

509 /2018

7/5/2018

To,
The Chairman,
Uttam Co-operative Housing Society Ltd.
8, Bharti Society,
Ellis Bridge,
Ahmedabad.

Re: Report on Title to the non-agricultural land bearing Final Plot No. 213/1, allotted in lieu of Survey No. 413/1 part under Town Planning Scheme No. 3 of Vejalpur, situate at mouje Vejalpur, old Taluka City, new Taluka Vejalpur, District Ahmedabad.

Dear Sir,

I was instructed to report to you on the title of Uttam Co-operative Housing Society Ltd. to the above-mentioned land. Accordingly, I had submitted my Report on title to you on 07.03.2013. You have now requested me to update the same. I have therefore once again perused and considered searches of revenue and Sub-Registry records, as up dated, as well as papers and documents submitted to me.

Based on my previous report on title to the above referred property and subsequent information and development, I am submitting my Report on title as under:-

- 1). Originally, the land bearing Survey No. 413/1, admeasuring 1 Acre and 10 Gunthas situate at mouje Vejalpur, was of personal inami tenure and on

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abolition of inami tenure, the name of Somaji Thanaji was entered in the revenue records as owner-occupant, as he was paying revenue since a long time. (Ref. Entry No. 502 dated 08-02-1956) It is stated to me that the land was personal property of said Somaji.

2). Out of 1 Acre and 10 Gunthas, Acre Gunthas Aani-Prati aani 0=34-6=0 (i.e. about 3445 sq. mtrs.) was agreed to be sold by Somaji Thanaji to Shankarbhai Ranchhodbhai Patel and Prahladbhai Jethabhai Thakker by a Banakhat dated 05/09/1966. But before sale could take place, Somaji Thanaji died intestate on 07/01/1970. Thereupon, the names of his heirs viz; Kankuben (widow) Ramsangji (son) and Jadiben (daughter) were entered in revenue records by entry No. 2128 dated 02/03/1971. As per Hindu Succession Act, 1956 each heir had $\frac{1}{3}^{\text{rd}}$ undivided share in the land.

3). Excluding the above land of 3445 sq. mtrs., the remaining land of about 1930 sq. yds. was sold by said Kankuben, Ramsangji and Jadiben to Rajnarayan Hariharbhai by a registered sale deed dated 29/07/1971, as appearing from mutation entry No. 2306 dated 18/01/1971.

4). The above referred 3445 sq. mtrs. was sold by said Kankuben, said Ramsangji and Jadiben to Rajnikant Shambhubhai Patel, Dilip Shambhubhai, Navinchandra Ratilal Ganatra and Kantaben Ratilal Ganatra, in pursuance of Banakhat dated 05/09/1966 by three separate sale deeds, all dated 19/03/1976.

Possession of the land was earlier given over to the said purchasers. Entry Nos. 4727, 4728 and 4729 dated 09/07/1982 were made in revenue records regarding these sale deeds (which sale deeds were registered on 17/11/1981).

5). The abovesaid sale deeds of 19/3/1976, were however, declared invalid under Bombay Prevention of Fragmentation & Consolidation of Holdings Act, in the year 1983 and the above referred entries were cancelled by the Revenue Authority. However, prior thereto, Dilipbhai Shambhubhai and others had agreed to sell said 3445 sq. mtrs. of land to Kamal H. Anandjiwala & others by an Agreement for Sale (Banachitthi) dated 15/09/1979. The said owners, together with Kamal H. Anandjiwala and others, as confirming parties, agreed to sell the said land to the promoters of the then unregistered Uttam Co-operative Housing Society, by an Agreement dated 20/11/1981 and the original owners viz; Kankuben, Ramsangji and Jadiben had also joined therein and they were to be paid consideration at the rate Rs. 140/- per sq. yd.

6). On coming into force of the Urban Land (Ceiling and Regulation) Act, 1976, w.e.f. 17/2/1976, Ramsangji Somaji filed Form No. 1 on behalf of his "family", with regard to holding of urban vacant lands.

