 submitted by the said Vilas Joshi to



Defendant No.3. Hereto annexed and marked as Exhibit

EXH "A"

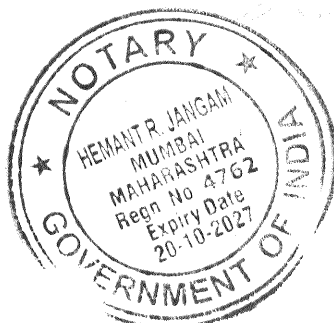
"A" is the copy of the said Plan dated 16<sup>th</sup> March, 1978.

The Plaintiff has copies of the correspondence with the Defendant No.3 who approved a separate water connection by their letter dated 27<sup>th</sup> December, 1978 after visiting the premises in question. Hereto annexed and marked as

EXH "B"

Exhibit "B" is the copy of the letter dated 27<sup>th</sup> December, 1978 grant a separate water connection. Since the Plaintiff's late husband was handling the affairs of the said shop, he was personally aware of all the facts and as such the Plaintiff is in custody of some of the old papers. However, in view of more than 4 decades some of the papers do not find in her file but some are in her custody being the old copies.

7. The Municipal Corporation of Greater Mumbai assessed the entire building including the said shop i.e. Shop Nos. 2 & 3. It was first assessed from 1<sup>st</sup> April 1977 being the property assessment year from April to March 1977-1987 though the building was completed as to the information of the Plaintiffs in the year 1978. The Plaintiff has an extract of the Municipal Corporation of Greater Mumbai register

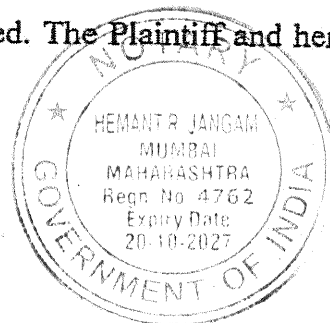


(9)

of inspection which shows the shop No.1 as a tailor shop and shop nos. 2 and 3 as commercial shops with total area as shop and the assessment also at commercial rate. A copy of the extract obtained from the Municipal Corporation of Greater Mumbai showing the first date of assessment and the Annexure A of the said inspection extract showing the descriptions and details of the capital value, wherein the premises of the Plaintiff are shown as Shop Nos. 2 and 3, the commercial user from 1977 is annexed hereto and marked as Exhibit "C".

Ex "C"

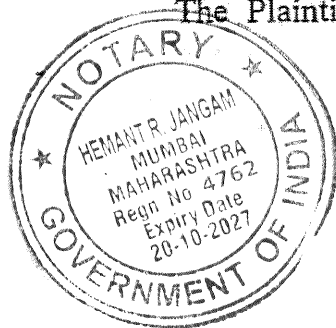
8. The Plaintiff understands that the Defendant No.1 had objected for keeping the gas cylinders near the open space and threatened to disconnect water supply from the water tank. The said Appi Shetty i.e. the wife of Vithal Shetty filed civil proceedings before the Hon'ble Co-operative Court and obtained an Award against Defendant No.1 sometime in September 2004, restraining Defendant No.1 Society from obstructing or disconnecting the gas and the water supply. The Plaintiff craves leave to refer the said award which considers the running of hotel business after considering various issues involved. The Plaintiff and her



(10)

predeceases have obtained all required permissions, also obtained letter from the Assessor and Collector regarding the levy of commercial property taxes, the necessary food license, necessary permissions for installation of gas cylinder, necessary copy of the blue print of plan showing the non-residential user etc. The permission for fire NOC from the Municipal Corporation of Greater Mumbai, water connection and its necessary documents, all are in order in respect of the said premises. The Defendant No.1 Society was from the inception of the construction of the A Wing of the building is aware that there is a restaurant business being carried on in the said premises with all the necessary permissions. The Municipal Corporation of Greater Mumbai officials visited on each of the occasions prior to the issuance of registration certificate, prior to the issuance of fire NOC prior to the issuance of food license, prior to the issuance of gas cylinder installment and the water tank exclusively required for hotel business. All copies of these were also in the record of the Society which the Plaintiff craves leave to, refer to and rely upon by a separate set of compilation in order to avoid more annexures to the Plaint.

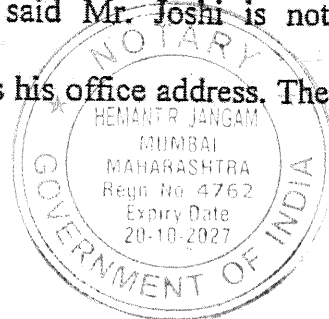
The Plaintiff has necessary health license issued under



(17)

Exhibit "D"

Section 394 of the MMC Act which is valid till 31<sup>st</sup> December 2023, a copy of the license under Section 394 is annexed hereto and marked as Exhibit "D". The same is renewed every year. It is pertinent to note that Defendant No.3 and all the concerned officers of Defendant No.3 have been visiting the shop premises whenever a renewal of the license is required and have not taken any objection from any department of the Municipal Corporation of Greater Mumbai. It is only the present Defendant No.2 in connivance with Defendant No.1 has started the story that the shop premises was a residential flat, when initially it was sanctioned in the year 1977. However, for the reasons best known to the Society they have suppressed the fact that immediately after the initial sanctions by a subsequent Application in the year 1978 that too through the Architect of the society submitted plan both for water and for user with necessary changes in the premises for running hotel business which was approved by the Municipal Corporation of Greater Mumbai. All these documents were in the custody of the said Architect Mr. Joshi and copies in the record of the Society. The said Mr. Joshi is not presently found or the Plaintiff has his office address. The

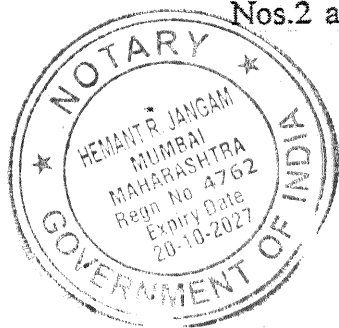


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Defendant No.1 however is suppressing those documents for obvious reasons to help the Defendant No.2. However, some of the documents, the Plaintiff could secure after various personal visits under RTI which she is relying upon and copies of which being annexed. Since running of a hotel business requires storing and use of commercial gas, Fire compliance certificate is required from the Fire Department, for which a plan is required to be submitted to the Municipal Corporation of Greater Mumbai Portal. Accordingly, a plan is also submitted showing the restaurant area, kitchen, storage etc. A copy of the plan produced before the Municipal Corporation of Greater Mumbai portal i.e. Defendant No.3 for Fire Compliance Certificate is produced and marked as Exhibit "E".

