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Ref. No.

Date:

SCRUTINY REPORT CUM PRELIMINARY OPINION IN THE
MATTER OF TITLE AND MARKETABILITY IN RESPECT
OF THE PROPERTY BEARING CHALTA NO.51-A OF PTS
NO.52 OF CITY SURVEY MAPUSA ADMEASURING 1224
SQ.MTS.

At the instance of Mr. Mario Fernandes, we proceeded to scrutinize the documents that were placed in our hands for our scrutiny and opinion in the matter of title and marketability of the above mentioned property and after scrutinizing the documents, we have to preliminary opinion as under: -

SCHEDULE OF THE PROPERTY

All that property bearing Chalta no.51-A of PTS No.52 of City survey Mapusa admeasuring 1224 sq.mts., along with the house bearing H.No.3/132 and which property was originally a part of the larger property known as 'COMONAICHANO SODDO' bearing Chalta No.51 and 52 of PTS No.52, city Survey Mapusa, Goa.

The said property is bounded as follows: -

EAST - By chalta no. 51 and 52 of PTS NO.52

WEST - By road

NORTH – by road

SOUTH – by road and chalta no.52 of PTS NO.52

DOCUMENTS SCRUTINIZED: -

1. Certificate of Inscription bearing NO.11731 of Book F-13 folio 178 reverse
2. Certificate of Inscription bearing No. 24526 at Folio 5 of Book G-31
3. Certificate of Description bearing No. 31237 of Book B-80 folio 101
4. Record of Rights/Form 'D' in respect of Chalta No.51-A of PTS No.52
5. Record of Rights/Form 'D' in respect of Chalta No.51 of PTS No.52
6. Survey plan

7. Records and proceedings in Inventory Proceeding No.125/2022/C
8. Order dated 2/11/2020 passed in Case No.15/279/2019/Part/Land
9. Order dated 29/2/2000 passed by the Inspector of surveys and Land records Mapusa, Goa.
10. Order in Form `B` dated 5/5/1988
11. Deed of Partition dated 6/3/1996
12. Deed of Partition dated 15/1/1996
13. Deed of Succession dated 31/5/1995
14. Old Cadastral survey plan
15. Nominal Index

A perusal of the Certificate of Inscription bearing NO.11731 of Book F-13 folio 178 reverse, reveals that the said property is inscribed in favor of Comunidade of Mapusa

A perusal of the Certificate of Inscription bearing No. 24526 at Folio 5 of Book G-31 reveals that the property is found inscribed in favour of Marcos Salvador D'souza.

A perusal of the Certificate of Description bearing No. 31237 of Book B-80 folio 101 reveals that the said property was known as 'Comonnaicacho Soddo', comprising of two plots (Aforamento) with their servitudes, adjoining each other forming one property situated at Mapusa, Bardez, Goa and bounded on the East by the heirs of Aleixo Pascoal Carrasco and others, on the West and South by the way of the ward and the North by the Public Road.

A perusal of the Order passed on 5/5/1988 in Form 'B' reveals that the Enquiry officer City survey Mapusa after completing the enquiry, in terms of the Land Revenue Code, was pleased to confirm the names of Silverius Cyril D'Souza, Eusebio D'Souza, and Shri. Pio D'Souza to be the holders in origin of the title.

A perusal of the Record of Rights/Form 'D' in respect of Chalta No.51 of PTS No.52 reveals that the names of Eusebio D'Souza, Shri. Pio D'Souza and possession of Shri. Silverius Cyril D'souza are shown as holders in origin of the title and the said property is shown to be admeasuring 2278 sq.mts.

A perusal of the Deed of Partition dated 15/1/1996 reveals that the said Mario D'souza and his said brother Marcos D'Souza and his wife Neeta de Souza partitioned some of the properties acquired by inheritance from their parents.

The said deed further reveals that the 1/3rd share in the property bearing Chalta Nos. 51 and 52 of PTS No.52 admeasuring 2448 sq.mts., came to be allotted to Mario D'Souza along with another property.