7). The sale deeds dated 19/03/1976 were declared invalid in 1983. Thereafter, three Cancellation Deeds in that regard were registered on 23-12-1985, as appearing from mutation entry no. 5328 dated 24-01-1986. Also, the

names of the owners Kankuben, Ramsangji and Jadiben were entered in revenue records as owners of 3445 sq. mtrs. out of Survey No. 413/1, This land was subsequently comprised in Town Planning Scheme no. 3 of Vejalpur by Final Plot No. 213/1, admeasuring 1850 sq. mtrs. and Final Plot No. 213/2, admeasuring 613 sq. mtrs.

8). A fresh Banakhat was made in favour of the proposed Uttam Cooperative Housing Society (through promoters) on 28/06/1983 wherein Kamal H. Anandjiwala and others were joined as confirming parties. It appears that possession of the land was earlier given over to Kamal H. Anandjiwala and others and thereafter given over to the promoters of the Society.

9). The original owner, Somaji Thanaji, had two brothers, viz; Mangaji and Chhagaji. Said Chhagaji, together with heirs of deceased Mangaji, along with Ramsangji Somaji and others, got their names entered as co-owners in revenue records by entry no.5. 5223 and 5240, both dated 06/07/1985. In view of other persons claiming co-ownership, a new Banakhat was executed on 23/08/1985 on lines of earlier Banakhats of 1981 and 1983 in favour of the Society.

10). Ramsangji Somaji, Jadiben Somaji, heirs of Mangaji Thanaji and said Chhagaji Thanaji had executed an Irrevocable Power of Attorney in favour of Ashwinbhai B. Patel on 10/2/1986 authorising him to sell the land. Therein, they stated that the land was agreed to be sold to Kamal Anandjiwala and others and

that possession has been given over. It is also stated that they have received 80% of consideration money and out of remaining 20%, expenses for stamp duty, document fee, solicitor fee, etc, are to be made and if there is any amount remaining, that only will have to be paid by the purchaser, which amount should be received by their attorney. There are other powers also which were given to the attorney.

11) At the relevant time, Kankuben was not alive and, probably, out of some misplaced notion, her name was mentioned as one of the executants. However, her son Ramsangji had placed his thumb impression against her name.

12) Thereafter, permission for non-agricultural use of land bearing Final Plot No. 213/2 part, admeasuring 482 sq mtrs. was given by the District Collector by an order dated 05/12/1987. AUDA also had approved building plans vide permission /order dated 02-09-1987.

13). Meanwhile, under ULC Act, the claims of heirs of deceased Mangaji Thanaji and Chhagaji Thanaji were not accepted. The Competent Authority had held that Kankuben, Ramsangji and Jadiben, heirs of Somaji Thanaji alone are owners. An order no. ULC/U-4/768/Vejalpur/C/611 dated 08/10/1986 was passed in that regard. Mutation entry nos. 5223 and 5240 both dated 06/07/1985 were not accepted by Competent Authority as valid. However, in absence of any further proceeding under Land Revenue Code to get these

entries deleted, they continued to reflect in Revenue records. By the said order, land of Survey No. 413/1 part, now allotted Final Plot No. 213/1 and 213/2 under Town Planning Scheme No. 3 of Vejalpur, were held to be retainable by the land owners.

14). In view of the above, Ashwinbhai B. Patel, as constituted attorney of heirs of Mangaji, and said Chhagaji executed a document styled as "Kabulat and Release" on 22/3/1988 which was registered on the same day under Sr. No. 4910 and it was executed in favour of Ramsangji, Kankuben and Jadiben. Mutation entry No. 6531 dated 12/08/1992 records the fact of this document of Kabulat and Release. It has been stated to me that even on 22/3/1988, it was not known that Kankuben had died and therefore subsequently a Rectification Deed dated 12/9/1988, under sr. No. 17339 was executed and registered, to bring that fact on record, as hereinafter stated.

15). Said Kankuben wd/o. Somaji Thakore had died on 29-10-1984. During her lifetime she had made her last will and testament on 07-12-1983 bequeathing her share in the land to said Ashwinbhai B. Patel only.

