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L.S.M. HASAN FIZAL
ADDITIONAL GOVERNMENT PLEADER

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Ref: **Opinion/NRM/ARC/96/2024** ***Date: 29th June 2024***

ANNEXURE 'C'

LEGAL OPINION ON THE OWNERSHIP FOR ISSUING PLANNING PERMISSION UNDER TOWN AND COUNTRY PLANNING ACT.

This opinion is furnished after perusing relevant records, to establish/comply with the requirement of DR 4(1)

I certify that after verifying the relevant records, registered documents and revenue records, the following persons as Owners/**Power of Attorney holder** / Lessee have the right over the lands covered in the List. To develop the lands and to apply and obtaining planning permission from DTCP/CMDA/GREATER CHENNAI CORPORATION for Property situated at 1(1-A) Cathedral Garden Road, Teynampet, Chennai 600 034, Comprised in S.No. 3404(Pt.) New R.S.No. 2/40 & 2/62, Block 1 of Mylapore Town & Taluk, Chennai District measuring an extent of **15,604 Sq.ft** as per Document Hectare **0.14.49.5** as per Patta, the following Persons have the Perfect and Valid Title.

M/s. ARC DEVELOPERS
Power of Attorney holder of
Mrs. Farida Abdul Majid & 9 others

I am also attaching the ownership transfer details for each of the subdivision covered in the list since 05.08.1975 (Annexure).

L.S.M. HASAN FIZAL 29/06/2024

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Ref: Opinion/NRM/ARC/96/2024 ***Date: 29th June 2024***

ANNEXURE

Sl.No	Document No Type & Date	Previous Owner	Present Owner	S.No.	Extent	Village
1	Sale Deed 2253/1964 Dt.14-07-1964	Mr.Sultan Mohidein Hussain I.A.S.(Retd) and Khairunnisa Begum	Mr.Ahmed Mohamed and Osman Mohamed Sons of Late Hajee Mohammed	3404 Pt. & R.S.No. 2/3	4 Ground 1200 Sq.ft	Nungambakkam
2	Sale Deed No.636/1971 dt.05-05-1971	Mr.Sultan Mohidein Hussain I.A.S.(Retd) and Khairunnisa Begum	Mr.Abdul Majid Ahmed and Moosa Ahmed Sons of Mr.Ahmed Hajee Mohamed	3404 Pt. & R.S.No. 2/3	2 Ground 04 Sq.ft	Nungambakkam
3	Oral Hibba Dt. 10-05-1972- unregistered Written Hibba 12-05-1972	Mr.Osman Hajee Mohamed	Mr.Abdul Majid Ahmed and Moosa Ahmed Sons of Mr.Ahmed Hajee Mohamed	3404 Pt. & R.S.No. 2/3	1/2 Share in 4 Ground 1200 Sq.ft	Nungambakkam
4	Oral Hibba Dt. 23-03-1976 unregistered Written Hibba 25-03-1976	Mr.Abdul Majid Ahmed and Moosa Ahmed Sons of Mr.Ahmed Hajee Mohamed	Mrs.Amina Ahmed	3404 Pt. & R.S.No. 2/3	1/2 Share in 4 Ground 1200 Sq.ft	Nungambakkam
5	Oral Hibba Dt. 23-03-1976 unregistered Written Hibba 25-03-1976	Mr.Abdul Majid Ahmed and Moosa Ahmed Sons of Mr.Ahmed Hajee Mohamed	Mr.Ahmed Mohamed & Mrs.Amina Ahmed	3404 Pt. & R.S.No. 2/3	2 Ground 04 Sq.ft	Nungambakkam

