

SHIVAN S. DESAI
ADVOCATE

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TITLE REPORT

To,
Impactum Lands Private Limited
Lodha Excelus, 3rd Floor,
Apollo Mills Compound,
N. M. Joshi Marg, Mahalaxmi,
Mumbai
400 011

I. I have perused the photocopies of the following documents:

- a) Survey Records Form I & XIV bearing Survey No. 178 Sub-Division No. 1-A-Q-3 of Village Sancoale, Mormugao - Goa;
- b) Old Cadastral Planta bearing Lote (Plot) No. LXV(Part) Planta No. 143381;
- c) Form III;
- d) Correspondence Certificate dated 14/08/2020 bearing No. 9(02)-66/DSLR-2020/2049 issued by Directorate of Settlement & Land Records, Govt. of Goa, Panaji - Goa;
- e) Licence dated 12/12/1966;
- f) Letter dated 10/09/1968;



- g) Minutes of Meeting of the Comunidade of Sancoale dated 10/11/1968;
- h) Report No. 30/C of The Administrator of Comunidade;
- i) Letter dated 15/11/1968 from the office of the collector and D.C.A;
- j) Letter dated 06/01/1969 bearing reference no. CAB/58/65/69;
- k) Portuguese and English translation of the Register of Record of Demarcation and Delivery dated 31/01/1969;
- l) Deed of Lease dated 01/02/1969 executed and registered with the office of the Sub- Registrar of Mormugao under Serial No 43 at pages 267 to 283;

- m) Indenture of Assignment dated 04/12/1969, registered with the office of the Sub-Registrar under Serial No. 287 at pages 44 to 53;
- n) Deed of Conveyance dated 31/03/1971, registered in the office of the Civil Registrar Cum Sub Registrar, Mormugao at Vasco da Gama, Goa under Serial No. 167 at pages 355 to 358;
- o) Certificate of Receipt of the Rent (foro) paid to the Cash Book issued by Comunidade of Sancoale;
- p) Judgement, Order and Decree dated 12/10/2011 passed in Special Civil Suit bearing No. 18/2003/A by the Civil Judge, Senior Division, at Vasco da Gama, Goa;
- q) Order dated 29/06/2015 passed by the Hon'ble High Court in First Appeal no. 73 of 2012;
- r) Deed of Sale dated 03/07/2023 registered before Sub-Registrar of Mormugao, Vasco-da-Gama - Goa under Registration No. MOR-1-1206-2023 dated 03/07/2023;



- s) Deed of Sale dated 09/08/2023 registered before Sub-Registrar of Mormugao, Vasco-da-Gama – Goa under Registration No. MOR-1-1462-2023 dated 09/08/2023
- t) Conversion Sanad dated 26/12/2022 bearing No. CCMOR12-22-224/182 issued by Office of the Collector, South Goa District, Margao – Goa;
- u) NIL Encumbrance Certificate dated 05/01/2023 bearing No. 1425 of 2023;
- v) Survey Plan;
- w) NOC dated 10/11/2022 along with enclosure letter issued by the Captain, Senior Staff Officer (Aviation) For Flag Officer Commanding; and
- x) Letter dated 01/04/2022 issued by Vistra ITCL (India) Ltd. to Zuari Agro Chemicals Limited.



II. **DESCRIPTION OF THE PROPERTY:**

SCHEDULE I

ALL those piece and parcel of land totally admeasuring an area of 499 Ha 9500 sq. mts., or thereabouts together with reserved plots and will all trees standing thereon and situated at Sancoale Village, within the limits of Village Panchayat of Sancoale, Taluka and Sub-District of Mormugao, District of South Goa, State of Goa, not described in the Land Registration Office nor enrolled in the Taluka Revenue Office. This property shall hereinafter referred to as the **SAID BIGGER PROPERTY**

SCHEDULE II

ALL THAT piece and parcel of land, admeasuring an area of 1,37,596 sq. mts., surveyed under Survey No. 178/1-A-Q of Sancoale Village, being part and parcel of larger property {corresponding to the Old Cadastral Lote (Plot) No. LXV(Part) Planta No. 14338} which comprises part and parcel of the larger property, situated at Sancoale Village, within the limits of Village Panchayat of Sancoale, Taluka and Sub-District of Mormugao, District of South Goa, State of Goa,



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not described in the Land Registration Office nor enrolled in the Taluka Revenue Office but surveyed under Survey No. 178/1 of Village Sancoale and is bounded as under:

North : By the property bearing Sy. No. 194/1;
South : By the existing Zuari Club & property bearing Sy. No. 309/1 & NH-17B;
East : By the property bearing Sy. No. 192/1;
West : By the balance area of Sy. No. 178/1;

This property shall hereinafter referred to as the **SAID PROPERTY**

SCHEDULE III

ALL THAT independent piece and parcel of the property being the natural sub-divided PLOT 'B' admeasuring an area of 1,11,745 sq. mts., surveyed under Survey No. 178/1-A-Q-3 of Sancoale Village forming part of the SAID PROPERTY more particularly described in Schedule II hereinabove and is bounded as under:

North : By the property bearing Sy. No. 194/1-A;
South : By the Survey No. 178/1(Part) and the existing Road;



East : By the Survey No. 192;

West : By the Survey No. 178/1-A-Q and the existing
Road;

This property shall hereinafter referred to as the **SAID PLOT**

III. TRACING OF PARTIES TITLE:

1. The **SAID BIGGER PROPERTY** is neither described nor inscribed in the Land Registration Records. **Inscription and Description Certificates** are records maintained during the Portuguese Regime wherein the record of title was maintained. Portuguese Regime in Goa continued upto 1961 and post 1961, the Land Registration records are not updated. However the said records are still recognized by the Courts and departments for the purpose of title to the property. In terms of the system then prevailant, every property had a description number which describes the property and a corresponding inscription number which records the name of the owner of the same which document is referred to as Description & Inscription Certificate. In terms of the Portuguese Law which is still applicable in Goa and in terms of the

principles of law laid down by the courts in Goa, the Inscription & Description Certificate (Land Registration Certificate) is a title document for all legal and practical purposes and therefore the same is a vital document for assessment of title to the property. However there are some properties in Goa which are not registered under the said Regime.

2. The Old Cadastral Planta reveals that old Cadastral Lote (Plot) No. LXV(Part) Planta No. 14338} originally belonged to Comunidade of Sancoale.
3. Correspondence Certificate dated 14/08/2020 bearing No. 9(02)-66/DSLRL-2020/2049 issued by Directorate of Settlement & Land Records, Govt. of Goa, Panaji – Goa establishes that the **SAID BIGGER PROPERTY** bearing old Cadastral Lote (Plot) No. LXV(Part) Planta No. 14338} corresponds to Survey No. 178/1(Part) of Village Sancoale, Mormugao – Goa.

4. The said Cadastral Lote (Plot) No. LXV(Part) Planta No. 143381} read with Correspondence Certificate dated 14/08/2020 bearing No. 9(02)-66/DSLRL-2020/2049 issued by Directorate of Settlement & Land Records, Govt. of Goa, Panaji - Goa establishes that the **SAID BIGGER PROPERTY** originally belonged to Comunidade of Sancoale.
5. Vide letter dated 10/09/1968, a company by the name of Birla Gwalior Pvt. Ltd., a company incorporated under the provisions of the Companies Act 1956, having its registered office at 15 India Exchange Place, Calcutta -1 applied to the Lt. Governor of Goa , Daman & Diu, Panaji for taking up on "permanent lease" basis or on "purchase" basis the **SAID BIGGER PROPERTY** for the purpose of setting up a fertilizer project under the name and style of "Zuari Agro-Chemicals Ltd for setting up a manufacturing plant for ammonia and urea, the permission for which was granted to Birla Gwalior Pvt. Ltd. by the Ministry of Industry,



Government of India vide License bearing No.
L/18/10/66-Ferts.I. dated 12/12/1966.

6. The Lt. Governor was pleased to direct the application of Birla Gwalior Pvt. Ltd. to the Office of the Administrator of Comunidade, South Zone to place the said application before the Comunidade of Sancoale for discussion.
7. On 10/11/1968, the Comunidade of Sancoale held at an extra ordinary meeting where by such request of Birla Gwalior Pvt. Ltd. was approved and all the shareholders unanimously passed a resolution to grant on perpetual lease or by 'sale' an area of approximately 500 hectares of land (the said "land") to Birla Gwalior Pvt. Ltd. for erection of the fertilizer plant within a period of two years.
8. Vide letter NO. 524/60 dated 14/11/1968 along with Report No. 30/C, the Administrator of Comunidade of Salcete, conveyed the decision and resolution taken by

the Comunidade of Sancoale to grant on lease the area of 500 hectares of land to Birla Gwalior Pvt. Ltd. to the office of the collector.

