

Gurudatt R. Mallya

ADVOCATE

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OPINION ON THE TITLE

1. My opinion has been sought by M/S SRE ESTATES DEVELOPMENT (hereinafter referred to as "*SRED*"), a partnership firm having its place of business at "*SUPREME*", Behind New Telephone Exchange, opp. Bombi House, Comba, Margao, Goa on the following two questions, viz. :

a) Whether the following persons are owners and have clear legal title to the property described in Para 2 below (hereinafter referred to as the "*Said Property*"), viz. SHRI SANDEEP YESHWANT KAMAT and his wife SMT. ARCHANA SANDEEP KAMAT, both residents of House No. 269/C, Aquem-Baixo, Navelim, Salcete, Goa (hereinafter jointly referred to as the "*OWNERS*") and

b) Whether SRED is entitled to develop the Said Property.

2. THE SAID PROPERTY:

The Said Property is the following, viz.

Name: "*Morod*"

Location: Borda, within the limits of Margao Municipal Council, Taluka Salcete, District South Goa, State of Goa

Erstwhile land registration details:

- Not described in the Land Registration Office.
- Enrolled in the Taluka Land Revenue Roll under Matriz No. 738



- Not surveyed under Cadestral Survey.

Present survey details: Chalta Nos. 9 and 34, both of P. T. Sheet No. 134 of Margao City Survey

Area: 2,418 M² comprising:

- 926 M² covered under Chalta No. 9 and
- 1,492 M² covered under Chalta No. 34.

Boundaries: As per Matriz records:

East: By property of Maria Ana Quiteria Esperanca Gomes e Miranda;

West: By property of Aramita Menezes e Lobo;

North: By property of the Comunidade;

South: By road.

As per present survey records:

East: By Chalta Nos. 10 and 35, both of P. T. Sheet No. 134;

West: By Chalta Nos. 7 and 41, both of P. T. Sheet No. 134;

North: By Chalta No. 5 of P.T. Sheet No. 96 and

South: By road.

Remarks:

There is a house on Chalta No. 9 of P. T. Sheet No. 134 which is reportedly in ruins and bearing House No. 211 in Ward No. 12 (old House No. 717)



3. DOCUMENTS PRODUCED:

The following documents have been produced for my perusal and scrutiny, viz.

- a) Original True Xerox Copy dated 6.1.2015 of an extract from the Matríz records, issued by the Taluka Revenue Office, of the property enrolled under Matríz No. 738, along with an English translation thereof dated 11.3.2015 by Dr. Giri B. Kamat, Director of Health Services, Goa (Retd.);
- b) Photo-copy of a certified true Xerox copy dated 5.12.1988 issued by the Sub-Registrar-cum-Notary Ex-Officio of Salcete Taluka at Margao, Goa, of a Deed of Declaration of Succession drawn up on 24.5.1982 by the said Sub-Registrar-cum-Notary Ex-Officio and recorded at Folio 29 onwards of Deeds Book No. 1291;
- c) Original certified copy dated 5.6.2000, issued by the Sub-Registrar-cum-Notary Ex-Officio of Salcete Taluka at Margao, Goa, of a Public Will of LUCINDA CONCEICAO DA DIVINA PROVIDENCIA VINDELINA SARDINHA drawn up on 27.5.1987 by the said Sub-Registrar-cum-Notary Ex-Officio and recorded at Folio 58 onwards of Deeds Book No. 1110;
- d) Notarized photo-copy of a Probate, issued by the Bombay High Court on 8.5.2007 in Petition No. 765/2006 of a Will dated 9.2.1978 of HELENA SARDINHA;
- e) Notarized photo-copy of a Probate, issued by the Bombay High Court on 8.5.2007 in Petition No. 766/2006 of a Will dated 23.2.1979 of ANTONIO MARIA AURELIO SARDINHA;