16). Unaware of the death of Kankuben and her will, Ashwinbhai B. Patel executed a sale deed dated 08/07/1988, on behalf of Kankuben, Ramsangji and Jadiben, in favour of the Society (then unregistered and represented by promoter Shri Rajubhai B. Popat), which sale deed was registered on

13/07/1988 under Sr. No. 12430. This sale was in respect of Non Agricultural land of 482 sq. mtrs. of Final Plot No. 213/2 part. In the sale deed, Dilipbhai Shambhubhai and others and Kamal H. Anandjiwala and others, had joined as confirming parties. Mutation Entry no. 6532 dated 12/8/1992 was made in the revenue records in respect of the said sale deed.

17). Said Ramsangji had preferred an appeal u/s. 33 of ULC Act, against order of Competent Authority, which was dismissed on 16/06/1988. Thereafter, a Special Civil Application No. 3204 of 1988 was preferred in High Court of Gujarat, allegedly by someone styling as Ramsangji, wherein retainable land from Survey No. 704/1 was sought to be chosen, and not from Survey No. 413/1 part, and a plan was produced in that regard. The Government Pleader accepted the plan, whereupon the Special Civil Application was withdrawn on 08/07/1988. The said order of Hon'ble Court came to the knowledge of Kamal Anandjiwala and other promoters of the Society, whereupon they filed a Misc. Civil Application No. 724 of 1988 and revealed the fact that Ramsangji had exercised the option of retaining retainable land of 3000 sq. mtrs. from Survey No. 413/1 part and therefore the order dated 08/07/1988 of the Hon'ble High Court was sought to be reviewed. In this case, the Hon'ble High Court ordered Competent Authority and Appellate Tribunal not to take possession of land of Survey No. 413/1 part and to take possession of excess land out of other lands of Ramsangji and others,

by an order dated 16/7/1988. The said fact is also recorded in Revenue records by mutation Entry no. 7775 dated 14/9/1998. During these proceedings, it was revealed that Kankuben had made a will on 07/12/1983, wherein she had authorised Ashwinbhai B. Patel to execute sale deed of her (i.e. 1/3) share in the land in favour of the purchaser Society as she has received full consideration money and the said share was therefore "bequeathed" to Ashwinbhai B. Patel. Said Ramsangji Somaji, together with one Ataji Mangaji made an affidavit before Notary on 24/07/1988 stating that they have not filed the Sp. C. A. and that they will abide by the Agreement for Sale dated 24/8/1985 in favour of the proposed Society and that the bequest made by Kankuben in her Will to said Ashwinbhai is acceptable to them.

18). In view of the above development, it was thought fit to rectify the Kabulat- Release Deed dated 22/03/1988 and sale deed dated 08/07/1988. Hence, a Rectification to Kabulat-Release Deed, to the effect that Kankuben had died and her share devolved on Ashwinbhai B. Patel, was executed on 12/09/1988 and registered on the same day under Sr. no. 17339. Somehow, by oversight, the sale deed dated 08/09/1988 was not rectified at that time. This rectification to sale deed dated 08/07/1988 was made under a Deed of Rectification executed by Ashwinbhai B. Patel, on 14/09/1998, which was registered on the same day under Sr. No. 2644.

19). Said Ashwinbhai B. Patel as constituted attorney of Ramsangji Somaji also conveyed to the Society (now registered under Gujarat Co-operative Societies Act, 1961 on 30/07/1988 under Registration no. GH-12921) undivided 1/3rd share in Final Plot No. 213/1 and 213/2 part, totally admeasuring 1981 sq. mtrs. by a sale deed dated 12-09-1988, which was registered under Sr. No. 17340. As constituted attorney of Jadiben d/o Somaji Thanaji, he also conveyed her undivided 1/3rd share to the Society by a sale deed dated 12-09-1988, which was registered under Sr. No. 17341, and as legatee of 1/3rd share of Kankuben Somaji he conveyed the same, by a sale deed also dated 12-09-1988 and registered under No. 17342. Mutation entry Nos. 6534, 6533 and 6535 all dated 12/08/1992 were made in this regard in the revenue records. These sale deeds were executed after obtaining permission u/s. 63 of Bombay Tenancy and Agricultural Lands Act, 1948 (for 1981 sq. mtrs.) by order dated 07-09-1988 of City Dy. Collector.

