



**Gajanan K. Korgaonkar** B. Com. L.L.B

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Date: 08/11/2019

**CERTIFICATE OF TITLE**

THIS Certificate of Title is prepared at the request of Mr. Pundalik Palyekar, who has placed in my hands the photocopies of documents and after scrutiny of the same, my OPINION is as follows :-

**DESCRIPTION OF THE PROPERTY**

A property known as "SAZEA MALVOLEACHEM BALTAZAR RODRIGACHEM AND POLPOTEA DANDNECHEM BATTA" also known as "BHAMAN VADO", bearing Survey no. 70/7, admeasuring an area of 3375 sq. mts., of village Oxel, Siolim, Bardez - Goa and the same is presently bounded as under:

On the North : by property belonging to the Owners  
presently bearing survey no. 70/1.

On the South : by storm water drain beyond property  
surveyed under survey no. 70/5

On the East : by Public Road

On the West : by fields belonging to Caitano Lobo,  
surveyed under survey no. 70/2

(Hereinafter referred to as the "Said property")

**DOCUMENTS PROVIDED:**

I have examined the following photo copies of the documents:-

- i. Form I and XIV of the property bearing survey no. 70/7 of village Oxel, Bardez – Goa.
- ii. Inscription no. 4824 and Description no. 7722 along with its translation.
- iii. Deed of Partition, discharge, constitution of debt, mortgage and declaration dated 27/02/1929 along with its translation.
- iv. Deed of Sale of Immovable property dated 24/01/1976.
- v. Will dated 13/04/2003.
- vi. Death Certificate of Marcus Fernandes
- vii. Certificate issued by Prazeres A. Gonsalves.
- viii. Deed of Joint Venture Agreement dated 12/08/2014.
- ix. Deed of Joint Venture agreement dated 11/02/2015.
- x. Power of Attorney dated 03/02/2014.
- xi. Power of Attorney dated 12/08/2014.
- xii. Power of Attorney dated 11/02/2015.
- xiii. Affidavit dated 11/10/1979 of Mrs. Timotina M D'sa.
- xiv. Affidavit dated 02/11/1979.
- xv. Order dated 28/03/2014 along with statement on oath, Additional Statement on oath, Description of Assets, compromise terms of an Inventory Proceeding bearing no. 55/2005/F before the Court of the Civil Judge Junior Division 'F' at Mapusa.
- xvi. Technical Clearance order bearing Ref. no. TPB/1599/TCP-16/885 dated 17/03/2016 issued by office of the Senior Town Planner, Town & Country Planning Dept., Mapusa along with the approved plan.



- xvii. Sanad bearing no. RB/CNV/BAR/AC-I/20/2015 dated 10/06/2015, issued by District Collector, North Goa.
- xviii. Construction Licence/Permission bearing Ref no. VP/OXEL/OXEL/2016-17/852 dated 27/12/2016 issued by Village Panchayat of Oxel.

**FLOW OF TITLE:**

On the basis of the above-mentioned documents my finding are as under:

That as per certificate dated 25/10/2019 issued by Prazeres A. Gonsalves, Ex-Head Surveyor Directorate of Land Survey, Goa, stating that as per the Sale deed dated 24/01/1976 he has identified as per the plot boundaries given in the schedule at page 4 and 5 to be the property surveyed under survey no.70/7.

Therefore in view of the above certificate, the property sold as per the sale deed dated 24<sup>th</sup> January 1976 is identify as per the boundaries given in the schedule at page 4 and 5 of the said sale deed is of the survey no.70/7.

The said property was described under no. 7722 i.e. the entire property denominated as "SAGIA MALVOLIABCHEM BALTAZAR RODRIGACHEM AND POLPOTIA DANDICACHEM BATA" and the same was inscribed under Inscription no. 4824 in the name of Marcos Fernandes.