G.M. "E"

9. The situation of the three buildings as to the information of Plaintiff are such that all the wings of the Building A is constructed in the year 1977-1978, Building was constructed subsequently and the Building C was constructed prior to 1977 -1978. The premises which hereinafter referred to as the suit premises being Shop Nos.2 and 3 on the ground floor is facing the main road



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GPH F-1

GPH F-2

and also a side road. It is in the corner of A1 Wing of the Building. Photographs showing the business and the shop premises as commercial premises are annexed hereto and marked as Exhibit "F", Exhibit "F-1" & Exhibit "F-2".

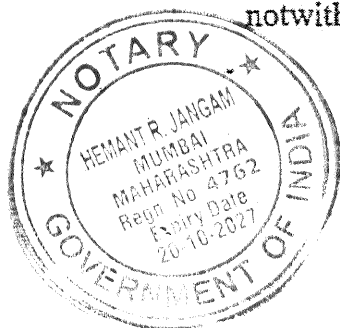
From the year 1978, till the new managing committee took over and till the Defendant No.2 entered the redevelopment work of the Society; there was never any objection for running the hotel or the conversion from residential to commercial for running the hotel since inception i.e. 1978. The Defendant No.1 and all its members were personally aware of all the situation including the then managing committee members who had not objected or rather gave consent. The present managing committee however intends to undo what was done 44 years ago only with a view to collude with the Defendant No.2 for obvious reason of enriching the Defendant No.2 at the cost of Plaintiff.

10. There were complaints and dispute amongst the managing committee members which resulted into the dissolving the earlier managing committee and an Administrator was appointed by the Assistant Registrar of Co-operative



(14)

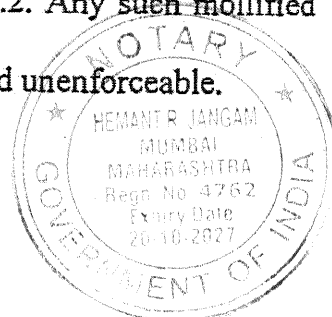
Societies. The said registrar conducted an election and a committee came to be elected and constituted on 7<sup>th</sup> February 2022. The new managing committee entertained the work of redevelopment and received offers as to the Plaintiff's information including the offer of the Defendant No.2 and within few days hardly about a month or two Defendant No.2 was selected as a developer by the managing committee. It seems that certain exchange offers were exchanged between Defendant Nos.1 and 2 wherein Defendant No.1 Society in total disregard to the interest of the members particularly A wing and more particularly that of the Plaintiff negotiated that the front wing existing A Building also will be demolished and in that place the entire space for new building of a commercial building will be given to the developer and all members can be accommodated behind. It also seems that secretly they appears to have agreed that all shopkeepers will not be on the front side but would be given the side line and the premises occupied by the Plaintiff would be treated as flats as the initial agreement of 1976 was shown as flat and therefore, it will not be a commercial structure for hotel notwithstanding the fact that it was a commercial structure



(15)

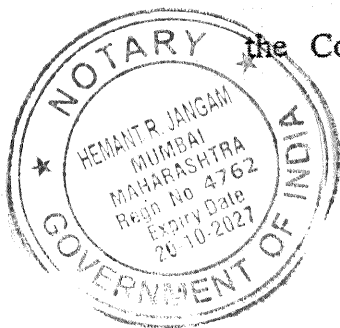
of hotel, registered as such, assessed as such, run as such with all the necessary licenses, electricity water, gas etc. they would allot two flats. This was the secret understanding which the Society through its managing committee appears to have agreed so that the commercial value of the Plaintiff's structure would be totally reduced and the flat would be allotted and in that place a commercial building will come up for free sale to the developer. The reason for this arrangement is only known to the managing committee and the said developer. It is obvious that there is a collusion and conspiracy between Defendant No.1 and the Developer to enrich themselves at the cost of the Plaintiff.

11. It can be seen that there is no planning constraint or the reason why the Plaintiff's premises cannot be accommodated in the front side of commercial proposed building, somehow they want to oust the Plaintiff premises on the sole ground that majority can take any decision to oust any member for the personal gain of committee members and of the Defendant No.2. Any such mollified decision if taken it will be illegal and unenforceable.



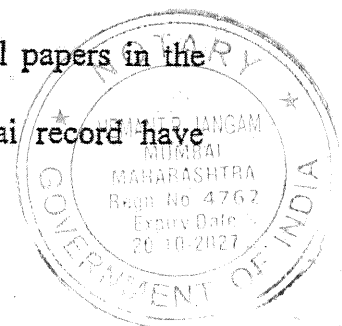
(16)

12. It is in these circumstances, the Plaintiff is approaching this Hon'ble Court. The collusion, conspiracy, writ large on the face of the alleged decision, correspondence and action of Defendant Nos.1 and 2. Initially, the Defendant No.1 called upon the Plaintiff after the new managing committee came into power, after the Defendant No.2 came in the picture, to show the sanctioned plan of 1977-1978, to show that this was a commercial structure sanctioned as such. They also called upon the Plaintiff to produce the tax paid as a commercial tax i.e. property tax. In response to those queries, the Plaintiff being a purchaser in the year 2010, sought to verify the record of the Municipal Corporation of Greater Mumbai. From the record of the Municipal Corporation of Greater Mumbai, the Plaintiff could get some of the documents which showed that as early as in the year 1978, the very architect of the developer Vilas Joshi had submitted the plan which is found in the Municipal Corporation of Greater Mumbai file being a combined shop of two premises i.e. Shop Nos. 2 and 3. The Plaintiff could not get the copies of all those papers except few which are relied upon by the Plaintiff in the Compilation. This shows the hidden intention of