- l) Photo-copy of a survey plan issued by the Margao City Survey Office on 4.12.2012, of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134 of Margao City Survey;
- m) Photo-copy of a certified copy dated 7.12.1988 issued by the Enquiry Officer, Margao City Survey of Form "B" (Enquiry Register) in respect of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134 of Margao City Survey;
- n) Photo-copies of certified copies dated 30.12.2014 issued by the Inspector of Survey and Land Records, Margao City Survey, of Form "D" (Property Card) in respect of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134 of Margao City Survey;
- o) Original certified copies dated 7.11.2016 issued by the Inspector of Survey and Land Records, Margao City Survey of Form "D" (Property Card) in respect of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134 of Margao City Survey;
- p) Photo-copy of a Receipt For Taxes with date torn off, issued by the Margao Municipal Council for the Financial Year 1987-1988 in respect of House No. 211 in Ward No. 12;
- q) Photo-copy of a Bill of Taxes dated 31.3.1994 issued by the Margao Municipal Council for the Financial Year 1993-1994 in respect of House No. 211 in Ward No. 12.
- r) Original Agreement for Sale executed on 22.10.2018 by and between the OWNERS and SRED, which agreement is duly registered in the Office of the Sub-Registrar of Salcete Taluka



- f) Original certified copy issued on 30.4.2016 by the Civil Judge, Senior Division, Margao, Goa, of the Record and Proceedings of Reg. Inventory Proceedings No. 57/2010/A (originally Spl. Inventory Proceedings No. 49/2006/A) instituted upon the death of NORBERTO ANTONIO SALVADOR FRANCISCO DO ROSARIO PIEDADE SARDINHA and his wife LEONOR GRACIAS E SARDINHA;
- g) Notarized photo-copy of a Deed of Sale dated 16.5.2016 registered in the Office of the Sub-Registrar of Salcete Taluka at Margao, Goa on 16.5.2016 under Registration No. MGO-BK1-02347-2016 in CD No. MGOD92;
- h) Notarized photo-copy of a Deed of Sale dated 16.5.2016 registered in the Office of the Sub-Registrar of Salcete Taluka at Margao, Goa on 1.6.2016 under Registration No. MGO-BK1-02638-2016 in CD No. MGOD92;
- i) Notarized photo-copy of a Deed of Sale dated 16.5.2016 registered in the Office of the Sub-Registrar of Salcete Taluka at Margao, Goa on 21.6.2016 under Registration No. MGO-BK1-02928-2016 in CD No. MGOD93;
- j) Photo-copy of a Deed of Rectification-Cum-Ratification dated 24.8.2016 registered in the Office of the Sub-Registrar of Salcete Taluka at Margao, Goa on 26.9.2016 under Registration No. MGO-BK1-04458-2016 in CD No. MGOD95;
- k) Photo-copy of a Deed of Rectification-Cum-Ratification dated 24.8.2016 registered in the Office of the Sub-Registrar of Salcete Taluka at Margao, Goa on 26.9.2016 under Registration No. MGO-BK1-04459-2016 in CD No. MGOD95;



at Margao, Goa on 22.10.2018 under Registration No. MGO-BK1-04578-2018 in CD No. MGOD129.

4. DEVOLUTION OF TITLE:

- a) The document at Para 3(a) above records that the property enrolled under Matriz No. 738 is held by ANTONIO SALVADOR NORBERTO SARDINHA.
- b) The document at Para 3(b) above certifies:
- 1) That on 2.8.1967, ORFELINDA NOLACIA ESMARALDA LEITAO died intestate leaving behind her, her husband and moiety-holder FILIPE BENICIO DA PIEDADE SARDINHA and as her only heirs, her two daughters, viz. MARIA FATIMA DIVINHA SARDINHA married to FRANCISCO MIGUEL WILSON MIRANDA and MARIA DOS ANJOS JOSEFA SARDINHA, spinster;
 - 2) That on 24.2.1982, FILIPE BENICIO DA PIEDADE SARDINHA died intestate leaving behind him as his only heirs, his aforesaid two daughters, viz. MARIA FATIMA DIVINHA SARDINHA and MARIA DOS ANJOS JOSEFA SARDINHA.
- c) By the document at Para 3(c) above, LUCINDA CONCEICAO DA DIVINA PROVIDENCIA VINDELINA SARDINHA, spinster, bequeathed all her properties to her nephew KENNETH NORBERT SARDINHA.
- d) By the document at Para 3(d) above, HELENA SARDINHA bequeathed all her properties to her nephew KENNETH NORBERT SARDINHA.