A perusal of the old cadastral survey plan reveals that the said properties correspond to the property bearing old survey no. 1508 and in the Nominal Index the name of Marcos Salvador D'Souza is found featuring therein

The superimposition of the old survey plan with the new survey plan after drawing the same to a common scale confirms that the property bearing old survey no. 1508 corresponds to the property bearing Chalta no. 51 of PTS No.52.

A perusal of the Deed of Partition dated 6/3/1996 reveals that the same has been executed by and between Shri. Pio D'Souza and Mary D'souza as THE FIRSTPARTY, Shri. Eusebio D'souza and Emelia D'Souza as the SECOND PARTY and Shri. Mario D'Souza as the THIRD PARTY.

It also reveals that upon the death of the said Marcos Salvador D'Souza, and his wife, the said property came to be owned by Pio D'Souza married to Mary D'Souza, Eusebio D'Souza married to Emelia D'Souza and late Silverious Cyril D'Souza, who was married to Albina Rosa D'Souza in the proportion of 1/3rd each.

It further reveals that upon death of late Silverious Cyril D'Souza and his wife Albina Rosa D'Souza, their 1/3rd undivided share was inherited by the said Mario D'souza and Shri Marcos D'Souza and his wife Mrs. Neeta D'Souza, being their legitimate sons.

A perusal of the Deed of Succession dated 31-05-1995 duly recorded in the office of the Civil Registrar and Ex-Officio Notary of Bardez at page 63 onward of Book No. 779 reveals that the said Mario D'Souza

and Marcos D'Souza were declared to be the universal heirs of the said Silverious Cyril D'Souza and the said Albina Rosa D'Souza.

The Deed of partition dated 6/3/1996 further reveals that by virtue of the said Deed, the properties belonging to the ancestors were partitioned and the western portion /plot admeasuring 1224 sq.mts. of the larger property bearing Chalta No.51 and 52 of PTS No.52 came to be allotted to Mr. Pio D'Souza married to Mary D'Souza, and the Western portion/plot admeasuring 1224 sq.ms., of the larger property bearing Chalta No.51 and 52 of PTS No.52 came to be allotted to Mario D'Souza and Chalta No.9 of PTS No.61 came to be allotted to Eusebio D'Souza and his wife Emilia D'Souza.

Pursuant to the said allotment Pio D'Souza carried out partition proceedings in the Court of the Deputy Collector & SDO Mapusa, bearing Case No.15/279/2019/Part/Land and by virtue of the Order dated 2/11/2020, a new Chalta No.51-A of PTS No.52/51 and 52/52 came to be allotted.

A perusal of the Record of Rights/Form 'D' in respect of Chalta No.51 -A of PTS No. 52 reveals that the name of Pio D'Souza, is shown as holder in origin of the title and the said property is shown to be admeasuring 1224 sq.mts.

A perusal of the records and proceedings in Inventory proceedings bearing No.125/2022/C reveals that the same have been initiated upon the death of Pio D'Souza, Smt. Mary A.D'Souza, Brigid Rodrigues and Wilfred Rodrigues, by Christina D'Souza Vaz, daughter of Pio D'Souza.

The said proceedings further reveal that the said Pio D'souza was married to Mary A.D'Souza and both of whom expired leaving behind the following heirs:-

a) Brigid Rodrigues married to Wilfred Rodrigues

The said Brigid Rodrigues and Wilfred Rodrigues expired leaving behind the following

i) Enid Rodrigues married to Keith Lenon Noronha

ii) Nathaniel Rodrigues , bachelor

- b) Christina D'Souza Vaz married to Frankie Vaz
- c) Jennifer Mahindra D'Souza married to Dinesh Kumar Mahindra

In the said inventory proceedings the property subject matter of scrutiny is listed at Item No.I and by virtue of Order dated 24/6/2022, the said property has been allotted to the above persons in the proportion mentioned in the Chart of allotment filed in the said proceedings and accordingly the names of the above persons is found mutated in the Record of Rights/Form 'D' under mutation entry No. 213404.