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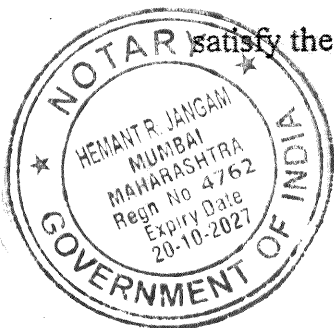
Defendant Nos. 1 and 2 to somehow harass the Plaintiff. From the inception of its use from the year 1978 as Hotel was never objected by any one including the Defendant No.1 society, it is only after the entry of Defendant No. 2 who has colluded with the present committee members to make the old records unavailable including the plan submitted by the architect Mr. Joshi to Municipal Corporation of Greater Mumbai. Some of the files in the Municipal Corporation of Greater Mumbai are also been missing which would show the legality of Plaintiff use of the premises. It is submitted that the Plaintiff has seen the copies of the plans submitted by the said Architect Mr. Joshi of Defendant No.1 as early as in 1978 on behalf of the earlier owner of the suit premises. It is the similar plan which was required to be submitted to the water department. It showed the internal alteration and removal of the wall between the two shops. However, the present committee members has suppressed or clandestinely removed or made the papers missing in the records of the Society. After the introduction of Defendant No.2 developer, even it appears that the original papers in the Municipal Corporation of Greater Mumbai record have



(18)

also gone missing. Luckily, the Plaintiff could get some of the documents for which the Plaintiff has taken the copies thereof. It is in these circumstances, the Municipal Corporation of Greater Mumbai is made as a party to the Suit as the only objection taken malafide is there is no paper or record of sanctioning the amalgamation or user. According to Defendant No.1, all the permissions licenses granted by the Municipal Corporation of Greater Mumbai is immaterial as according to them the Defendant No.1 should not give even an NOC, even now if without prejudice is required to be regularized as it does not consume any FSI. It is pertinent to note that even now the Municipal Corporation of Greater Mumbai permits and has a policy of regularizing the removal of internal wall and running of the shop on the ground floor. The Defendant No.1 Society is taking advantage of the fact that old papers are missing and that their legal advisor has advised them not to give NOC. The Municipal Corporation of Greater Mumbai being Defendant No.3 a public authority is gone to act in accordance with law, they have already without prejudice submitted the plan which is still pending only to

satisfy the ego of Defendant No.1.



(19)

13. The son of Plaintiff along with the members of Defendant No.1 Society visited the office of Defendant No. 2, wherein it was agreed that the Plaintiff being carrying on the business of Hotel will be reallocated on the same place i.e. on the front side. The Plaintiff confirmed the same by her letter dated 22<sup>nd</sup> April, 2022 to the Defendant No.1 Society. Hereto annexed and marked as Exhibit "G" is the copy of the letter dated 22<sup>nd</sup> April, 2022.

14. Defendant No.1 Society addressed a letter dated 27<sup>th</sup> May, 2022 to the Plaintiff and called upon to submit documents showing commercial use. A copy of the letter dated 27<sup>th</sup> May 2022 is annexed hereto and marked as Exhibit "H".

15. In response to the same, the Plaintiff forwarded to Defendant No.1 society vide her Advocate's letter dated 14<sup>th</sup> June 2022 and forwarded 9 documents along with a proper reply. Hereto annexed and marked as Exhibit "I" is a copy of the letter dated 14<sup>th</sup> June 2022.

16. In response to the reply of the Plaintiff, the Defendant No.1 through their Advocate S. L. Partners responded by their letter dated 23<sup>rd</sup> June, 2022. Hereto annexed and

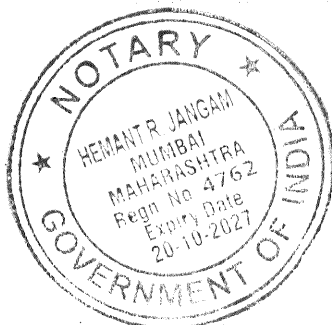


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EVA "5"

marked as Exhibit "J" is a copy of the letter dated 23<sup>rd</sup> June, 2022. In the said letter, apart from various paras admitted the fact that the premises have been used for non-residential purpose for a period of over 46 years. However, the documents cannot be taken on record and what they want is the proof of conversion. On the one hand Defendant No. 1 writes to the Plaintiff that it is because the Defendant No.2 Developer objects, the society cannot help. On the other hand the society passes alleged resolution that its legal advisor has instructed them not to give NOC for regularization, at the same time society asks the Plaintiff to get it regularized, this attitude of the Defendant No.1 would expose that society is more interested in the Defendant No. 2 Developer. The whole purpose is to take objection at the instance of Developer ask the Plaintiff to get it regularized but not to give NOC as advocate has advised them not to give.

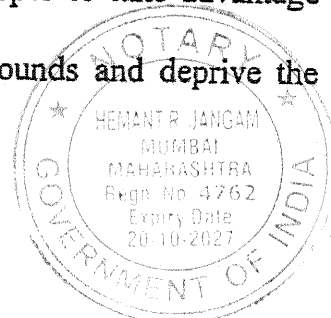
17. The Plaintiff Advocate by his letter dated 29<sup>th</sup> September, 2022 replied to the letter dated 23<sup>rd</sup> June, 2022 issued by the Advocate for Defendant No.1 Society narrating the entire fact that have occurred and requested that the



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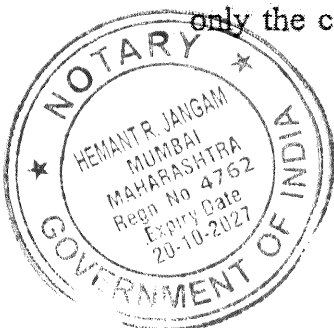
Plaintiff be provided commercial premises for hotel on the front side as agreed. Hereto annexed and marked as Exhibit "K" is the copy of the letter dated 29<sup>th</sup> September, 2022.

18. The Plaintiff under the circumstance mentioned above submit that the decision not to allow the Plaintiff to have an alternate accommodation at the same location of its existing hotel business is illegal, collusive contrary to law and not binding upon the Plaintiff. Therefore the Plaintiff is entitled for the relief against the Defendants from putting any construction on the site where the present suit shop is situate without giving alternate commercial place for hotel on ground floor facing the road and seek an injunction against all the Defendants from putting any construction as above.
19. The Plaintiff submits that she is not against redevelopment of the building, but against the committee members of Defendant No.1 Society for single out the Plaintiff and making the Defendant No.2 developer to take advantage by illegal decision of frivolous grounds and deprive the Plaintiff of her valuable property.