9. Vide letter dated 15/11/1968, The Office of the Collector and D.C.A conveyed to The Administrator of Comunidade of Salcete, that the application of Birla Gwalior Pvt. Ltd. may be approved by the Government.
10. Vide letter dated 06/01/1969 The Government of Goa, Daman & Diu through its Secretary (Revenue) further conveyed to Birla Gwalior Pvt. Ltd. the approval of the Lt. Governor for the grant of the permanent lease of 500 hectares of land belonging to the Comunidade of Sancoale for the purpose of setting up a fertilizer project.
11. Vide Record of Demarcation and Delivery dated 31st January 1969 the possession of the **SAID BIGGER PROPERTY** was delivered to Birla Gwalior Pvt. Ltd. and was recorded in the Register of Record of Demarcation

and Delivery at Folios 29 of the proceeding o.23 series of the year 1968, after the Administrator of Comunidade of South Zone verified and set the following criterias:

- (a) The plots granted to BIRLA GWALIOR PVT. LTD. have been reflected in the plan;
- (b) The demarcation of the total area admeasuring around 499.9500 square meters with the exclusion of the area admeasuring around 1,57,500 square meters occupied by the Naval Department and National Road;
- (c) The quantum of rent to be paid annually to the Comunidade of Sancoale by BIRLA GWALIOR PVT. LTD. in view of the grant was fixed at Rs. 51,750/-.

12. In view of the above, vide Deed of Lease dated 01/02/1969 executed and registered with the office of the Sub- Registrar of Mormugao under Serial No 43 at pages 267 to 283, Comunidade of Sancoale therein referred to as the Lessor on the One Part granted the leasehold rights with respect to many properties



belonging to the Comunidade of Sancoale including the **SAID BIGGER PROPERTY**, for the rent more particularly set out therein in favour of BIRLA GWALIOR PVT. LTD. therein referred to as the Lessee of the Other Part. By the said Deed of Lease dated 01/02/1969, BIRLA GWALIOR PVT. LTD. was entitled to assign its right, title and interest inter alia to the **SAID BIGGER PROPERTY** under the said Deed of Lease dated 01/02/1969 to Zuari Agro Chemicals Limited, a company incorporated on 12th May 1967 under the provisions of the Companies Act, 1956, and having its registered office at industry house, 159 Churchgate Reclamation, Mumbai - 20. By clause 5 of the said Deed of Lease dated 01/02/1969, the Lessee was also entitled to pay the Lessor an amount equal to 20 years lease rent in addition to one year lease rent for the year in which the Lessee decides to exercise this option and acquire the ownership of the said Land after executing a Deed of Conveyance in that regard.



13. Vide Indenture of Assignment dated 04/12/1969, registered with the office of the Sub-Registrar under Serial No. 287 at pages 44 to 53, the said BIRLA GWALIOR PVT. LTD. therein referred to as the Assignor of the One Part assigned its right, title and interests acquired by way of the said Deed of Lease dated 01/02/1969 in the **SAID BIGGER PROPERTY** in favour of Zuari Agro-Chemicals Ltd, therein referred to as "the Assignee" of the Other Part, whereby BIRLA GWALIOR PVT. LTD. and more particularly assigned its option to purchase under clause 5 of the Deed of Lease dated 01/02/1969 in the said property and more particularly assigned its option to purchase under clause 5 of the said Deed of Lease dated 01/02/1969 in favour of Zuari Agro-Chemicals Ltd for a consideration more specifically recorded therein.

14. Vide Deed of Conveyance dated 31/03/1971, registered in the office of the Civil Registrar Cum Sub Registrar, Mormugao at Vasco da Gama, Goa under Serial No. 167 at pages 355 to 358, the said Comunidade of



Sancoale therein referred to as the Vendor of the One Part sold, transferred and conveyed to ZUARI AGRO-CHEMICALS LTD interalia the **SAID BIGGER PROPERTY** for a consideration of Rs. 10,32,000/- which was credited to the treasury of the said Comunidade on the same day i.e 31/03/1971 and was entered in the Cash Book of the said Comunidade under Entry 11 as the value equivalent to the value of redemption of rent (foro) of 20 annuities of the **SAID BIGGER PROPERTY** as applicable by the Code of Comunidade.

15. In 2003, the validity of the approvals, the said Deed of Lease dated 01/02/1969 and the said Deed of Conveyance dated 31/03/1971, were challenged by the Comunidade of Sancoale in Special Civil Suit bearing No. 18/2003/A before the Ld. Civil Judge, Senior Division, at Vasco da Gama, Goa for declaration, eviction and recovery of money on the ground that the transfer affected by the Comunidade/Original grantor was contrary to the conditions agreed in the resolution

at its extra ordinary meeting dated 10/11/1968 and that there was an express prohibition levied upon the said comunidade not to alienate or dispose of its properties and hence the said Deed of Lease dated 01/02/1969 and the said Deed of Conveyance dated 31/03/1971 were non - existent and were void ab-initio.