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Sl.No	Document No Type & Date	Previous Owner	Present Owner	S.No.	Extent	Village
6	Will dated 25-09-1981 Died on 10-01-1986	Mrs.Amina Ahmed	Mohamed Abdul Majid Son of Abdul Majid Ahmed	3404 Pt. & R.S.No. 2/3	12% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Nungambakkam
			Mr.Farhann Abdul Majid Son of Abdul Majid Ahmed		12% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	
			Mr.Ashfaaq Moosa S/o Moosa Ahmed		8.33% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	
			Mr. Faheem Moosa		8.33% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	
			Mr.Zoheb Moosa		8.33% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	
7	Power Deed Adjudication No.885/22-10-2012	Mr.Ashfaaq Moosa S/o. Late Moosa Ahmed	Mrs.Bilkis Moosa W/o. Moosa Ahmed	3404 Pt. & R.S.No. 2/3	8.33% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore
8	Oral Gift (Hiba) dt. 05-04-2013, Written Hibba 15-04-2013	Mr.Ashfaaq Moosa Mr. Faheem Moosa Mr.Zoheb Moosa	Mrs.Farida Abdul Majid	3404 Pt. & R.S.No. 2/3	25% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore
9	Settlement Deed No. 618/2019 Dt. 24-05-2019	Mrs.Farida Abdul Majid	Mohamed Abdul Majid Son of Abdul Majid Ahmed	3404 Pt. & R.S.No. 2/3	4.17% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore

29/06/2024

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Sl.No	Document No Type & Date	Previous Owner	Present Owner	S.No.	Extent	Village
10	Settlement Deed No.703/2022 Dt.13-05-2022	Mohamed Abdul Majid S/o. Abdul Majid Ahmed	Amina Majid D/o. Abdul Majid Ahmed	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	1299.48 Sq.ft of undivided share in 4 Ground 1200 Sq.ft	Mylapore
11	Settlement Deed No. 704/2022 Dt.13-05-2022	Mohamed Abdul Majid S/o. Abdul Majid Ahmed	Aamirah Majeed D/o. Abdul Majid Ahmed	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	1299.48 Sq.ft of undivided share in 4 Ground 1200 Sq.ft	Mylapore
12	Last Wil dated 04-04-1995	Mrs.Nargis Akbar Omar	Seema Aziz Panniwala, Aalim Asalm Omar, Suleiman Aziz Omar, Nargis Aslam Omar, Amreen Omar	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	25% share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore
13	Oral Gift (Hiba) dt. 05-08-1996, Written Hibba 05-08-1996	Mr.Ahmed Mohamed son of Late Hajee Mohammed	Mrs.Nargis Akbar Omar & Mrs.Abida Ahmed	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	1/2% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore

29/06/2024

Sl.No	Document No Type & Date	Previous Owner	Present Owner	S.No.	Extent	Village
14	High Court Order No.620/2014 Dt.31-03-2015	Mr.Ahmed Abdul Rehman Husband of Abida Ahmed, Mr.Fuad Ahmed Furniturewala & Afroz Ahmed Tanveer Merchant	Mr.Ahmed Abdul Rehman Husband of Abida Ahmed	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	25% in 1/2% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore
			Mr.Fuad Ahmed Furniturewala		50% in 1/2% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	
			Afroz Ahmed Tanveer Merchant		25% in 1/2% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	
15	Memorandum of Family Agreement Dt. 25-07-2015	Mr.Ahmed Abdul Rehman Husband of Abida Ahmed, Mr.Fuad Ahmed Furniturewala & Afroz Ahmed Tanveer Merchant	Mr.Fuad Ahmed Furniturewala	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	25% in 1/2% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore
16	Record of Oral Hiba Dt.27-06-2022	Afroz Ahmed Tanveer Merchant	Mrs.Farida Majid W/o. Abdul Majid Ahmed	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	25% in 1/2% undivided share in 4 Ground 1200 Sq.ft &2 Ground 04 Sq.ft	Mylapore
17	Affidavit No.86/2023 Dt.27-10-2023	Amina Adul Majid Alias Amina Majid D/o. Mr.Abdul Majid Ahmed		Old No. 3404(Pt.), R.S.No.2, New No. 2/62	8.33%	Mylapore
18	Affidavit No.87/2023 Dt.27-10-2023	Farida Majid Alias Farida Abdul Majid W/o. Abdul Majid Ahmed		Old No. 3404(Pt.), R.S.No.2, New No. 2/62	22.91%	Mylapore