22

20. The Plaintiff states that she is not at all against the redevelopment of all the buildings. Though the stability certificate in respect of the Building A obtained earlier atleast from two structural engineers shows it is in C2 Category, repairable still the Defendant No.2 in connivance with Defendant No.1 and Defendant No.3 got it declared as C1 Category only to pressurize the occupants / members of Building A which was constructed almost 10 years. The Plaintiff's grievances are the outright collusion between the Defendant Nos. 1 and 2 to totally shift Building A and permit the developer to put a commercial building in that place and not to give any commercial premises to the members that is the act which is not only illegal but malafide to suppress and harass the minority member whose livelihood is sought to be deprived just to provide more profit to the Defendant No.2 and obviously to the managing committee members. This action can only be adjudicated by this Hon'ble Court in a civil suit. It is therefore, as repeatedly held by this Hon'ble Court the deprival of the premises to its members does not fall within the ambit of Section 91 of the MCS Act and it is only the civil court which has jurisdiction and hence this

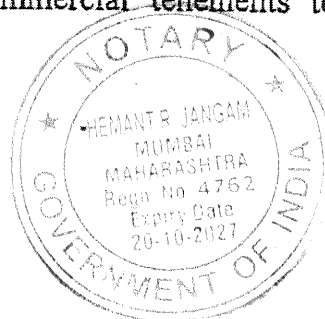


(23)

Hon'ble Court has jurisdiction to try and entertain the present Suit.

21. The Plaintiff states that the suit premises is used as commercial restaurant with the internal alteration of two shops or mentioned as earlier flats in the plans of 1977 but converted in 1978. The Municipal Corporation of Greater Mumbai Defendant No.3 has all the records and copies with Defendant No.1 Society. The Plaintiff is entitled to get the same produced. However, for any reason either it is misplaced or loss for whatever reason by virtue of the other documents relied upon by the Plaintiff and the continuous use of the premises as restaurant, the Plaintiff is entitled for an order directing the Defendant No.3 to issue necessary certificate and if required on payment of any charges.

22. The Plaintiff further submits that depriving the commercial or non-residential unit holders to shift to a bye-lane, from the existing front side location and permitting the Defendant No.2 to fully construct the commercial building and not to provide any commercial tenements to the



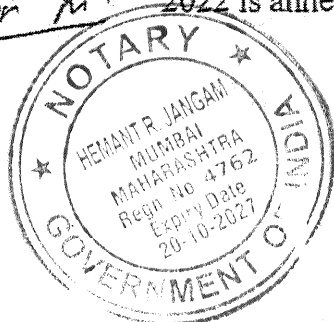
(24)

existing members amounts to total malafide, illegal act and the Plaintiff is entitled for a declaration for the same.

23. The Plaintiff also submits that the Defendant No.1 acting at the instance of and/or advice of the alleged legal advisor not to give NOC to the Municipal Corporation of Greater Mumbai for such regularization if required is also a malafide conduct.

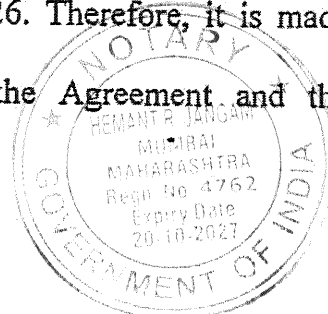
24. The Plaintiff submits that the Plaintiff has time and again called upon and placed on record their case before the Defendants. In fact, Defendant No.1 in response to the Plaintiff Advocate letter dated 29<sup>th</sup> September, 2022 wrote a letter dated 11<sup>th</sup> October, 2022 to the Plaintiff's Advocate to fix up a meeting with the developer to arrive at the consensus to proceed further. A copy of the letter dated 11<sup>th</sup> October 2022 of Defendant No.1 is annexed hereto and marked as Exhibit "L".

25. In response to the letter of 11<sup>th</sup> October 2022, the Plaintiff responded positively by her Advocate's letter dated 14<sup>th</sup> October 2022. A copy of the letter dated 14<sup>th</sup> October, 2022 is annexed hereto and marked as Exhibit "M".



25

26. The Plaintiff states that Defendant Nos. 1& 2 entered into an Agreement on 14<sup>th</sup> October 2022 creating a fear in the minds of many members threatening them if they do not sign the Agreement they would have to pay separate stamp duty, they would get the building demolished through Municipal Corporation of Greater Mumbai etc. The Plaintiffs has a copy of the Agreement dated 14<sup>th</sup> October 2022 with various annexures annexed to it. In the said Agreement, there is a tabular form of the premises at Page No.63 showing the name of the Plaintiff at Serial Nos.124 as A1 Shop 2 on the ground floor, similarly, in Page 82 at Serial No.124 showing A1 Shop No.2 with the Plaintiff's name Shakuntala Kutty, in Page No.99 at Serial No.124 the Plaintiff's premises is shown as Shop No.2 / 3, name of the Plaintiff with the area shown as 1056.6 square feet with the remark "shop". Similarly, at Page 109 at Serial No.124 shown as Premises AS/2/3 as 1056.06 square feet and shop with the final area being 1351.76 square feet and at Page 111 is the same position with the amount which according to them is payable same is the position at Pages 113, 115, 137, 179, 183, 188, 217 and 226. Therefore, it is made clear which is evident from the Agreement and the

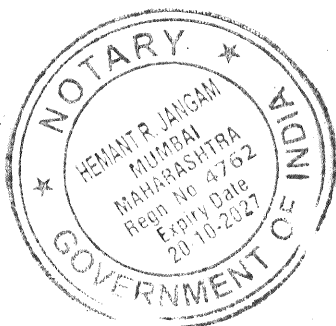


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annexures thereto that the suit premises is a regular shop premises and Defendant No.2 is fully aware and signed the said document having gone through the same, now cannot in their Advocate's letter dated 22<sup>nd</sup> December 2022 call upon the Plaintiff to produce the plan of 1977. This act is an unlawful act and demand by the Defendant Nos.1 and 2. The Plaintiffs craves leave to, refer to and rely upon the said Development Agreement dated 14<sup>th</sup> October, 2022 as and when required by the Hon'ble Court. The copy of the Development Agreement being bulky, the same has not been annexed by the Plaintiff to the suit and the same would be annexed in a separate compilation of document that would be relied upon by the Plaintiffs.