20). The mutation with respect to death of Kankuben has been made in revenue records by entry no. 6529 dated 12/08/1992 and mutation with respect to her Will, has been made vide entry no. 6530 dated 12/08/1992.

21). It has been observed by me that revenue records were not updated to bring the fact of allotment of Final Plot Nos. 213/1 and 213/2 in lieu of Survey No. 413/1 part under Town Planning Scheme No. 3 of Vejalpur. Village Form No.

VII/XII for Survey No. 413/1 part showed its area of 3445 sq. mtrs. Since the society had purchased 2463 sq.mtrs. the remaining land (obviously aligned under Town Planning Scheme) continued to be shown in the name of the land owners. After the death of Ramsangji on 05-10-1995 the names of his heirs viz; widow Kashiben and son Bhikhaji were entered in the revenue records by mutation entry no. 7350 dated 05-10-1996.

22) There was no challenge to all the aforesaid entries and documents by Ramsangji and Jadiben until the death of Ramsangji. Thereafter, viz; widow Kashiben and son Bhikhaji, together with said Jadiben d/o. Somaji Thanaji commenced revenue proceedings in 1997, five years after the said mutation entries of 1992.

23) The first revenue proceeding was commenced by Kashiben widow of Ramsangji, Bhikhaji son of Ramsangji and Jadiben Somaji, challenging the validity of entry Nos. 6530 to 6535 in RTS Appeal No. 59 of 1997 to 63 of 1997 before the Hon'ble City Deputy Collector. In this case the Society was not made a party and it was filed against Ashwinbhai A. Patel, in whose absence, the Hon'ble City Deputy Collector passed an order dated 20/10/1997 cancelling the said entries and directing that new entries should be made after due inquiries. Said Kashiben and Bhikhaji Ramsangji made an application to the revenue authority stating that entry nos. 6530, 6532 to 6535 are cancelled by the

Hon'ble City Deputy Collector and therefore, these entries should be cancelled from the revenue records. On the basis of this application and a copy of the said order, mutation entry no. 7591 dated 10/11/1997 was made and it was certified on 15/12/1997. Taking advantage of this, said Kashiben and Bhikhaji and Jadiben Somaji executed nine sale deeds in favour of the Shantisadan (Vejalpur) Owners Association, Shantiniketan (Vejalpur) Owners Association and Shantikunj (Vejalpur) Owners Association on 3/1/1998, which were registered on 28/1/1998. Mutation entry nos. 7654, 7655 and 7656 dated 29/1/1998 were made in regard to these sale deeds and which were certified on 20/3/1998.

24). The Society had thereafter preferred revision application no. 46 of 1998 to 50 of 1998 with the District Collector against the order of the City Dy. Collector dated 20-10-1997. The District Collector directed the Mamlatdar to make fresh inquiry and new entries, vide his order dated 29/7/1998.

25). The society thereafter, filed RTS Appeal No. 163 of 1998 with the Hon'ble City Deputy Collector challenging entry no. 7591 (regarding order of City Deputy Collector) and entry nos. 7654, 7655 and 7656 dated 29/1/1998, which were recording the facts of the various sale deeds executed in favour of the three associations. While the matter was pending before the Hon'ble City Deputy Collector, the Mamlatdar had initiated RTS Case No. 41 of 1998 in pursuance of an order of the District Collector dated 29/7/1998.

26) During the pendency of the RTS Appeal No. 163 of 1998 the Hon'ble City Deputy Collector, convinced about the nine fraudulent sale deeds, approached the Talati, suo-motu and kaccha entry no. 7779 was made, pursuant to which the names of the three Associations were deleted and the name of Uttam Co-operative Housing Society Ltd. was restored/entered by pencil and later on this entry was certified. The said proceedings were pending before City Deputy Collector and therefore, RTS appeal no. 41 of 1998 were withdrawn by the Mamlatdar.