16. Vide Judgement, Order and Decree dated 12/10/2011 passed in Special Civil Suit bearing No. 18/2003/A by the Civil Judge, Senior Division, at Vasco da Gama, Goa, the said suit of the Plaintiff i.e Comunidade of Sancoale was dismissed holding that it is open to the grantor or the Comunidade under Article 6 r/w Article 238 and 241 of the Code of Comunidade to dispose of such land after redemption of 20 years foro and that there is no need for the execution of any Deed of Conveyance and after such redemption, the grantee becomes the absolute owner of such land and that by virtue of Article 30 of the Code of Comunidade, the Comunidade can transfer its land by sale,

emphyteusis or exchange with previous sanction from the Government. It was further recorded that in the said Deed of Conveyance, an amount of Rs. 10,32,000/- had been credited to the treasury of the Comunidade and was entered in its Cash Book under item No. 11 as an equivalent to 20 years lease rent of the **SAID BIGGER PROPERTY**. The Ld. Judge further recorded in the said Decree that Zuari Agro Chemicals Limited had received a certificate of payment of remission of annual rent endorsed by the Administrator of Comunidade in pursuance of which the said Deed of Conveyance was executed and on those grounds the prayers of the said Comunidade could not be granted.

17. On 30/01/2012 the said Comunidade filed an appeal bearing First Appeal No. 73 of 2012 before the Hon'ble High Court of Bombay at Goa challenging the said Judgement and Decree dated 12/10/2011 and inter alia prayed that the Hon'ble High Court quash and set aside the said Decree.



18. During the course of the hearing of the above appeal, learned counsel appearing for the Appellant had pointed out that the subject matter of the above suit filed by the Appellant is also a subject matter of the proceedings in **Second Appeal no. 118 of 2003, Smt. Basilia M. Gomes & ors. Vs. M/s. Zuari Agro Chemical Ltd.** wherein it was held that:

"The grant of an aforamento is in terms of Article 324 of the Code of Comunidade. The contract of emphyteuta is of permanent nature. In fact, Article 1673 of the Portuguese Civil Code, inter alia provides that the emphyteuta has a right to enjoy the property and to dispose of as his own things are the restrictions expressed in law. In the present case, the records reveal that an Aforamento was granted in favour of Respondent No. 1. The Respondent No. 2 has also confirmed the said grant of the Aforamento by also executing a Sale Deed in favour of the Respondent. No. 2 having any subsisting right in respect of the disputed

property was conveyed and transferred in favour of the Respondent No. 1. In such circumstances, the Respondent No.1 who were parties to the suit filed by the Appellants before the Learned Trial Court which came to the decreed, were definitely affected with the Decree passed by the learned Trial Court and as such, aggrieved parties."

19. Vide order dated 29/06/2015 passed by the Hon'ble High Court of Bombay at Goa, the said First Appeal was rejected and disposed off by placing reliance upon the findings and Judgement dated 05/08/2014 delivered in the case of **Smt. Basilia M. Gomes & ors. Vs. M/s. Zuari Agro Chemical Ltd. (Second Appeal No. 118/2003)** and the said order dated 29/06/2015 passed by The Hon'ble High Court of Bombay at Goa has not been appealed against or challenged before the Supreme Court by the Comunidade of Sancoale.

20. The Comunidade is a body of villagers governed by the provisions of the Code of Comunidades. It bears mentioning that the Code of Comunidades provides for a two-step procedure for grant, which includes a provisional handing over of possession and subject to compliance with the conditions of grant, definitive or final possession being handed over to the Grantee. In the instant case, there was definitive possession granted to the Grantee.
21. In the light of the above facts, the relevant provisions of the Code of Comunidades and the Portuguese Civil Code need to be considered. Articles 324 to 340 contemplates fixing of foro (rent), which needs to be paid by the Grantee. Article 238 provides for redemption of foro of the Emphytosis and further postulates that upon payment of 20 annuities of foro plus the annuity relating to the year of redemption, the redemption of foro shall be complete. Moreover Article 239 stipulates that the redemption of foro may be applied for by the Grantee without thereby acquiring

any title by this fact. Article 241 further contemplates that after the redemption, the Comunidade shall effect cancellation of mutation in its records (tombo two) thereby cancelling the registration of the said property in the name of Comunidade. The above provisions of the Code of Comunidades contemplate redemption of foro by payment of 20 years annuity.