27. The Plaintiff states that the fact that the demand of the Defendant Nos.1 and 2 is wrongful, malicious, collusive and at the behest of the present managing committee of Defendant No.1 in collusion with the Defendant No.2 Developer is as under:

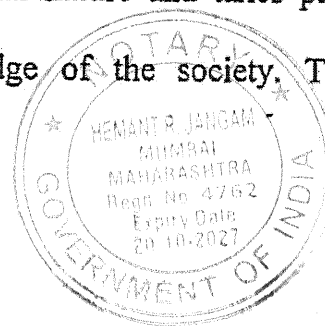
a) The new managing committee first time after a period of 44 years to oblige the Defendant No. 2 started calling



27

upon the Plaintiff to show the proof of documents of her premises.

- b) Neither the Society nor the Developer is affected by the user of the suit shop since the alternate accommodation is to be given to the existing commercial user which would not incur any additional expenses or liabilities, on the contrary there would not be any internal construction.
- c) No member of the Defendant No.1 Society or the society itself is affected by the user of the suit shops or conversion to non-residential use 44 years ago.
- d) There is no consumption of more FSI or any violation of the FSI since from the year 1978, or thereafter, there is no additional FSI use or construction done.
- e) All taxes, charges in respect of the said shop utility thereof including municipal property tax, water charges, electricity charges, maintenance charges, right from the day one i.e. inception of starting of the building was of a commercial nature and taxes paid accordingly to the knowledge of the society. The

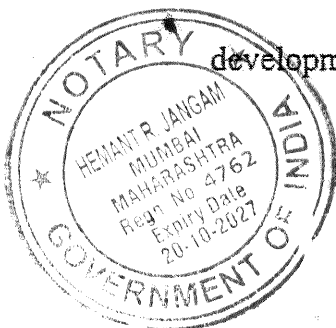


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Plaintiff has paid all the dues and has the receipts of the same, which the Plaintiffs crave leave to, refer to and rely upon the same as and when produced.

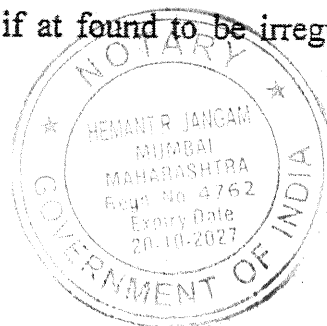
- f) The claim of the Plaintiff in no way affect the redevelopment of the Society nor any member is affected.
- g) The developer himself was fully aware of the Plaintiff's use prior to the entering into the Agreement even when the offer was made and the Defendant No.2 having a meeting with the Plaintiff's son who explained and produced and shown to him all the documents of title, use, occupation possession etc.
- h) The approach of the present managing committee that they are saying or demanding proof at the instance of the developer as can be seen from their Advocate's letter dated 11<sup>th</sup> October 2022 particularly in para 1 of the said letter which clearly shows a collusion and connivance.

28. The Plaintiff states that she is not coming in the way of development or redevelopment of the society's property.



(29)

All that the Plaintiff is seeking is a permanent alternate accommodation in respect of the existing user and the location i.e. on the road side, ground floor, commercial use. Not asking for any extra benefits or additional space or additional money other than what is agreed with all persons under the Agreement. Hence, the Plaintiff is reasonable and his entitlement is bonafide. However, the Defendants' action is unreasonable. It cannot be said that there is a bonafide dispute and can be called as touching the business of the society or obstacle in the redevelopment. This Hon'ble Court is the only authority for redressing the grievances of the Plaintiff as there is a direct collusion between the Defendant Nos.1 and 2 inter-se and Defendant No.3 being a planning authority who has all the records and being the authority to sanction the plan having not objected for 44 years and collected the charges, taxes etc. bound by their action and cannot now insist on an alleged NOC from the Defendant No.1 Society for any such regularization in case if required. Therefore, the Plaintiff is entitled for an order if so requires directing the Defendant No.3 to regularize if at found to be irregular.

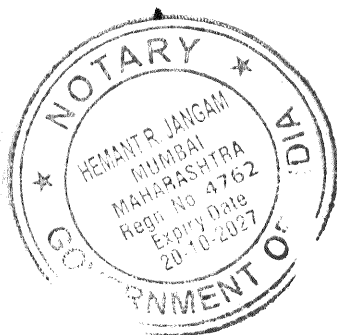


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The running of business or internal alterations if any in the suit premises.

29. The Plaintiff once again by her Advocate's letter dated 9<sup>th</sup> December, 2022 both to Defendant No.1 and Defendant No.2 has repeated her contention for allotting her commercial premises for hotel on the front side. Hereto annexed and marked as Exhibit "N" is the copy of the letter dated 9<sup>th</sup> December, 2022.

30. The Defendant No.1 issued a letter dated 22<sup>nd</sup> December, 2022 to the Plaintiff in response to the letter dated 9<sup>th</sup> December, 2022 issued by the Plaintiff's Advocate. Hereto annexed and marked as Exhibit "O" is the copy of the letter dated 22<sup>nd</sup> December, 2022.

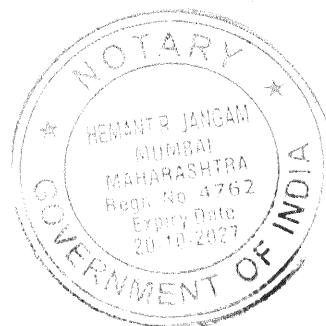
31. The Plaintiff has also sent a letter dated 20<sup>th</sup> December 2022 to the Defendant No.3 Municipal Corporation of Greater Mumbai through its Chief Engineer which was hand delivered. A copy of the said letter dated 20<sup>th</sup> December, 2022 is annexed hereto and marked as Exhibit "P".



(31)

32. The Defendant No.2 vide their Advocate's letter dated 22<sup>nd</sup> December 2022 replied to the Plaintiff's Advocate's letter dated 9<sup>th</sup> December 2022. A copy of the said letter dated 22<sup>nd</sup> December, 2022 is hereto annexed and marked as Exhibit "Q". There is an annexure of Old Building Plan of 5<sup>th</sup> August 1977. The same is not annexed. However, the same will be relied upon and referred to in the Compilation.