29/06/2024

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Sl.No	Document No Type & Date	Previous Owner	Present Owner	S.No.	Extent	Village
19	Affidavit No.88/2023 Dt.27-10-2023	Aamirah Abdul Majeed Alias Aamirah abdul Majid Alias Aamirah Majeed D/o. Adbul Majid Ahmed		Old No. 3404(Pt.), R.S.No.2, New No. 2/62	50%	Mylapore
20	Affidavit No.93/2023 Dt.27-10-2023	Fuad Ahmed Furniturewala		Old No. 3404(Pt.), R.S.No.2, New No. 2/62	12.50%	Mylapore
21	Power Deed No.62/2023 dt.27-10-2023	Seema Aziz Paniwala W/o. Late Mohammed Asalm Omar	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	1169.83188 Sq.ft of undivided share in 1625.9368 Sq.ft	Mylapore
22	Power Deed No.63/2023 dt.27-10-2023	Mr.Farhann Abdul Majid Son of Abdul Majid Ahmed	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	45% of 2601.1868Sq.ft(1170.53406 Sq.ft)	Mylapore

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Sl.No	Document No Type & Date	Previous Owner	Present Owner	S.No.	Extent	Village
23	Power Deed No.64/2023 dt.27-10-2023	Seema Aziz Paniwala W/o. Late Mohammed Asalm Omar Minor. Aalim Asalm Omar S/o. Late Mohammed Asalam Omar rep.by Mother Seema Azizi Paniwala Minor.Suleimaan Aziz Omar S/o. Late Mohammed Asalam Omar rep.by Mother Seema Azizi Paniwala Minor. Nargis Asalm Omar D/o. Late Mohammed Asalam Omar rep.by Mother Seema Azizi Paniwala	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	16.66% (2599.6258 Sq.Ft)	Mylapore
24	Power Deed No.65/2023 dt.27-10-2023	Ms.Amreen Omar D/o. Late Akbar Omar	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	45% of 1301.3736 Sq.ft(585.61812 Sq.ft)	Mylapore
25	Power Deed No. 1468/2023 Dt.27-10-2023	Aamirah Majeed D/o. Abdul Majid Ahmed	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	45% (i.e 584.766) undivided share	Mylapore
26	Power Deed No.1469/2023 dt.27-10-2023	Mrs.Farida Abdul Majid W/o. Abdul Majid	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	45% (1608.69 sq.ft)	Mylapore
27	Power deed No.1470/2023 dt.27-10-2023	Mr.Fuad Ahmed Furniturewala S/o. Mr.Ahmed Abdul Rahman	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	45% (1316.58 sq.ft)	Mylapore

29/06/2024

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Sl.No	Document No Type & Date	Previous Owner	Present Owner	S.No.	Extent	Village
28	Power Deed No.1471/2023 dt.27-10-2023	Amina Majid D/o. Abdul Majid Ahmed	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	45% (i.e 584.766) undivided share	Mylapore

L.S.M. HASAN FIZAL 29/06/2024

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Ref: Opinion/NRM/ARC/96/2024

Date: 29th June 2024

PRESENT OWNERS DETAILS

Sl.No	Document No Type & Date	Present Owner	S.No.	Extent	Village
1	Power Deed No.62/2023 dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	10.72% UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (1169.83188 Sq.ft of undivided share in 1625.9368 Sq.ft)	Mylapore
2	Power Deed No.63/2023 dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	16.67% UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (45% of 2601.1868Sq.ft(1170.53406 Sq.ft)	Mylapore
3	Power Deed No.64/2023 dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	16.66% UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (2599.6258 Sq.Ft)	Mylapore
4	Power Deed No.65/2023 dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	8.34 % UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (45% of 1301.3736 Sq.ft(585.61812 Sq.ft)	Mylapore
5	Power Deed No. 1468/2023 Dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	8.33% UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (45% (i.e 584.766) undivided share	Mylapore