22. Article 338 of the Code of Comunidades stipulates that the provisional delivery of the land granted as Emphytusus cannot be considered in legal relations. However, the handing over of definitive possession confers on the Grantee the rights recognized under the Civil Law (Portuguese Civil Code). In view of the above, after definitive possession is granted in favour of the Grantee, the rights under the Civil Law crystallized in favour of the Grantee.
23. It bears mentioning that the Code of Comunidades provides for a two step procedure for grant, which includes a provisional handing over of possession and

subject to compliance with the conditions of grant, definitive or final possession being handed over to the Grantee. In the instant case, there was definitive possession granted to the Grantee.

24. The document referred to above, clearly establishes the definitive possession of the Said Property being granted in favour of Birla Gwalior Pvt. Ltd. and 20 years quit rent was also paid.
25. The said Deed of Lease dated 1.02.1969 included a condition whereby the said Birla Gwalior Pvt. Ltd. was granted permission to assign its rights under the lease to Zuari Agro Chemicals Ltd. and/or transfer absolutely or mortgage or sub lease the lessee's interest in larger land or any part thereof. In the said lease, Birla Gwalior Pvt. Ltd. was also given an option to pay to the lessor (Comunidade) an amount equal to lease rent in addition to one year lease for the year in which lessee decides to exercise its option and acquire ownership of the larger land and in furtherance thereto, Deed would be executed.



26. By Deed dated 14.12.1969, Birla Gwalior Pvt. Ltd. assigned all its rights and interests acquired by way of Deed of Lease dated 1.02.1969 in favour of the ZACL and thereby ZACL acquired all rights under the said original lease dated 1.02.1969.
27. By Deed of Conveyance dated 1.02.1971, Comunidade of Sancoale sold, transferred and conveyed to ZACL the larger land for a consideration of Rs. 10,32,000/-, which is equivalent to 20 years of rent to be paid to the Comunidade of Sancoale.
28. In the light of the above facts, the relevant provisions of the Code of Comunidades and the Portuguese Civil Code need to be considered. As stated earlier, Articles 324 to 340 contemplates fixing of foro (rent), which needs to be paid by the Grantee. Article 238 provides for redemption of foro of the Emphytosis and further postulates that upon payment of 20 annuities of foro plus the annuity relating to the year of redemption, the redemption of foro shall be complete. Moreover Article

239 stipulates that the redemption of foro may be applied for by the Grantee without thereby acquiring any title by this fact. Article 241 further contemplates that after the redemption, the Comunidade shall effect cancellation of mutation in its records (tombo two) thereby cancelling the registration of the said property in the name of Comunidade.

29. The above provisions of the Code of Comunidades contemplate redemption of foro by payment of 20 years annuity. The lease condition in the Deed of Lease dated 1.02.1969 of payment of 20 years annuity for redemption was incorporated in keeping with the said provision.
30. It appears that in the light of the above provision and considering the fact that there was redemption exercised by ZACL and accepting that ZACL has become the owner by operation of law, Deed of Sale dated 1.03.1971 was executed by the Comunidade of Sancoale in favour of ZACL. The said sale seems to be executed in keeping

with the above provision under Article 1673, which recognizes the rights of Emphytusus holder, who has rights to dispose off the said property as its own. It appears that accepting that ZACL has acquired ownership by operation of law in terms of Article 1673, Comunidade of Sancoale proceeded to execute the Deed of Sale

31. Article 1654 stipulates that upon payment of 20 years quit rent by way of advance, there is no liability of payment of any further foros
32. Article 1671 of Portuguese Civil Code, which is reproduced hereunder contemplate that even if there is default in payment of foro, the absolute owner has no right except to recover the foro.
33. Article 1673 of Portuguese Civil Code stipulates that holder of Emphytusus shall have the rights to enjoy the property and dispose off the same as his own, subject to the restrictions imposed by law.



34. In the Judgement dated 26/04/2018 passed by the Hon'ble High Court of Bombay at Goa in First Appeal No. 136/2002 it was held at para 29 that "***the net result is that there is no provision for reversion of the land granted on Aforamento basis, once the final/definitive possession is delivered and on remission of foro the land vests absolutely in the allottee.***" Upon payment of quit rent and delivery of definitive possession, ownership vests with the allottee.
35. It appears that in the light of the above provision and considering the fact that there was redemption exercised by ZACL and accepting that ZACL has become the owner by operation of law, Deed of Sale dated 1.03.1971 was executed by the Comunidade of Sancoale in favour of ZACL. The said sale seems to be executed in keeping with the above provision under Article 1673, which recognizes the rights of Emphytusus holder, who has rights to dispose off the said property as its own. It appears that accepting that ZACL has acquired ownership by operation of law in terms of Article 1673,



Comunidade of Sancoale proceeded to execute the Deed of Sale.