33. The Plaintiff states that the Plaintiff has not signed the purported redevelopment Agreement between the Defendant No.1 and Defendant No.2 as not agreeable for not providing the alternative premises of a commercial premises at the present location as it being a hotel, the only place a hotel can run effectively is in the same location where it is more over in a commercial building, the hotel premises is permitted. The Plaintiff is not asking for any additional benefits, nor additional area other than what is agreed to be provided as commercial premises for hotel. Therefore, this cannot be treated as a dispute which would give rise to any alleged arbitration, which the Defendant

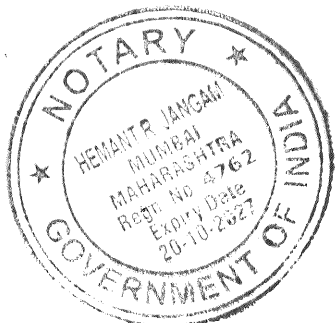


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Nos.1 and 2 and which can only be resolved by the Hon'ble Court.

34. The Plaintiff submits that running a restaurant is the only source of income; the present location is a prime and suitable location for running a restaurant. Any change of location would cause untoward hardship to the Plaintiffs, their reputation and goodwill would go down drastically, therefore, the hardship inconvenience and prima facie case is in favour of the Plaintiff. There is no plan submitted by the Defendant No.1 nor any plans are sanctioned hence, no hardship would be caused to the Defendants and as such the Plaintiff is entitled for interim and ad-interim reliefs.

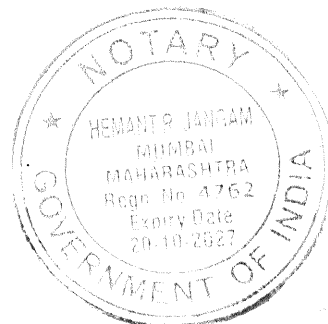
35. The Plaintiff states that the loss that will be caused to the Plaintiffs if the commercial premises for hotel at the present location is not provided as threatened in their various letters including the letter dated 22<sup>nd</sup> December, 2022 and only flats are provided, the Plaintiff will suffer a loss of Rs. 10,00,00,000/-; as more specifically mentioned in the Particulars of Claim which is annexed hereto and marked as Exhibit "R".

Exh 'R'

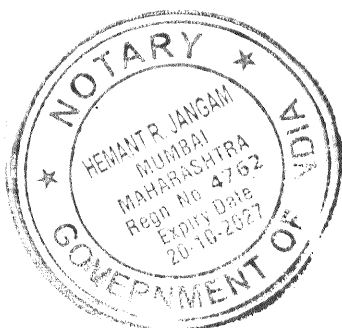


(33)

36. The Plaintiff states that the Plaintiff being of old age, having several health issues, is not in a position to travel to court to attend the court proceedings and hence the Plaintiff has given a Power of Attorney to her son Mr. Deepak Kutty Shetty for filing the above suit.
37. The Plaintiff states that the cause of action for filing the Suit is a collusive action and a connivance to misplace the record maintained by the Municipal Corporation of Greater Mumbai Defendant No.3 and taking advantage of the aforesaid fact deprives the Plaintiff of the eligible premises. It does not amount to any act purported to be within the provisions of the MMC Act 1888 and as such notice under Section 527 of the MMC Act is not required and therefore, it is not given to the Municipal Corporation of Greater Mumbai.
38. The Plaintiff states that the cause of action and the present grievances does not touch the business of the Society; there is no need to give notice as required under Section 164 of the MCS Act.

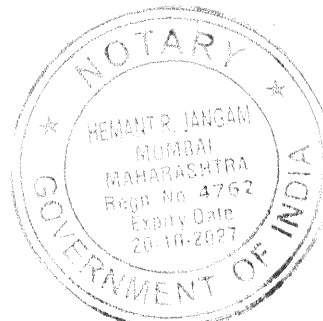


- (34)
39. The cause of Action arose when the Defendant No.1 and the Defendant No.2 Developer declined to accept the Plaintiff entitlement of having commercial premises for hotel on the front side, by their letter dated 22<sup>nd</sup> December, 2022. Hence the Suit is within limitation.
40. The Plaintiff has valued the Suit claim at Rs. 10,00,00,000/- as per the Particulars of Claim. The prayer clauses (a) & (e) are for declarations and prayer clause (c) for damages which is valued for Rs. 10,00,00,000/-. Prayer clause (b), (d), (f) & (g) are consequential reliefs. The maximum court fee of Rs. 3,00,000/- is paid which is as per the Court Fees Act.
41. The Plaintiff and the Defendants are having their respective addresses at Mumbai. The suit property is situate within at Mumbai which is within the jurisdiction of this Hon'ble Court.
42. The Plaintiff reserves their right to add, alter and amend the Plaint as and when required.



(3)

43. The Plaintiff has not filed any other Suit or proceedings in the Supreme Court or any other Court in India touching the subject matter.
44. The Plaintiff has not been received a copy of the Caveat from the Defendants.
45. The Plaintiff shall rely upon the documents, a list whereof is annexed hereto.
46. **The Plaintiff therefore, prays:**
- (a) That this Hon'ble Court be pleased to declare that the refusal by the Defendant Nos. 1 and 2 for providing an Permanent Alternate Accommodation of commercial premises for hotel in lieu of the suit premises in the same location i.e. front side of the road in the proposed building of a commercial premises is wrongful, malafide and collusive act between Defendant Nos.1 and 2 and as such the same is not binding on the Plaintiff;
- (b) That this Hon'ble Court be pleased to direct Defendants Nos. 1 and 2 by an mandatory order directing Defendant Nos. 1 and 2 to provide a Permanent Alternate

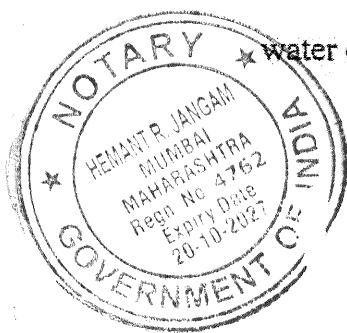


(36)

Accommodation providing commercial premises for hotel of an area of 1074 square feet or such area as may be calculated as per the corporation record on the ground floor facing the main road in the proposed building to be constructed on the property of Defendant No.1 situate at Plot No.173 of Santacruz Division, Mumbai in lieu of the Suit Shops on ownership basis with all the amenities as required to be given to all the other members;