29/06/2024

Sl.No	Document No Type & Date	Present Owner	S.No.	Extent	Village
6	Power Deed No.1469/2023 dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62	22.91% UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (45% (1608.69 sq.ft))	Mylapore
7	Power deed No.1470/2023 dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	18.75% UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (45% (1316.58 sq.ft)	Mylapore
8	Power Deed No.1471/2023 dt.27-10-2023	**M/s.ARC Developers** Rep.by Mr.N.D.S.Sathak Ansari	Old No. 3404(Pt.), R.S.No.2, New No. 2/62 & 2/40	8.33% UDS in 4G & 1200 Sq.ft & 2 G & 04 Sq.ft (45% (i.e 584.766) undivided share	Mylapore

L.S.M. KN 29/06/2024

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Date: 29th June 2024

LEGAL OPINION

M/s. ARC DEVELOPERS, a Partnership Firm having its registered office at Door No.78, Greams Road , Thousand Lights, Chennai 600 006, represented by Mr.N.D.S. Sathak Ansari have produced the following photo copies of the documents, and requested me to offer Legal Opinion through the letter dated 29-06-2024 for the title in respect of the schedule properties for the purpose of applying before the CMDA/DTCP/GREATER CHENNAI CORPORATION for necessary plan approval.

1. Sale Deed 2253/1964 Dt.14-07-1964
2. Sale Deed No.636/1971 dt.05-05-1971
3. Oral Hibba Dt. 10-05-1972- unregistered Written Hibba 12-05-1972
4. Oral Hibba Dt. 23-03-1976 unregistered Written Hibba 25-03-1976 executed by Mr.Abdul Majid Ahmed and Moosa Ahmed Sons of Mr.Ahmed Hajee Mohamed
5. Oral Hibba Dt. 23-03-1976 unregistered Written Hibba 25-03-1976 executed Mr.Abdul Majid Ahmed and Moosa Ahmed Sons of Mr.Ahmed Hajee Mohamed
6. Will dated 25-09-1981 Died on 10-01-1986
7. Power Deed Adjudication No.885 of 22-10-2012
8. Oral Gift (Hiba) dt. 05-04-2013, Written Hibba 15-04-2013
9. Settlement Deed No. 618/2019 Dt. 24-05-2019

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10. Settlement Deed No.703/2022 Dt.13-05-2022
11. Settlement Deed No. 704/2022 Dt.13-05-2022
12. Last Will dated 04-04-1995
13. Oral Gift (Hiba) dt. 05-08-1996, Written Hibba 05-08-1996
14. High Court Order No.620/2014 Dt.31-03-2015
15. Memorandum of Family Agreement Dt. 25-07-2015
16. Record of Oral Hiba Dt.27-06-2022
17. Affidavit No.86/2023 Dt.27-10-2023
18. Affidavit No.87/2023 Dt.27-10-2023
19. Affidavit No.88/2023 Dt.27-10-2023
20. Affidavit No.93/2023 Dt.27-10-2023
21. Power Deed No.62/2023 dt.27-10-2023
22. Power Deed No.63/2023 dt.27-10-2023
23. Power Deed No.64/2023 dt.27-10-2023
24. Power Deed No.65/2023 dt.27-10-2023
25. Power Deed No. 1468/2023 Dt.27-10-2023
26. Power Deed No.1469/2023 dt.27-10-2023
27. Power deed No.1470/2023 dt.27-10-2023
28. Power Deed No.1471/2023 dt.27-10-2023
29. Patta stands in the Name of Seema Aziz & 9 others for the R.S.No. 2/62
30. Patta stands in the Name of Seema Aziz & 9 others for the R.S.No. 2/40
31. Encumbrance Certificate from 01-01-1964 to 20-06-2023

2. List of properties

Property situated at 1(1-A) Cathedral Garden Road, Teynampet, Chennai 600 034, Comprised in S.No. 3404(Pt.) New R.S.No. 2/40 & 2/62, Block 1 of Mylapore

29/06/2024

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Town & Taluk, Chennai District measuring an extent of **15,604 Sq.ft** as per Document Hectare **0.14.49.5** as per Patta,

Item No1:

All that piece and parcel of land totally admeasuring 4 grounds 1200 sq.ft comprised in old S.No.3404 (Pt.), R.S.No.2, New S.No.2/62, Block No1, Mylapore Village, Mylapore (Part 1) Taluk along with residential building bearing Door No.1, Old No. 1A, Cathedral Garden Road, Chennai and bounded on the:

North By : Property in R.S.No.2/5

East By : Property in R.S.No.2/40 & Premises at No1, Cathedral Garden Road

West By: Property in R.S.No.2/1 & Premises at No1, Cathedral Garden Road

South By: Cathedral Garden Road (R.S.No.2/1)

Item No2:

All that piece and parcel of land totally situate at Door No.1C, Cathedral Garden Road, land measuring 2 grounds 4 sq.ft comprised in old S.No.3404 (Pt.), R.S.No.2, New S.No.2/40, Block No1, Mylapore Village, Mylapore (Part 1) Taluk and bounded on the:

North By : Property in R.S.No.2/5

East By : Property in R.S.No.2/3 & Premises at No1, Cathedral Garden Road

West By: Property in R.S.No.2/33 & Premises at No1, Cathedral Garden Road

South By: Cathedral Garden Road (R.S.No.2/1)

Situate within the Registration District of Central Chennai and Sub Registration District of Chennai Central Joint II.

29/06/2024

3.Tracing of Title

The first document for perusal is the Sale Deed Document No. **2253 of 1964** , dated 14-07-1964 regd.at SRO Thiyagaraya Nagar executed by 1.Sultan Mohiuddin Hussain Sahib 2. Khairunnisa Begum in favour of Mr.Ahmed Mohamed and Osman Mohamed both sons of Late Haji Mohamed Haji Moosa Sait in respect of Property situated at Door No.1A, cathedral Garden Road, Nungambakkam, Madras, Comprised in S.No. 3404(Part) & R.S.No. 2/3 (Part) of Nungambakkam Village measuring an extent of 4 Ground and 1200 Sq.ft of Land.

Subsequently Mr.Osman Haji Mohamed, through a oral gift dated 10-05-1962, which was duly recorded on 12-05-1972 gifted his half(1/2) share in the said property to and in favour of his Nephews 1. Abdul Majid Ahmed and Moosa Ahmed who in turn gifted the same to and in favour of their mother Mr.Amina Ahmed W/o.Ahmed Hajee Mohammed through oral Hiba on 22-03-1976 duly recorded on 25-03-1976

The Property being vacant land of an extent of 2 Ground and 4 Sq.ft situate at part of Municipal Door No, 1, Cathedral Road, Nungambakkam, Madras, comprised in Part of O.S.No. 3404 (Pt.) and R.S.No. 2/3 (Pt.) was originally purchased by Abdul Majid Ahmed and Moosa Ahmed both the sons of Ahmed Hajee Mohamed from Sultan Mohiuddin Hussain Sahib and Khairunnisa Begum under registered sale deed 05-05-1971 registered as document no 636 of 1971 on the file of SRO Thiyagaraja Nagar.

29/06/2024

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Subsequently Said Abdul Majid Ahmed and Moosa Ahmed gifted the same to and in favour of Ahmed Hajee Mohamed S/o.Hajee Mohamed Hajee Moosa and Amina Ahmed W/o. Ahmed Hajee Mohammed under the Oral Hiba on 22-03-1976 duly recorded on 25-03-1976.

Ahmed Hajee Mohamed S/o.Hajee Mohamed Hajee Moosa and Amina Ahmed W/o. Ahmed Hajee Mohammed become absolute owners for both the item 1 and 2 stated above, each having 50% undivided share and had been in possession and enjoyment of the said property by mutating the Revenue Records in their joint names which is evident from Extract from the Permanent land Registers, Certified by Tasildar, Mylapore – Triplicane Taluk vide C.A.No. 328/76-77 dated 25-01-1977.

a) 4 grounds 1200 sq.ft comprised in old S.No.3404 (Pt.), R.S.No.2, New S.No.2/62, Block No1, Mylapore Village, Mylapore (Part 1) Taluk along with residential building bearing Door No.1, Old No. 1A, Cathedral Garden Road, Chennai
b) Door No.1C, Cathedral Garden Road, land measuring 2 grounds 4 sq.ft comprised in old S.No.3404 (Pt.), R.S.No.2, New S.No.2/40, Block No1, Mylapore Village, Mylapore (Part 1) Taluk