36. Although there is no specific provision permitting sale of the comunidade property, by Judgement dated 12.10.2011 passed in Special Civil Suit No. 18/2003/A by the Court of Civil Judge Senior Division at Vasco-da-Gama, the challenge to the said Deed of Sale by the Comunidade of Sancoale itself was rejected by the Trial Court by holding that under the Code of Comunidades, the Comunidade has a power to sell and said Deed of Sale dated 1.03.1971 was executed in keeping with the provisions of the Code of Comunidades. Vide Judgement dated 29.06.2015 passed by the Honourable High Court of Bombay at Goa in First Appeal No. 73/2013 The Honourable High Court of Bombay at Goa relied upon the case of Basilia Gomes V/s ZACL wherein the provisions of Art. 324 and 1673 were considered and the Deed of Sale of ZACL was endorsed, proceeded to dismiss the appeal filed by the Comunidade. The said Judgement, has attained

finality and has endorsed the Deed of Sale in favour of ZACL. Therefore, the title of ZACL and sale in favour of ZACL stands confirmed subject to further proceedings, if any, initiated by the Comunidade before the Honourable Apex Court.

37. After execution of the Deed of Sale, the Code of Comunidades ceases to operate and the purchaser has become the owner for all legal and practical purposes and is not governed by provisions as regards to his ownership rights or the user. Considering the judgment and order dated 29.06.2015 passed in First Appeal No. 73/2013, by Honourable High Court of Bombay at Goa, absolute right of ownership in favour of Zuari Agro-Chemicals Ltd stands confirmed. There was no requirement of any government approval to be obtained prior to the execution of the said sale deed dated 1.03.1971 and in light of the above facts and circumstances including the judgment and order 29.06.2015 passed in First Appeal No. 73/2013 by Honourable High Court of Bombay at Goa, there is no

impediment for further transfer of the said Property by Zuari Agro-Chemicals Ltd and no additional approval of the government for subsequent transfers is contemplated.

38. Certificate of Incorporation dated 12th February, 1998 issued by the Registrar of Companies, Goa, Daman and Diu reveals that Zuari Agro-Chemicals Ltd was changed to Zuari Industries Limited and further Certificate of Incorporation dated 26th June 2012 issued by the Registrar of Companies, Goa, Daman and Diu reveals that Zuari Industries Limited was changed to Zuari Global Limited and the name of Zuari Global Limited again changed to Zuari Industries Limited vide Certificate of Incorporation dated 16/06/2022 issued by the Registrar of Companies, Goa, Daman and Diu
39. The records indicate that the **SAID BIGGER PROPERTY** was sub-divided and one of the sub-divided properties is the property described in Schedule II and hereinafter referred to as the said property. Partition proceedings

under Goa Land Revenue Code were initiated and a separate survey No. 178/1-A-Q was obtained for the said property.

40. Vide Deed of Sale dated 03/07/2023 registered before Sub-Registrar of Mormugao, Vasco-da-Gama - Goa under Registration No. MOR-1-1206-2023 dated 03/07/2023, the said Zuari Industries Limited sold a PLOT 'B' admeasuring an area of 1,11,745 sq. mts., forming part of the SAID PROPERTY which plot is hereinafter referred to as the **SAID PLOT** and more particularly described in Schedule III hereinabove, in favour of Ultra Dwell Real Estate LLP.

41. Vide Deed of Sale dated 09/08/2023 registered before Sub-Registrar of Mormugao, Vasco-da-Gama - Goa under Registration No. MOR-1-1462-2023 dated 09/08/2023, the said Ultra Dwell Real Estate LLP sold the SAID PLOT admeasuring an area of 1,11,745 sq. mts., bearing Survey No. 178/1-A-Q-3 of Village



Sancoale, Mormugao – Goa in favour of **IMPACTUM LANDS PRIVATE LIMITED.**

42. In view of above, the said **IMPACTUM LANDS PRIVATE LIMITED** became absolute owner in possession of the **SAID PLOT.**

43. **Form I & XIV and Form III** are Revenue Records prepared under the applicable Goa Land Revenue Code **Form III:**

in respect of the **PROPERTY** bearing Survey No. **178/1** of Village **Sancoale, Mormugao** – Goa reveals that pre-promulgation, the name of Zuari Agro-Chemicals Ltd was reflecting in the Occupants column.