The documents scrutinized succinctly establishes the fact that the properties which have been subsequently amalgamated originally belonged to the Comunidade of Mapusa and were granted to Marcos Salvador D'Souza as and by way of a grant on Aforamento basis and accordingly until the payment of the entire foro, the domino directo consisting of annual quit rent came to be inscribed in favour of the Comunidade of Mapusa under Inscription No. 11731 and that upon payment of the dues to the Comunidade of Mapusa, the inscription

came to be superseded and hereafter vide Inscription no. 24526 at folio 5 of Book G-31 the property came to be inscribed absolutely in favor of Marcos Salvador D'Souza.

The fact that the property belonged to the said Marcos Salvador D'Souza, is further corroborated in the entry in the Index pertaining to old survey 1508 wherein the name of Marcos Salvador D'Souza is found recorded therein.

The documents that have been subsequently executed and more specifically the Deed of Partition dated 15/1/1996 and 6/3/1996, proceed on the premise that the parties to the said Deeds namely Marcos D'Souza, Neeta D'Souza and Mario D'Souza, besides Pio D'Souza, Mary D'Souza, Eusebio D'Souza, Emilia D'Souza, are the descendants of late Marcos Salvador D'Souza and although there is no Deed of succession or any Inventory Proceedings that appears to have been drawn upon the death of Marcos Salvador D'Souza and his spouse defining the names of the heirs /legal representatives of the said persons

who are entitled to their estate, the fact remains that the Deed of Partition dated 15/01/1996 and 06/03/1996 confirms the fact that the said Properties originally belonged to Marcos Salvador D'Souza and his wife, who were survived by Pio D'Souza married to Mary D'Souza and Eusebio D'Souza married to Emilia D'Souza and the Deed of Succession dated 31/05/1995 coupled with the fact that the order passed in Form D dated 05/05/1988 by the Inquiry Officer, city Survey, Mapusa, confirming the possession of the property in favor of Silverius Cyril D'Souza, Eusebio D'Souza and Pio D'Souza all sons of Late. Marcos Salvador D'Souza and his spouse and the order passed by the Inquiry officer in Form D being more than 35 years.

The Inventory Proceedings bearing no. 125/2022/C has been initiated to apportion the estate of the deceased Pio D'Souza, Mary A. D'Souza, Brigid Rodrigues and Wilfred Rodrigues

The Deed of Succession dated 31/5/1995 has been drawn to establish the succession to the estate of Albina Rosa D'Souza and Silverius Cyril D'Souza

Both the said documents are not sufficient enough to establish the devolution of title from Marcos Salvador D'Souza and his wife in favour of Pio D'Souza, Mary D'Souza, Eusebio D'Souza and Emilia D'Souza.

The documents scrutinized further establish the fact that the property bearing survey no. 51 – A of PT Sheet no. 52 corresponds to old survey no. 1508, however, a search in the Office of the ISLR Panaji has revealed that the Registo De Agrimensor of the Property surveyed under survey no. 1508 is not available and the only documents that are available in respect of the property bearing old survey no. 1508 is the plan and the nominal index and the nominal index with respect to number 1508 confirms that the property is in the name of Marcus Salvador D'Souza.

A perusal of the Nil Encumbrance Certificate bearing no. NEC/9/2023/1930 issued by the competent authority has confirmed that there is no registered encumbrance affecting the said property.

A perusal of the Death and Burial Certificate of Marcos Salvador D'Souza confirms that he expired on 27/09/1958 and that he was married to Brigida D'Souza and was buried in the cemetery of St. Jerome Church, Mapusa.

A comprehensive perusal of all the documents referred to hereinabove and considering the fact that there is an uninterrupted devolution of title established by title documents originating from Marcos Salvador D'Souza since the year 1932 and notwithstanding the fact that there is no document of succession drawn upon the death of Marcos Salvador D'Souza and his wife, Brigida D'Souza, the confirmation of the Descendants who have partitioned the estate by executing two Deeds of Partition dated 15/01/1996 and 06/03/1996 which documents would be sufficient to confirm the succession, we have to state that the Title to the said property is clear and marketable and free from all registered encumbrances. The property bearing PT sheet no.52, Chalta no.51-A, measuring 1224 m² is clear & marketable.

Dated: 28/07/2023


(B. D. NAZARETH)