27) The said RTS Appeal No. 163 of 1998 was disposed by the Hon'ble City Deputy Collector by his order dated 17/06/1999 whereby he was pleased to cancel entry nos. 7654, 7655, and 7656. I am informed that no appeal had been preferred against this order. The Hon'ble City Deputy Collector had observed in his order dated 17-06-1999 that said order of City Dy. Collector dated 20-10-1997 has not been interpreted correctly and this has resulted in the deletion of the name of the society from the revenue records and taking advantage of this, Bhikhaji Ramsangji, Kashiben Ramsangji and Jadiben Somaji got their names resurrected in the revenue records and executed the impugned sale deeds in favour of the three Associations and therefore, the whole transaction appears to be mala fide.

28). With respect to entry nos. 6530, 6532, 6535, 6531, 7779, 7841, 7774 and 7775, two RTS cases were initiated with City Mamlatdar, namely RTS NO. 5 of 1999 by the heirs of Somaji against Uttam Co-operative Housing Society Ltd. and the said Associations and others and RTS No. 6 of 1999 was initiated by Manguben widow of Mangaji Thanaji and others. By a combined order dated 14/10/1999, the City Mamlatdar approved entry no. 6530 to 6535, 7779 and 7841 and he directed that the remark of RTS No. 5 of 1999 and 6 of 1999 be made on entry nos. 7779 and 7841. He declared entry nos. 7774 (recording order of injunction in Civil Suit No. 628/1997) as invalid and cancelled it, whereas entry no. 7775 regarding order of High Court was approved.

29). Against the said order of the City Mamlatdar dated 14/10/1999, Appeal no. 155 of 1999 was preferred by Manguben widow of Mangaji Thanaji and others, against Jadiben and others and the Society, and appeal no. 8 of 2000 was preferred by the heirs of Somaji against Manguben Mangaji and others, the said three associations as well as the said Society. Both the appeals were dismissed by a common judgment, and the order of the Mamlatdar was upheld by the Hon'ble City Deputy Collector by his order dated 31/7/2001. Against this order, Revision Application Nos. 132 of 2001 and 136 of 2001 were preferred with the Hon'ble District Collector. The Hon'ble District Collector by a combined order dated 10-02-2005 upheld entry nos. 6531, 6533, and 6534 and held entry

nos. 6530, 6532 and 6535 as invalid and also did not recognize the so called rights of heirs of Mangaji, and said Chhagaji. The society, thereafter, preferred Revision Application No. SVV/HKP/AHD/32/05 with Sp. Secretary (Appeals) wherein by order dated 13-10-2006 all entries regarding Will of Kashiben, Kabulatnama, Release Deed and all entries regarding sale deeds in favour of the Society have been upheld as valid. Revision Application no. 8/05 which was also filed by Manguben Mangaji and others was dismissed by the said order of Sp. Secretary. The Revenue proceedings thus culminated in favour of the Society. I am informed that Special C.A. no. 11028 of 2008 was filed in High Court of Gujarat by said Jadiben and others, against the order of Special Secretary, but the same has been dismissed on 29/7/2009.

30). In the meantime, Civil Suit nos. 731/97, 736/97, 737/97 and 127/97 were filed in Civil Court (J.D.) of Ahmedabad (Rural) against the society by the so called land owners praying for cancellation of sale four deeds which were executed in favour of Uttam Co-operative Housing Society Ltd. However, during the pendency of these suits, said Kashiben, Bhikhabhai and Jadiben had relented and accepted that the will of deceased Kankuben, Power of Attorney dated 10-02-1986 and all sale deeds in favour of the society were valid. Hence, they executed four deeds of confirmation all dated 20-10-2004 which were registered with The Sub-Registrar of Assurances on the same day under Sr. Nos.