- e) By the document at Para 3(e) above, ANTONIO MARIA AURELIO SARDINHA bequeathed all his properties to his nephew KENNETH NORBERT SARDINHA.
- f) The documents at Para 3(f) record as under:
- 1) That NORBERTO ANTONIO SALVADOR FRANCISCO DE ROSARIO PIEDADA SARDINHA died on 24.7.1943, his wife LEONOR GRACIAS E SARDINHA having pre-deceased him on 25.5.1922;
 - 2) That the estate of the deceased NORBERTO ANTONIO SALVADOR FRANCISCO DE ROSARIO PIEDADA SARDINHA and LEONOR GRACIAS E SARDINHA, comprised the Said Property and both were jointly entitled to the Said Property in equal shares, i.e. $\frac{1}{2}$ (one-half) each;
 - 3) That the deceased NORBERTO ANTONIO SALVADOR FRANCISCO DE ROSARIO PIEDADA SARDINHA and LEONOR GRACIAS E SARDINHA had six children, viz.
 - a. FR. MANUEL SANTANA SARDINHA, bachelor, who died on 1.11.1977;
 - b. LUCINDA SARDINHA, spinster, who died on 6.7.1990;
 - c. ROMUALDO SARDINHA, married to VILMA SOPHIE SARDINHA, both of whom died, the former on 14.7.1987 and the latter on 27.8.1993, leaving behind them five children, viz.



B. MARIA DOS ANJOS JOSEFA SARDINHA,
married to SAVIO CAIRO.

- 4) That upon the death of FR. MANUEL SANTANA SARDINHA, his share devolved upon his siblings (viz. LUCINDA SARDINHA, ROMUALDO SARDINHA, HELENA SARDINHA, ANTONIO MAURELINO SARDINHA and FILIPE BENICIO DA PIEDADE SARDINHA), as a consequence of which each of the siblings became entitled to 1/5^{ths} undivided share in the Said Property.
- 5) That by her Will dated 27.5.1987, LUCINDA SARDINHA had bequeathed her 1/5^{ths} undivided share in the Said Property to KENNETH SARDINHA;
- 6) That by her Will dated 9.2.1978, HELENA SARDINHA had bequeathed her 1/5^{ths} undivided share in the Said Property to KENNETH SARDINHA;
- 7) That by his Will dated 23.2.1979, ANTONIO MAURELINO SARDINHA had bequeathed his 1/5^{ths} undivided share in the Said Property to KENNETH SARDINHA;
- 8) That, as a consequence of the aforesaid deeds and events, KENNETH SARDINHA acquired 3/5^{ths} undivided share in the Said Property;
- 9) That the 1/5^{ths} undivided share in the Said Property held by ROMUALDO SARDINHA and VILMA SOPHIE SARDINHA devolved upon their children/grand-children as follows, viz.



- A. MILLICENT VAZ, married to CHRISTOPHER VAZ;
- B. KENNETH SARDINHA *alias* KENNETH NORBERT SARDINHA, married to DAPHNE D'COSTA;
- C. AIDA HAZRA, married to HIMANSHU HAZRA, the latter having died on 6.7.1990, leaving behind one child, viz. a daughter, MIKUL HAZRA married to AVINASH TRIPATHI;
- D. JESSICA SARDINHA, unmarried;
- E. REGINALD SARDINHA, married to EVELYN SARDINHA.
- d. HELENA SARDINHA, spinster, who died on 18.6.1993;
- e. ANTONIO MARIA AURELIO SARDINHA, bachelor, who died on 27.6.1984 and
- f. FILIPE BENICIO DA PIEDADE SARDINHA, married to ORFELINDA NOLACIA ESMARALDA LEITAO, both of whom died, the former on 24.2.1982 and the latter on 2.8.1967, leaving behind them two children, viz.
- A. MARIA FATIMA DIVINA SARDINHA, married to FRANCISCO MIRANDA and



- A. MILLICENT VAZ and her husband CHRISTOPHER VAZ jointly acquired $1/25^{\text{th}}$ undivided share in the Said Property;
- B. KENNETH SARDINHA and DAPHNE D'COSTA jointly acquired $1/25^{\text{th}}$ undivided share in the Said Property, i.e. in addition to the $3/5^{\text{th}}$ undivided share in the Said Property (as stated in Para 4(f)(8) hereinabove) and they, thus, jointly acquired, in the aggregate, $16/25^{\text{th}}$ undivided share in the Said Property;
- C. AIDA HAZRA, MIKUL HAZRA and AVINASH TRIPATHI jointly acquired $1/25^{\text{th}}$ undivided share in the Said Property in the following proportions, viz.
1. AIDA HAZRA became entitled to $1/50^{\text{th}}$ undivided share in the Said Property and
 2. MIKUL HAZRA and AVINASH TRIPATHI became jointly entitled to $1/50^{\text{th}}$ undivided share in the Said Property.
- D. JESSICA SARDINHA acquired $1/25^{\text{th}}$ undivided share in the Said Property and
- E. REGINALD SARDINHA and EVELYN SARDINHA jointly acquired $1/25^{\text{th}}$ undivided share in the Said Property.