Mrs.Amina Ahmed 50% undivided share holder of said property executed a will dated 25-09-1981 bequeathed her half share in the said properties to her Grandsons, through her sons abdul Majid Ahmed and Moosa Ahmed in Equal proportion. The Said Mrs.Amina Ahmed died on 10-01-1986, leaving behind her, Husband Mr.Ahmed Mohemed and Sons

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Abdul Majid Ahmed and Moosa Ahmed and Daughter Mrs.Nargis Akbar as her Legal heirs. Thereby as per the will executed by Mrs.Amina Ahmed the following persons are entitled to share in the half share owned by the deceased Mrs.Amina Ahmed;

1. Mohamed Abdul Majid son of Mr.Abdul Majid - 12.5%
2. Farhan Abdul Majid Son of Mr.Abdul Majid - 12.5%
3. Ashfaaq Moosa Son of Mr.Moosa Ahmed - 8.33%
4. Faheem Moosa Son of Mr.Moosa Ahmed - 8.33%
5. Zoheb Moosa Son of Mr.Moosa Ahmed - 8.33%

Subsequently the said Ashfaaq Moosa executed the Power of Attorney in favour of his mother Mrs.Bilkis Moosa as power agent under General Power of Attorney dated 22-10-2012 executed at USA duly adjudicated as document no 885 of 2012 on the file of SRO Mylapore .

Ashfaaq Moosa represented by his power agent Mrs.Bilkis Moosa, Faheem Moosa and Zuheb Moosa joined together and gifted their 25% share in the said property to and in favour of Mrs.Farida Majid W/o. Abdul Majid ahmed on 05-04-2013 by the way of Hiba which was duly recorded on 15-04-2013.

The said Farida Majid out of 25% share she settled 4.17 % undivided share in the said property to and in favour of her son Farhanna Abdul Majid under registered settlement deed dated 24-05-2019 registered as document no 617/2019 on the file of Joint Sub Registrar, Thousand Lights and she executed another Settlement deed dated 24-05-2019 registered as document no 618/2019 on the file of Joint Sub Registrar, Thousand Lights in and in favour of her another son Mohammed Abdul Majid and retained with herself 16.66% of undivided share in the said property.

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L.S.M. HASAN FIZAL
ADDITIONAL GOVERNMENT PLEADER

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The Said Mohamed Abdul Majid out of 16.67% (12.5% + 4.17%) settled 8.33% (1299.48 Sq.ft) undivided share in the said property to and in favour of his sister Amina Majid under the registered Settlement Deed dated 13-05-2022 registered as Document no 703 of 2022 on the file of joint II SRO Chennai Central and he settled another part of 8.34% (1299.48 Sq.ft) undivided share in the said property to and in favour of another sister Aamirah Majeed under the registered Settlement Deed dated 13-05-2022 registered as Document no 704 of 2022 on the file of joint II SRO Chennai Central.

Thereby 50% undivided share earlier owned by Mrs.Amina Ahmed has been distributed as follows;

1. Farhaan Abdul Majid - 16.67% (12.5% + 4.17%)
2. Amina Majid - 8.33%
3. Aamirah Majid - 8.34%
4. Farida Abdul Majid - 16.66%

Mr.Ahmed Hajee Mohamed another 50% undivided share holder of said property gifted his half undivided share in the said property to and in favour of his daughters Mrs.Nargis Akbar Omar Wife of Akbar and Mrs.Abida Ahmed Wife of Ahmed on 05-08-1996 under the Oral Hiba which was duly recorded on the same date, and said gift has been confirmed by Ahmed Mohamed through the will dated 01-10-1997 executed by himwith respect to other inherited property by him duly registered in Book III as no 102 of 1997 on the file of Joint Sub Regisrar II, Madras North. The above said Oral Gift made by the Mr.Ahmed Mohamed

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was subsequently ratified by his second wife Mrs.Shamim ahmed through an affidavit executed at Bengaluru dated 30-05-2017, duly Notarized . Ther By Nargis Akbar Omar and Abida Ahmed are become absolute owners of 50% undivided share in the said property, each of the having 25% undivided share.