5046, 5047, 5048 and 5049, thereby confirming the four sale deeds executed in favour of the Society. Thereafter, in all four suits, pursis were filed whereby the Plaintiffs again admitted the sale deeds of 1988 executed in favour of the Society as well as the validity of will of late Kankuben and the validity of Power of Attorney dated 10-02-1986, and withdrew the suits. The Hon'ble Court passed an order on each pursis filed in each case i. e. in C. S. No. 731/1997, 736/1997, 737/97 and 731/1996 on 30-08-2006 and in C. S. No. 127/1997 on 05-02-2008.

31) The three Associations had also filed Civil Suit No. 628 of 1998 against so-called land owners and the society in Civil Court (S. D.) Ahmedabad Rural. It was dismissed on 08.01.2008 for want of prosecution. Thereafter CMA 14/2008 was filed for restoration of the suit, but the suit no. 628/1998 has been disposed of on 8/1/2008. This Application was also rejected by an order dated 24.11.2009.

32) The society had also instituted a Special Civil Suit no. 271 of 1998 in the court of Civil Judge (SD) Ahmedabad Rural, against the three Associations, said Jadiben, Bhikhaji and Kashiben for reliefs of cancellation of sale deeds dated 3/1/1998 and other reliefs. The said suit is decreed in favour of the society by judgement order dated 28/1/2009. I am orally informed that Appeal has been by the defendants, I find that mutation entry no. 12542 dated 24/2/2009 is

made in the revenue records with respect to the said order/decreed in Special C.S. no. 271/1997.

33). One Alpeshbhai Govindbhai Patel styling himself as constituted attorney of Bhikhabhai, Kashiben and Jadiben has filed C. S. No. 767/2007 in the court of Principal Senior Civil Judge Ahmedabad Rural, against "Uttam Co-operative Housing Society (proposed), through Kamal Anandjiwala, as promoter" which is pending at present. In this suit, relief of declaration and permanent injunction have been sought by the plaintiffs. I am orally informed that no interim or interim injunction is given by the court. . . .

34). I am informed that M/s. K. K. Builders were appointed as Developers, by your society by Development Agreements dated 20-05-1996. Accordingly, Final Plot No. 213/2 has been fully developed/constructed and allotment of various units made to members. Final Plot No. 213/1 admeasuring 1850 sq. mtrs. could not be developed due to litigations. The Society had intended to develop Final Plot No. 213/1 for residential as well as commercial use. Accordingly, procedure for obtaining necessary permission from District Registrar (Co-operative Societies) for utilisation of land for commercial use also, has been initiated. N. A. permission for commercial use of part of land, of Final Plot no. 213/1, admeasuring 845 sq mtrs has been granted by the District Collector vide order no. CB-Land-1-NA/SR-202/2009 dated 12/9/2009. Building plans for residential

and commercial units have been approved by AUDA vide order dated 4/2/2010 (revised). Meanwhile, the Society has also entered into a Supplementary Development Agreement with M/s. K. K. Builders on 19-01-2008 with regard to development of Final Plot No. 213/1 on the terms and conditions mentioned therein. I am informed that the Society will be shortly bifurcated into two societies, thereby dividing the land of Final Plot no. 213/1 into two portions viz 845 sq mtrs approximately for commercial society and 1005 sq mtrs approximately for residential society. An Application to District Registrar Co-operative societies was made in that regard and an order granting preliminary sanction, subject to conditions being fulfilled, was passed Asst. District Registrar Co-operative Society) on 30.05.2012. I am orally informed that compliances are in the process of being made by the society.

35). The Urban Land (Ceiling and Regulation) Act 1976 has been repealed in Gujarat w.e.f. 30-03-1999. The CMA No. 724 of 1988 with Hon'ble High Court has abated.

36) I further find that Harshadbhai Arjanbhai Patel, and Govindbhai Arjanbhai Patel had also filed Civil Suit no. 759/2008 in the court of Civil Judge Ahmedabad (Rural) against the society. In this suit the plaintiffs claimed that said Kashiben, said Bhikhaji and said Jadiben through their constituted Attorney Arjanbhai Vaghjibhai Patel have 'sold' the land of Final Plot no. 213/1 "with plinth level

construction thereon" to them by sale deeds dated 10/5/1998 which were registered on 8/2/2005 and that the so-called land owners have also executed registered Kabulatnamas dated 29/7/2005. The plaintiffs claimed relief of declaration that sale deeds in favour of the society be declared void, and for permanent injunction. The said suit is dismissed on 29/9/2012, for want for prosecution.