10) That the 1/5th undivided share in the Said Property held by FILIPE BENICIO DA PIEDADE SARDINHA and ORFELINDA NOLACIA ESMARALDA LEITAO devolved upon their two daughters as follows, viz.

A. MARIA FATIMA DIVINA SARDINHA and FRANCISCO MIRANDA jointly acquired 1/10th undivided share in the Said Property and

B. MARIA DOS ANJOS JOSEFA SARDINHA and SAVIO CAIRO jointly acquired 1/10th undivided share in the Said Property.

11) That vide Final Order dated 16.3.2016 passed in the Inventory Proceedings, it was held that the inheritance to the estate of NORBERTO ANTONIO SALVADOR FRANCISCO DE ROSARIO PIEDADA SARDINHA and LEONOR GRACIAS E SARDINHA devolved on the following persons as per the respective shares enumerated hereinbelow, viz.

| <u>Sr.</u> | <u>Persons holding rights</u> | <u>Share in the inheritance</u> |
|------------|---|---------------------------------|
| A. | MILLICENT VAZ and CHRISTOPHER VAZ (jointly) | 1/25 th |
| B. | KENNETH SARDINHA and DAPHNE D'COSTA (jointly) | 16/25 th |
| C. | AIDA HAZRA | 1/50 th |
| D. | MIKUL HAZRA and AVINASH TRIPATHI (jointly) | 1/50 th |



| | | |
|----|--|---------------------|
| E. | JESSICA SARDINHA | 1/25 ^{ths} |
| F. | REGINALD SARDINHA and EVELYN SARDINHA (jointly) | 1/25 ^{ths} |
| G. | MARIA FATIMA DIVINA SARDINHA and FRANCISCO MIRANDA (jointly) | 1/10 ^{ths} |
| H. | MARIA DOS ANJOS JOSEFA SARDINHA and SAVIO CAIRO (jointly) | 1/10 ^{ths} |

- g) By the document at Para 3(g) above, KENNETH SARDINHA and DAPHNE D'COSTA sold and conveyed their 16/25^{ths} undivided share in the Said Property to SANDEEP Y. KAMAT.
- h) By the document at Para 3(h) above, MARIA FATIMA DIVINA SARDINHA, FRANCISCO MIRANDA, MARIA DOS ANJOS JOSEFA SARDINHA and SAVIO CAIRO sold and conveyed their 1/5^{ths} undivided share in the Said Property to SANDEEP Y. KAMAT.
- i) By the document at Para 3(i) above, MILLICENT VAZ, CHRISTOPHER VAZ, AIDA HAZRA, MIKUL HAZRA, AVINASH TRIPATHI, JESSICA SARDINHA, REGINALD SARDINHA and EVELYN SARDINHA sold and conveyed their 4/25^{ths} undivided share in the Said Property to SANDEEP Y. KAMAT.
- j) By the document at Para 3(j) above, MARIA FATIMA DIVINA SARDINHA, FRANCISCO MIRANDA, MARIA DOS ANJOS JOSEFA SARDINHA and SAVIO CAIRO declared that they were aware of the document at Para 3(g) above, that the document at Para 3(g) above be read and construed as if they were parties to the said document and that they have no objection if the name of "SANDEEP Y. KAMAT" is recorded



in Form "D" in respect of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134 as exclusive owner thereof.