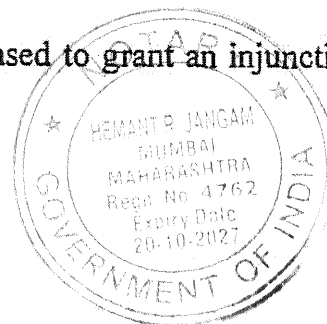
- (c) That this Hon'ble Court be pleased to declare that single out the Plaintiff from the redevelopment by not providing the commercial premises for hotel in the proposed commercial building or in the present location of the suit premises is illegal, improper and the Defendant Nos. 1 & 2 be directed jointly and severally to pay to the Plaintiff an amount of Rs. 10,00,00,000/- (Rupees Ten Crores only) being the loss if residential flats are provided under the purported decision between Defendant Nos. 1 & 2;
- (d) That this Hon'ble Court be pleased to direct Defendant No. 3 Municipal Corporation of Greater Mumbai to produce all records on its file from all the departments including the

water department, fire department etc;



(37)

- (e) That this Hon'ble Court be pleased to declare that the Defendant No. 3, their servants, employees, officers or any person or persons claiming through or under them cannot grant any permission of demolition or reconstruction of any building on the present location of A Building, without the Defendant Nos. 1 and 2 executing the registered Permanent Alternate Accommodation Agreement providing commercial premises for hotel at the present location of the suit premises to the Plaintiff;
- (f) That pending the hearing and final disposal of the present Suit, this Hon'ble Court be pleased to grant an injunction restraining the Defendant No. 3, their servants, employees, officers or any person or persons claiming through or under them from granting any permission of demolishing or reconstruction of any building on the present location of A Building, without the Defendant Nos. 1 and 2 executing the registered Permanent Alternate Accommodation Agreement providing commercial premises for hotel at the present location of the suit premises to the Plaintiff;;
- (g) That pending the hearing and final disposal of the present Suit, this Hon'ble Court be pleased to grant an injunction



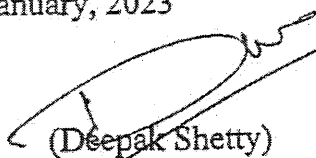
restraining the Defendants, their agents, servants, employees, officers or any person or persons claiming through or under them from demolishing the Building A and/or demolishing, interfering with running of the restaurant business in the existing suit premises unless a permanent alternate accommodation providing commercial premises for hotel in the same location is executed with all the remaining terms as agreed with the other members;

- (h) Interim and ad-interim reliefs in terms of prayer clauses (f) and (g) above be granted;
- (i) For costs; and
- (j) Such other and further reliefs as the nature and circumstances of the case may require.

Dated this 6 day of January, 2023



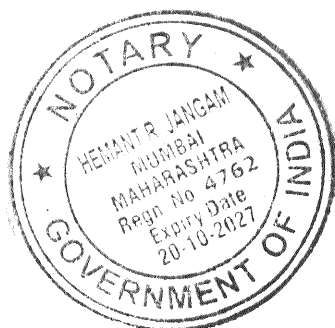
Advocate for the Plaintiff



(Deepak Shetty)  
C.A. of Plaintiff

### VERIFICATION

I, Deepak Kutty Shetty, age 50 years, of Mumbai,  
Indian Inhabitant, C.A. of Plaintiff above named, solemnly



(39)

declare that what is stated in paragraph Nos. 1 to 36 is true to my own knowledge, and that what is stated in the remaining paragraph Nos. 37 to 46 is stated on information and belief, and I believe the same to be true.

Solemnly declared at Mumbai )

On this 6 day of January, 2023)

Identified by me,



Advocate for the Plaintiff

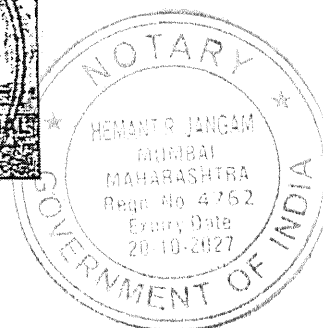
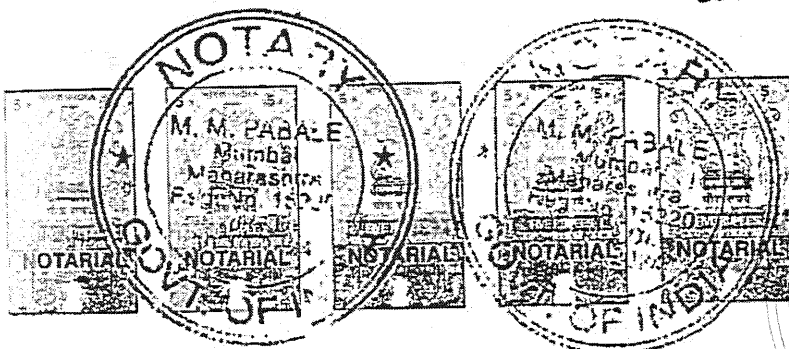
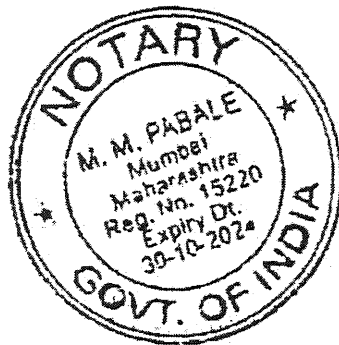
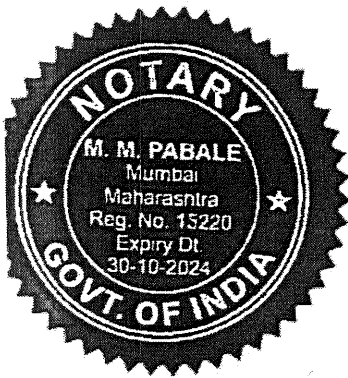
  
Before me;  
[Deepak Snetty]  
C.A. of Plaintiff

BEFORE ME

  
MANISH M. PABALE  
B.A., LL.M.  
ADVOCATE (GOVT. OF INDIA)  
94, 10, 12, Chambers,  
94 Nagpada West Road,  
Fort Mumbai - 400 001.