37) The society has also filed Civil Suit no. 177 of 2008 (new no.1031/15) against Arjanbhai V. Patel, Govindbhai Arjanbhai Patel, Harshadbhai Arjanbhai Patel, said Jadiben, Bhikhaji and Kashiben, in the Court of Civil Judge, Ahmedabad Rural for relief of cancellation of so called sale deeds dated 11/5/1998 and registered on 8/2/2005 and the said Kabulatnamas and for relief of permanent injunction against defendants. I am informed that the said suit is pending for hearing and disposal.

38) Said Kashiben, Bhikhabhai and Jadiben have also filed C.S. no. 430/2008 against the society, claiming relief of permanent injunction against construction work by the society. The society has filed its reply. I am informed that no injunction is granted or is operative against the society. The suit is pending.

39). I have been requested to give my opinion on the litigations. I have perused the relevant papers in this regard. I am of the opinion that considering the fact that Kashiben, Bhikhaji and Jadiben have confirmed the sale deeds

executed in favour of the Society along with acknowledgement of validity of the Will of Kankuben and the Power of Attorney in favour of Ashwinbhai B. Patel, by executing registered Deeds of Confirmation and also filing purshis in that regard in C. S. No. 731 / 1997, 736/1997, 737/97 and 127/97, it will be difficult for three Associations to displace these facts and to substantiate that nine "sale deeds" executed in 1998 in their favour are valid. Also, considering the provisions of Transfer of Property Act, I am of the opinion of that the Associations do not have any valid "title" to the lands, which lands are in actual and physical possession of the Society as per verdict of High Court order vide order dated 16/7/88. I do not see any merit in Civil Suit No. 767/2007 as especially when Sp. Civil Suit No. 271 of 1998, is decreed in favour of the Society, and no appeal has been preferred therefrom as per oral information given to me.

I have also found that one Arjanbhai Vaghjibhai Patel, on the basis of a power of attorney executed in his favour by said Kashiben,, Bhikhaji and said Jadiben "sold" the land bearing Final Plot No. 213/1 with "Plinth Level" construction" thereon paiki undivided 1/3rd share of Bhikhaji Ramsangji to Harshadbhai Arjanbhai Patel, undivided 1/3rd share of Kashiben to Harshadbhai Arjanbhai Patel and undivided 1/3rd share of Jadiben, to Govindbhai Arjanbhai Patel by three separate deeds of sale all dated 11-05-1998 which were lodged for registration with Sub-Registrar of Assurances. It appears that they were not

duly registered because of non-payment of deficit stamp duty. They were registered in 2005 ie. on 08-02-2005 under, Sr. No. 678, 679 and 680. Moreover, thereafter, Kabulatnamas to the said three sale deeds, were also executed by Kashiben, Bhikhabhai and Jadiben on 29-07-2007 which are registered with Sub-Registrar of Assurances under Sr. No. 4656, 4658 and 4657 respectively.

Upon verification of copies of the above refereed sale deeds and Kabulat deeds and copy of an Agreement of understanding dated 17-04-1997 and copies of three cancellation deeds to the Power of Attorney executed by Kashiben, Bhikhaji and Jadiben, which are submitted to me, I find that the alleged powers of attorney dated 03-03-1997 in favour of Arjanbhai Vaghji were cancelled under Cancellation Deeds dated 17-04-1997. It also appears that inspite of and against the verdict of High Court of Gujarat in CMA 724/88, on 17-04-1997, said Kashiben, said Bhikhaji and said Jadiben had executed a Power of Attorney thereby nominating Shri Sudhir Dalal as their attorney. I also find that on the basis of this power of attorney, Shri Sudhir Dalal "sold" lands bearing Final Plot No. 213/1 and 213/2 to Shantisadan (Vejalpur) Owners Association, Shantiniketan (Vejalpur) Owners Association and Shantikunj (Vejalpur Owner Association) by nine sale deeds all dated 03-01-1998.