The said Marcos Fernandes, who was married to Maria Madalena Carrasio, they both died leaving behind their heirs in the capacity of being children i.e. (1) Mr. Cosme Damiao Fernandes alias Cosme Damioa Zacarias Fernandes alias Zacarias Fernandes, who married to Romana Assucena de Souza and (2) Mr. Julio Manuel



Caetano Martinho Fernandes, who married to Cecilia Valentina Sebastiana de Souza.

Upon the death of said Mr. Marcos Fernandes and his wife Mrs. Maria Madalena Carrasio, vide Deed of Partition, discharge, constitution of debt, mortgage and declaration dated 27/02/1929 took place between Cosme Damiao Fernandes alias Cosme Damiao Zacarias Fernandes, alias Zacarias Fernandes along with his wife Romana Assucena De Souza and his brother Mr. Julio Manuel Caetana Martinho Fernandes and his wife Mrs. Cecilia Valentina Sebastiana De Souza.

In the above partitioned deed, the entire property was described under Land Registration number 7722 was listed as item no.4, consists of a part comprising of land with a dwelling house existing therein and enclosed on all the sides by compound walls made of stones and one part comprising which is divided this property from east to west into three parcels. The first parcel bounded on the east by public way, on the west by paddy field of Caitano Lobo and of his heirs, on the north by Pedro Mendes and of his heirs and on the south by Joaquim Casimiro de Araujo. The second parcel is bounded on the east by the public way, on the west by paddy field of Caitano Lobo and of his heir, on the north first parcel and on the south by the third parcel; and the third parcel is bounded on the east by the public way, on the west by the paddy field of Caitano Lobo and of his heirs on the north by second parcel and on the south by the property of Duarte de Araujo and Joaquim Casimiro de Araujo.

That the Second and Third part is allotted to Mr. Julio Manuel Caetano Martinho Fernandes and Cecilia Valentina Sebastiana de Souza.

A handwritten signature in black ink, appearing to be 'C. J. M. F.', written over a horizontal line.



That as per the certificate issued by Prazeres A. Gonsalves, Ex-Head Surveyor Directorate of Land Survey, Goa, the second and third part corresponds to the survey number 70/7.

The said Mr. Julio Manuel Caetana Martinho Fernandes and his wife Mrs. Cecilia Valentina Sebastiana De Souza expired leaving behind their following children

- a. Mrs. Timotina N D'sa married to Mr. Simon F. DSa.
- b. Mrs. Laura Almeida married to Mr. Christy Almeida,
- c. Mr. Marcus Fernandes expired as a bachelor on 5/5/1973.

Subsequently, the above said heirs of Mr. Julio Manuel Caetana Martinho Fernandes and Mrs. Cecilia Valentina Sebastiana De Souza have sold property to Shri. Sonu Vishnu Harmalkar vide Deed of Sale of Immovable property dated 24/01/1976 and the same is registered before Sub-Registrar of Bardez under Registered no. 47 of Book No. I, Vol 97 at pages 321 to 326 dated 28/01/2976.

The said Sonu Vishnu Harmalkar was married to Mrs. Shrimati Sonu Harmalkar. Both expired on 16/10/1995 and 22/07/2003 respectively, leaving behind following legal heirs:

- a. Mr. Namdev Sonu Harmalkar married to Smt. Satvashila alias Suhasini Namdev Harmalkar,
- b. Shri Vithal Sonu Harmalkar, married to Sulochana Alias Hanue Vithal Harmalkar.

The said Shri Vithal Sonu Harmalkar expired on 06/04/2003 leaving behind his widow Sulochana alias Hanue Vithal Harmalkar and a son namely Mr. Druvajay alias Druvanjay Vithal Harmalkar.



Upon the death of said Shri. Sonu Vishnu Harmalkar and Mrs. Shrimati Sonu Harmalkar, an Inventory Proceeding was instituted before the Court of Civil Judge Senior Division Mapusa bearing Inventory Proceeding No. 55/2005/F, wherein the said property was listed as item No. 1 in the Description of Assets.

During the pendency of the above said Inventory Proceeding Smt. Satvashila alias Suhasini Namdev Harmalkar had expired issueless leaving behind her widower Mr. Namdev Sonu Harmalkar.