The said Nargis Omar exevuted a wlil dated 04-04-1995 bequeathed her rights 25% of undivided share in the said property to her husband Akbar Omar and subsequently she died on 27-01-2001 at Canada . Whereas Mr.Akbar Omar gifted the said 25% undivided share in the said property to and in favour of Daughter in Law Mrs.Seema Paniwal to 41.67 % out of 25%(i.e 10.42%), Grand son Aalim Aslam Omar 8.33% out of 25% (i.e 2.08) Gand son Suleimaan Aziz Omar 8.33% out of 25% (i.e 2.08), Grand Daughter Nargis Omar 8.33% out of 25% (i.e 2.08) Daughter Amreen Omar 33.34% out of 25% 1.e 8.34% on 10-01-2017 under the Oral Hiba which was duly recorded by Gift (Hiba) deed dated 12-01-2017.

The Said Abida Ahmed died on 31-08-2005 leaving behind her Husaband Mr.Ahmed Abdul Rehman , Sons Mr.Fuad Ahmed Furniturewala, Daughter Tanveenr Merchant. Letters of Administration with respect ot her estate has been granted by Hon'ble High Court of Bombay, vide Order Dated 31-03-2015, in Petition No.620 of 2014, Accordingly her legal Heirs become entitled to her 25% undivided share in the said property i.e Ahmed Abdul Rehman 6.25%, Faud Ahmed Furniturewala 12.5% and Afroz Tanveenr Mrechant 6.25%.

Through an irrevocable Family Arrangement / Agreement and a Declaration dated 25-07-2015 executed by Ahmed Abdul Rehman duly Notarized at Mumbai, Fuad Ahmed Furniturewala became entitled to 6.25% undivided share allotted to Ahmed Abdul Rehman

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through letters of Administration .Subsequently Ahmed Abdul Rehman died on 24-10-2016 at Mumbai. Thereby Fuad Ahmed Furniturewala has become owner of 18.75% (12.5 % +6.25%)undivided share in the Said Property.

The said Afroz Tanveer Merchant gifted her 6.25% undivided share in the said property to and in favour of her aunt Farida Abdul Majid on 06-04-2022 by the way of Oral Hiba, Which was duly recorded vide Record of Oral Hiba (Gift) dated 27-06-2022, Thereby Farida Abdul Majid has become owner of 22.91% (16.66 + 6.25) undivided share in the said property.

Thereby the following persons are the absolute joint owner of the said property of a total extent of 6 Ground and 1204 Sq.ft or 15604 Sq.ft situate at Door No. 1A & 1C Cathedral Garden Road Chennai 600 034.

Farida Abdul Majid	22.91
Farhan Abdul Majid	16.67
Aamirah Majid	8.34
Amina Majid	8.33
Seema Aziz Paniwala	10.42
Mohamed Aslam Omar	2.08
Suleiman Aziz Omar	2.08
Nargis Omar	2.08
Amreen Omar	8.34
Fuad Ahmed Furniturewala	18.75
Total	100

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Patta Stands in the Name of Seema Aziz & 9 others for the R.S.No. 2/62 measuring Hectare 0.10.3.5, and another Patta Stands in the Name of Seema Aziz & 9 others for the R.S.No. 2/40 measuring Hectare 0.04.46.0

I have perused the Online Encumbrance Certificate from 01-01-1964 to 20-06-2023, for the S.No. 3404(Pt.) New R.S.No. 2/40 & 2/62, Block 1 of Mylapore Town & Taluk, Chennai District, except above transactions I do not find any charge, mortgage or subsisting encumbrance in respect of the above said property.