Form I & XIV:

in respect of the **PROPERTY** bearing Survey No. **178/1** of Village **Sancoale, Mormugao** – Goa reveals that at the time of promulgation, the name of Zuari Agro-Chemicals Ltd was confirmed



44. Under Section 105 of the Goa Land Revenue Code, entry reflected in Form I & XIV is presumed to be true unless substituted by an appropriate proceeding in terms of law. In view of the same, there is presumption of possession in favour of a person reflected in Form I & XIV rebutted by cogent evidence in a Court of Law. The survey records were created in the year 1971 to 1975 and the entries are relatable to the said period of 1971 to 1975.
45. In the case of Diksha Holdings V/s Sita Rama Naik reported in 1998(2) GLT 444, the Hon'ble High Court of Bombay at Goa has held that "*upon promulgation of survey under the Goa Land Revenue Code, all the previous surveys ceased to exist and the presumption under Section 105 shall prevail*".
46. In the case of Shri. Damodara Ranum Porobo Loundo versus Shri Bhaskar R. Jalmi and others, reported in 1990(2) GLT 407, the Hon'ble High Court of Bombay at Goa has held as under:



"In fact, Section 105 of the Land Revenue Code provides that an entry in the Record of Rights and a certified entry in the register of mutation shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefore. In other words, the presumption of correctness of the entries in the Record of Rights stands until duly rebutted or until the said entry is substituted by a fresh one."

"Therefore, affidavit evidence has got only prima facie value and does not constitute sufficient and conclusive proof to disprove and rebut a presumption that arises by law in respect of the entries made in the Record of Rights after due inquiry."

47. In light of above, considering the fact that the Old Cadastral Planta bearing Lote (Plot) No. LXV(Part) Planta No. 143381}, Form III, Correspondence Certificate dated 14/08/2020 bearing No. 9(02)-66/DSLR-2020/2049 issued by Directorate of Settlement & Land Records, Govt. of Goa, Panaji - Goa, Licence dated 12/12/1996, Letter dated 10/09/1968,



Minutes of Meeting of the Comunidade of Sancoale dated 10/11/1968, Report No. 30/C of The Administrator of Comunidade, Letter dated 15/11/1968 from the office of the collector and D.C.A, Letter dated 06/01/1969 bearing reference no. CAB/58/65/69, Portugues and English translation of the Register of Record of Demarcation and Delivery dated 31/01/1969, Deed of Lease dated 01/02/1969 executed and registered with the office of the Sub-Registrar of Mormugao under Serial No 43 at pages 267 to 283, Indenture of Assignment dated 04/12/1969, registered with the office of the Sub-Registrar under Serial No. 287 at pages 44 to 53, Deed of Conveyance dated 31/03/1971, registered in the office of the Civil Registrar Cum Sub Registrar, Mormugao at Vasco da Gama, Goa under Serial No. 167 at pages 355 to 358, Certificate of Receipt of the Rent (foro) paid to the Cash Book issued by Comunidade of Sancoale, Judgement, Order and Decree dated 12/10/2011 passed in Special Civil Suit bearing No. 18/2003/A by the Civil Judge, Senior Division, at Vasco da Gama, Goa, Order dated



29/06/2015 passed by the Hon'ble High Court in First Appeal no. 73 of 2012, Deed of Sale dated 03/07/2023 and Deed of Sale dated 09/08/2023 and the Survey Records in respect of the **SAID PROPERTY** have remained unchallenged and the survey records corresponds to the devolution of title and are consistent with the ownership of the present owner, I am of the opinion that **IMPACTUM LANDS PRIVATE LIMITED** has a clear and marketable title in respect of the **SAID PLOT**.

IV. **In addition to above, I have to make the following observations:**

1. No tenants/Mundkars are reflected in the survey records of the **SAID PROPERTY**.
2. The Urban Ceiling Act is not applicable to the State of Goa.
3. Conversion Sanad dated 26/12/2022 bearing No. CCMOR12-22-224/182 issued by Office of the Collector, South Goa District, Margao – Goa reveals



that area admeasuring 111745 sq. mts. from the **SAID PROPERTY**, bearing Survey No. 178/1-A-Q of Village Sancoale, Mormugao - Goa was converted for the purpose of Residential.