NOTED & REGISTERED  
Page No. 58/48 No. 680  
Date 16 JAN 2023

ID / Aadhar / PAN / DI 743568246277  
Seen Org. / PSN / Court Resol. 05/01/2023



Co-operative Appellate Court Mumbai

EXHIBIT - 'G'

In The Court Of : President

CNR Number : MHCA010000992025

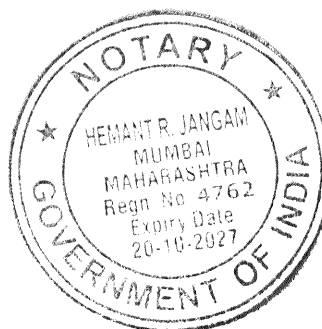
Case Number : A O/0000043/2025

Date : 18-02-2026

Abul Bayan Khan **Versus** Mr. Khan Mohammed Rashid A.Q.

## Daily Status

| Business                                                                                                                                                                                                                                                                                                                                                               | Nature of Disposal | Disposal Date |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------|
| Resumed Today. Ld. Adv for Appellant Present. Ld. Adv for Respondent Present. Operative Order Passed Below- 1.A.O. No.43 of 2025 is dismissed. 2. The Order passed by Ld In-charge Co-operative Court No.2, Mumbai dated 17/10/2023 below application Exh.5 for getting temporary injunction in Dispute Ni.CC/II/295/2023 is hereby confirmed. 3.No order as to costs. | JUDGMENT           | 18-02-2026    |



 Case Details Orders/Judgments Listing Details Misc. Info Objection(s) Conn. Matters Appl. Cases Lower Court Details

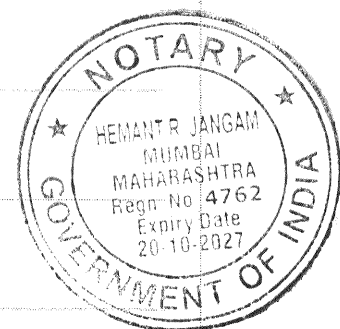
Filing Number **SL/30728/2024** with CNR No.  
**HCBM020307362024**, was filed on **07/10/2024** at Bombay  
High Court by **NAZRE ALAM ABUL BAYAN AND 37 ORS**  
against **KAILASH PRABHAT CO-OPERATIVE HOUSING  
SOCIETY AND 6 ORS**

**District**  
—**Filing Number**

S/30728/2024

**Registration Date**  
—**Next Listing Date**

09/01/2026

**Status****Disposed****Petitioner** NAZRE ALAM ABUL BAYAN AND 37 ORS ANURADHA PRABHU SAIFUDDIN NALWALA

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**FOR REJECTION UNDER OS RULE 986 :**

48. S(L)/4653/2024  
WITH IA(L)/5060/2024
50. S(L)/30728/2024  
WITH IA(L)/30734/2024
53. S(L)/16902/2025  
WITH IA(L)/16904/2025

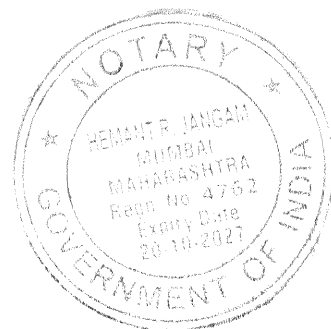
**Before : Anil H. Laddhad  
Prothonotary and Senior Master**

**Date : 9<sup>th</sup> January, 2026**

None present for Plaintiff

PC. : On request, by way of last chance, in the interest of justice, Plaintiff to remove office objections on the Suits and Interim Applications and get the same registered and / or numbered by uploading / filing compliance praecipe, within **two weeks** from the date of uploading of order, failing Suits and Interim Applications to stand rejected for non-compliance of O.S. Rule 986.

**Prothonotary and Senior Master**



ITEM NO.38

EXHIBIT - 'I'  
COURT NO.14

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SPetition(s) for Special Leave to Appeal (C) No(s). 12866/2024

(Arising out of impugned final judgment and order dated 08-05-2024 in AFO No. 331/2024 passed by the High Court Of Judicature At Bombay)

NAZRE ALAM ABUL BAYAN &amp; ORS.

Petitioner(s)

VERSUS

MUNICIPAL CORPORATION OF GREATER MUMBAI &amp; ORS.

Respondent(s)

(IA No.129768/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.129770/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 07-06-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA  
HON'BLE MR. JUSTICE K.V. VISWANATHAN

(VACATION BENCH)

For Petitioner(s) Mr. Kunal Cheema, AOR  
Mr. Vishwanath Patil, Adv.

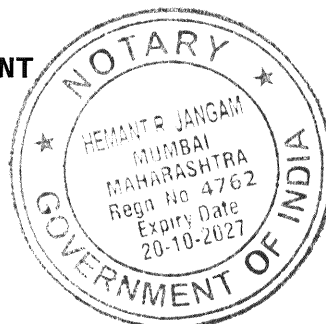
For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

1. Having heard the learned counsel for the petitioners, we find no ground to entertain this special leave petition.
2. Hence, petition stands dismissed.
3. Pending application(s), if any, shall stand closed.

Signature Not Verified  
Digitally signed by  
Nisha Khulbey  
Date: 2024.06.07  
16:17:44 IST  
Reason:

(NISHA KHULBEY)  
SENIOR PERSONAL ASSISTANT



(POONAM VAID)  
COURT MASTER (NSH)

**BEFORE THE NATIONAL GREEN  
TRIBUNAL  
WESTERN ZONE BENCH, PUNE.  
APPEAL NO. 91 OF 2026**

[Under Section 16(h) of the NGT Act, 2010  
read with Rule 14 of the NGT (Practices &  
Procedures) Rules, 2011]

**Nazre Alam Abdul Bayan & Ors.  
... Appellants**

**VERSUS**

**S.E.I.A.A., Maharashtra & Ors.  
... Respondents**

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**AFFIDAVIT IN REPLY ON  
BEHALF OF RESPONDENT NO. 2**  
-----

DATED THIS      DAY OF JULY 2026

LEXICON LAW PARTNERS  
ADVOCATES FOR  
RESPONDENT NO. 2  
MULLA HOUSE, 4<sup>TH</sup> FLOOR,  
51, M. G, ROAD, FORT,  
MUMBAI – 400 001.  
EMAIL: [contact@lexiconlaw.in](mailto:contact@lexiconlaw.in)  
PHONE: 91224507777  
**ADVOCATES' CODE NO.: I-28294**