- k) By the document at Para 3(k) above, MARIA FATIMA DIVINA SARDINHA, FRANCISCO MIRANDA, MARIA DOS ANJOS JOSEFA SARDINHA and SAVIO CAIRO declared that they were aware of the document at Para 3(i) above, that the document at Para 3(i) above be read and construed as if they were parties to the said document and that they have no objection if the name of "SANDEEP Y. KAMAT" is recorded in Form "D" in respect of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134 as exclusive owner thereof.
- l) The document at Para 3(l) above is a Survey Plan of the Said Property showing its present boundaries.
- m) The document at Para 3(m) above states that BENEFICIO SARDINHA is the "Supposed Holder" of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134.
- n) The document at Para 3(n) above states that MARIA DOS ANJOS JOSEFA SARDINHA and MARIA FATIMA DIVINA SARDINHA are the "Holders" of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134.
- o) The document at Para 3(o) above states that SANDEEP Y. KAMAT is the "Holder" of Chalta Nos. 9 and 34, both of P. T. Sheet No. 134, by virtue of the documents enumerated above at Paras 2(g), 2(h), 2(i), 2(j) and 2(k).
- p) The document at Para 3(p) above records that house tax in respect of House No. 211 in Ward No. 12 in respect of



Financial Year 1987-1988 has been received from Pe. Manuel Sardinha.

- q) The document at Para 3(q) above records that house tax in respect of House No. 211 in Ward No. 12 in respect of Financial Year 1993-1994 is due from Pe. Manuel Sardinha.
- r) The document at Para 3(r) above records that the OWNERS (both of whom are, it is stated, married under the Regime of Communion of Properties) have agreed to sell the Said Property to SRED, for the consideration and on the terms and conditions stated therein. This agreement permits M/s Supreme Realtors to undertake development of the Said Property by constructing multi-storeyed building(s) thereon and selling premises therein to members of the public.

5. OPINION:

After scrutiny of the documents enumerated in Para 3 above, my considered views are as under:

- a) There appears to be a minor discrepancy in the Northern boundary of the Said Property inasmuch as although in all relevant documents the Northern boundary is stated to be Chalta No. 3 of P. T. Sheet No. 96 and Chalta No. 5 of P. T. Sheet No. 115, the survey plan referred to in Para 2(l) above indicates that the Northern boundary is only Chalta No. 5 of P. T. Sheet No. 96. This is a minor discrepancy and nothing turns on it.
- b) Though in all relevant documents it is stated that the old house number of the house on the Said Property is No. 717,



there is no document to substantiate this. This too is not of much consequence.

- c) Since the Said Property was not registered under the erstwhile Land Registration, title can be related only to the Matriz records which are only revenue records. However, since the Matriz records would indicate possession of the person named therein, it can be assumed that the person named therein had rights to the relevant property. Since the name of ANTONIO SALVADOR NORBERTO SARDINHA is recorded in the Matriz records (document at Para 2(a) above) and the present survey records (Form "B" and Form "D", referred to at Paras 3(m) and 3(n) above) show the names of the descendants of the said ANTONIO SALVADOR NORBERTO SARDINHA and of none others, it can be safely assumed that ANTONIO SALVADOR NORBERTO SARDINHA originally had title to the Said Property.
- d) Title can be traced to prior to 24.7.1943, i.e. the date of death of NORBERTO ANTONIO SALVADOR FRANCISCO DE ROSARIO PIEDADA SARDINHA, whose name is recorded in the Matriz records (document at Para 3(a) above). Thus, title can be traced back to more than 75 years.
- e) The flow of title from NORBERTO ANTONIO SALVADOR FRANCISCO DE ROSARIO PIEDADA SARDINHA to the male OWNER (SANDEEP Y. KAMAT) is clear and uninterrupted.
- f) I am accordingly of the considered opinion that the OWNERS (i.e. SHRI SANDEEP YESHWANT KAMAT and his wife SMT. ARCHANA SANDEEP KAMAT, both residents of House



No. 269/C, Aquem-Baixo, Navelim, Salcete, Goa) have a clear and marketable title to the Said Property.

- g) A Nil Encumbrance Certificate in respect of the Said Property must be obtained from the Office of the Sub-Registrar of Salcete Taluka to certify that the Said Property is not encumbered.
- h) Since the OWNERS are the legal owners of and have clear legal title to the Said Property as stated in Para 5(f) above and in the light of the document produced before me and enumerated in Para 3(r) above, SRED is entitled to develop the Said Property by constructing multi-storeyed building(s) thereon and selling premises therein to members of the public.

Place: Margao, Goa.

Date: 13.4.2019

(Gurudatt R. Mallya)
Advocate

Enrolment No. Mah/1874/1989
(27.11.1989)