4. Captain, Senior Staff Officer (Aviation) For Flag Officer Commanding, Goa Naval Area has issued NOC dated 10/11/2022 read with enclosure letter of even date whereby the concerned officer has given no objection for construction of residential building of ground plus 5 floors and terrace subject to compliance of the terms and condition of the NOC stipulated therein. For any development in the **SAID PROPERTY** the terms and conditions stipulated therein have to be complied with.

V. **EVIDENCE OF POSSESSION:-**

The **SAID PLOT** bearing Survey No. 178/1-A-Q-3 of Village Sancoale, Mormugao - Goa reflects the name of **IMPACTUM LANDS PRIVATE LIMITED** in Form I & XIV



issued by the Department of Survey, Government of Goa
which establishes the possession of the present owner.

VI. ENCUMBRANCE ON PROPERTY AND LITIGATION

SEARCH:-

I have taken search in the Office of the Sub-Registrar of
Mormugao, Vasco da Gama - Goa and have not found
any registered mortgages in respect of the **SAID
PROPERTY**. NIL Encumbrance Certificate dated
05/01/2023 bearing No. 1425 of 2023 in respect of the
SAID PROPERTY is furnished to establish that there is
no encumbrance.

I have undertaken search of the ROC Records as
available in public domain with respect to the charges
reflected as against Zuari Agro Chemicals Ltd. As
confirmed by Zuari Agro Chemicals Ltd the charges do
not relate to the SAID PROEPRTY.

I have also undertaken a litigation search against Zuari
Agro Chemicals Ltd and SAID PROPERTY and as
confirmed by Zuari Agro Chemicals Ltd there is no
litigation concerning the SAID PROEPRTY.



With regard to the inspection of the original title deeds, I have been furnished a letter addressed by Vistra ITCL (India) Ltd. addressed to Zuari Chemical Ltd. confirming that as security trustee / custodian / security agents, the originals of the following title deeds are in their possession:

- (a) Deed of Lease dated 01/02/1969 executed and registered with the office of the Sub- Registrar of Mormugao under Serial No 43 at pages 267 to 283,
- (b) Indenture of Assignment dated 04/12/1969, registered with the office of the Sub-Registrar under Serial No. 287 at pages 44 to 53,
- (c) Deed of Conveyance dated 31/03/1971, registered in the office of the Civil Registrar Cum Sub Registrar, Mormugao at Vasco da Gama, Goa under Serial No. 167 at pages 355 to 358

CERTIFICATE

From the documents produced from my scrutiny, I hereby certify that **IMPACTUM LANDS PRIVATE LIMITED** has a clear and marketable title in respect of the **SAID PLOT**:



➤ **General Qualifications and Assumptions**

- This report on title is prepared solely on the basis of documents furnished to me as more particularly set out at 'I' above.
- For the purpose of issuing this report on title:
 - (a) I have taken the title documents under which Comunidade of Sancoale acquired the land as root of title.
- For the purpose of issuing this report on title, I have assumed:
 - (a) the legal capacity of all natural persons, the genuineness of all signatures, the conformity to original documents of all documents of title submitted to me, asset out at 'I' above, as photocopies or scanned copies and the authenticity of the originals of such documents;
 - (a) that the documents of title set out in the report above have not been modified in any manner and are valid, subsisting and remain in force;
 - (b) that all the documents relating to the **SAID PROPERTY** and furnished to me have been validly executed and delivered by the parties to them;



- (c) that all documents are within the capacity and powers of each party and have been validly authorized by each party;
- (d) that there are no pending litigations in respect of the **SAID PROPERTY**; and
- (e) that names of persons spelt differently in different documents in respect of the **SAID PROPERTY** are the same person.
- The accuracy of this report on title necessarily depends on the documents furnished to me and the information provided to me during the course of my discussions, being true, complete and accurate and which I have assumed to be the case. I therefore disclaim any responsibility for any misinformation or incorrect or incomplete information arising out of the documents, responses and other information furnished to me.
 - This report on title is confined to the **SAID PROPERTY** only.
 - The search conducted at the Office of the Sub-Registrar of Mormugao, Vasco da Goama - Goa is subject to non-availability of certain records and certain land

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registration records being torn at the concerned Sub-Registrar's Office.

- The availability/existence of the access to the **SAID PROPERTY** is not within the scope of this report.
- A certificate determination, notification, opinion or the like will not be binding on an Indian court or any arbitrator or judicial or regulatory body which would have to be independently satisfied despite any provision in the title documents to the contrary. The report on title has been prepared in accordance with and is subject the laws of India.



Place:-Panaji-Goa.

Date:- 09/08/2023

(Adv. Shivan S. Desai)