The said Mrs. Shrimati Sonu Harmalkar had bequeathed her entire disposable share in the said properties to Mr. Rajesh Vithal Harmalkar by a Will dated 13/04/2003, duly drawn in the Office Notary Book of Wills, bearing no. 233, at pages 87 to 90v dated 13/04/2003 before the office of the Notary Ex-officio, Bardez – Mapusa.

Surviving heirs of late Shri. Sonu Vishnu Harmalkar and Mrs. Shrimati Sonu Harmalkar filed settlement terms along with plan, the said property partitioned/divided into two plots, the Plot-A/Part A admeasuring 702 sq. mts. is allotted to Mr, Druvajay Alias Druvanjay Vithal Harmalkar and Plot B/Part B which admeasured about 2673 sq. mts. along with the old ancestral house bearing V. P. House No. 298/5 is allotted to Mr. Rajesh Vithal Harmalkar. The Interested Party Mr. Namdev Sonu Harmalkar hold Usufruct rights in Plot-B/Part B, which is allotted to Mr. Rajesh Vithal Harmalkar.

The above said allotment was confirmed by an order dated 28/03/2014, passed by the court of Civil Judge Junior Division 'F' at Mapusa bearing Inventory Proceeding no. 55/2005/F.





Besides the above said flow of the title, the said Shri. Sonu Vishnu Harmalkar and Mrs. Shrimati Sonu Harmalkar were in possession of the said property since 1976 and thereafter until their last breath. After their death, their heirs Mr. Namdev Sonu Harmalkar, Mr. Druvajay alias Druvanjay Vithal Harmalkar and Mr. Rajesh Vithal Harmalkar along with their spouses are continuously in possession of the said property till date.

The said Druvajay alias Druvanjay Vithal Harmalkar, Dipti Dhruvanjay Harmalkar, Mr. Namdev Sonu Harmalkar, Mr. Rajesh Vithal Harmalkar and Mrs. Savita Rajesh Harmalkar have executed Deed of Joint Venture with Mr. Pundalik Deelip Palyekar dated 12/08/2014 and 15/02/1015 respectively. Further the said Druvajay alias Druvanjay Vithal Harmalkar and Mr. Rajesh Vithal Harmalkar along with their spouses agreed to receive consideration of 40% of the total built up area and 60% built up area to the Developer and handed over their respective possession of the said property to the Developer on signing the above said Deed of Joint Venture Agreements to construct residential building after obtaining permission and licenses from the concerned departments.

Thereafter, the Developer Mr. Pundalik Palyekar has obtained following permissions in the name of Mr. Druvajay alias Druvanjay Vithal Harmalkar and Mr. Rajesh Vithal Harmalkar:

- i. Conversion Sanad bearing No. RB/CNV/BAR/AC-I/20/2015 dated 10/06/2015 from the office of the District Collector, North Goa with respect to property bearing Survey no. 70/7, admeasuring an area of 2755 sq. mts. of village Oxel, Bardez – Goa.





- ii. Technical Clearance order bearing no. TPB/1599/TCP-16/885 dated 17/03/2016 from the office of the Senior Town Planner, Mapusa – Goa.
- iii. Construction Licence/Permission bearing no. VP/OXEL/OXEL/2016-17/852 dated 27/12/2016 from the Village Panchayat of Oxel.

**Opinion/Conclusion**

Mr. Druvajay alias Druvanjay Vithal Harmalkar, Mr. Rajesh Vithal Harmalkar and their spouses are having marketable title to the Said Property and also having required permissions to construct the residential building in the said property.

I have perused the documents provided by the Party and have assumed that (i) all information contained in all documents reviewed by me is true, complete and correct, (ii) all signatures on all documents reviewed by me are genuine, (iii) all documents submitted to me as copies are true and complete copies of the originals thereof, and (iv) each natural person signing any document reviewed by me had the legal capacity to do so.



Adv. Gajanan K. Korgaonkar