In view of the above, so far as sale deeds executed by Arjanbhai Patel, as "attorney" of Kashiben, Bhikhaji and Jadiben are concerned, in regard to Final

Plot no. 231/1 in, my view, they are invalid and the society has a good case in Civil Suit no. 177/08 (new no:1031/15). Said Arjanbhai had no "authority" to execute the sale deeds in view of cancellation of the powers of attorney given to him, by cancellation deeds dated 17-04-1997. Also, in view of sale deeds already executed in favour of Uttam Co-operative Housing Society Ltd. and possession of the lands by the Society, as per High Court order dated 16/7/88 the above said sale deeds 11-05-1998 have no legal validity.

A copy of Agreement of understanding dated 15-06-1998 is submitted to me. It is entered into between the three Associations, said Kashiben, Bhikhaji and Jadiben and Arjanbhai Vaghjibhai Patel and Govindbhai Arjanbhai Patel. As per the understanding between the parties, the powers of attorney executed in favour of Arjanbhai were to be cancelled, the lands were to be "sold" to the three Associations for a consideration of Rs. 22 lacs. Thus, this Agreement appears to have been entered into in collusion with each other in order to defraud the actual owner viz Uttam Co-operative Housing Society Ltd.

I am told that the factum of above referred three sale deeds by Arjanbhai came to the knowledge of the Society from the pleadings of a Civil Suit No. 1169 of 2005 filed by Harshadbhai and Govindbhai against Kamal Anandjiwala and M/s. K. K. Builders, in City Civil Court at Ahmedabad. Since the suit property is situate beyond the territorial jurisdiction of City Civil Court, the Hon'ble Court

returned the plaint and pleadings, to be presented in proper court. I am informed that the plaint/pleadings are not filed in competent court but it appears that thereafter C.S. no. 759/08 came to be initiated. The said Civil Suit no. 759/08 has now been dismissed, and Civil Suit no. 430/08 and C.S no.767/07 have no merit. The society has a good case in C.S. no. 177/2008 (new no: 1031/15).

My opinion on the merits-demerits of various litigations is my personal opinion and is not binding on any one.

Further Report:

Your society, through Developer M/s K.K. Builders have commenced and completed the construction work of residential units. As stated above, the plans for construction of residential cum commercial use of Final Plot no. 213/1 were approved by the AUDA, vide order dated 4/2/2010. Now Revised Plans for residential units are approved and Building Use Permission has been granted by the Ahmedabad Municipal Corporation on 6/4/2013. The said land of Final Plot no. 213/1 is now falling within re-organised limits of The Ahmedabad Municipal Corporation.

So far as commercial building is concerned, I am informed that fresh building plans have been submitted to AMC vide Ref: No: BLATI/NWZ/020317/

GDR/A48142/RO/MO. The building is under construction, as per plans so submitted to AMC.

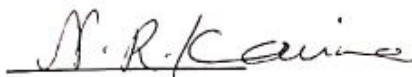
I have not found any mortgage change or other encumbrances over Final Plot no. 213/1 from the available searches of revenue and sub registry records. This Report on title is pertaining only to land of Final Plot no. 213/1.

The schedule of the land in question is as under:-

SCHEDULE

All that piece or parcel of non-agricultural land or ground situate at mouje Vejalpur, now within limits of Ahmedabad Municipal Corporation, Taluka Vejalpur, Sub-District Ahmedabad-4 (Paldi), District, Ahmedabad, bearing Final Plot no. 213/1 admeasuring 1850 sq mtrs or thereabout (allotted in lieu of survey no. 413/1 part of Vejalpur) of T.P. Scheme no. 3 of Vejalpur and bounded as follows:-

East :	Final Plot no. 211
West :	Final Plot no. 42
North:	T.P. Scheme Road
South:	Final Plot no. 214


N. R. Kavina
Advocate