Taking in to consideration, *I am of the* opinion that **M/s. ARC DEVELOPERS** Power of Attorney holder of **Mrs. Farida Abdul Majid & 9 others** having absolute Ownership, right, possession and clear, Marketable Title in respect Property situated at 1A & 1C Cathedral Garden Road, Teynampet, Chennai 600 034, Comprised in S.No. 3404(Pt.) New R.S.No. 2/40 & 2/62, Block 1 of Mylapore Town & Taluk, Chennai District measuring an extent of **15,604 Sq.ft** as per Document (4 Ground and 1200 Sq.ft and 2 Ground and 04 Sq.ft), Hectare **0.14.49.5** as per Patta. The ownership/transfer details for the above properties are detailed in the annexure.

4 . The opinion does not offer any view on the veracity/authenticity and due execution of documents produced also no opinion is offered on any encumbrance caused due to any acquisition /pending litigation in respect of the schedule property.

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(L.S.M. HASAN FIZAL)
ADDITIONAL GOVERNMENT PLEADER

L.S.M. HASAN FIZAL
ADDITIONAL GOVERNMENT PLEADER
Madras High Court, Law Officers' Block,
High Court Buildings, Chennai - 600104.

Razak H vs The Additional Tahsildar, (Land ... on 22 October, 2024

Author: Kauser Edappagath

Bench: Kauser Edappagath

2024:KER:78277

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 22ND DAY OF OCTOBER 2024 / 30TH ASWINA, 1946

WP(C) NO. 36930 OF 2024

PETITIONER:

RAZAK H
AGED 35 YEARS
S/O. LATE S.M. HANEEFA, RESIDING AT 4/43,
PUTHUSSERY CENTRAL VILLAGE, KANJIKODE P.O,
PALAKKAD TALUK, PALAKKAD DISTRICT, PIN - 678621

BY ADVS. JACOB SEBASTIAN
WINSTON K.V
ANU JACOB
BHARATH KRISHNAN G.
ARUNDHATHI SURESH BABU

RESPONDENTS:

1 THE ADDITIONAL TAHSILDAR, (LAND RECORDS)
PALAKKAD, TALUK OFFICE, CIVIL STATION COMPLEX,
PALAKKAD HEAD POST OFFICE, PALAKKAD DISTRICT,
PIN - 678001

2 THE VILLAGE OFFICER
PUTHUSSERI CENTRAL VILLAGE OFFICE, KANJIKODE
P.O, PALAKKAD DISTRICT, PIN - 678621

SRI.B.S.SYAMANTHAK, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.10.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).No.36930/2024

2024:KER:78277

"CR"

JUDGMENT

The concept and principles governing the disposition of property by Hiba - gift under Muslim Personal Law - arises for consideration in this writ petition.

2. The petitioner is a Muslim following Muslim Personal Law. He is aggrieved by the Village Officer's decision refusing to mutate the property gifted by his father in his favour as per Ext. P3 gift deed on the ground that it is an unregistered document.

3. The immovable property having an extent of 14 cents of land in Old Sy.Nos.665/12 and 666/1 of Puthusseri Central Village, Palakkad Taluk, Palakkad District, covered by Exts.P1 and P2 title deeds originally belonged to the father of the petitioner named Haneefa. On 15.1.2016, the father of the petitioner gifted the said property in favour of the petitioner orally and he was put in exclusive physical possession of the property. Three days thereafter, on 18.1.2016, the father of the petitioner executed Ext.P3 unregistered gift deed in favour of the petitioner. The petitioner accepted the gift and took delivery of the property. Thereafter, the petitioner submitted Ext.P4 2024:KER:78277 nd application before the 2 respondent to mutate the property in his name, to accept land tax from him and to provide a Thandaper Account. The 2nd respondent rejected Ext.P4 application as per Ext.P5 communication for the reason that Ext.P3 gift deed is not a registered document. It is challenging Ext.P5, the petitioner has approached this Court.

4. I have heard Sri. Jacob Sebastian, the learned counsel for the petitioner and Sri. B.S. Syamanthak, the learned Government Pleader.

5. The learned counsel for the petitioner submits that Section 123 of the Transfer of Property Act (for short 'the T.P. Act') which mandates that a gift can be made only through a registered document, is not applicable to Muslims and hence, oral gift made by the father of the petitioner to the petitioner and later on endorsed as per Ext.P3 unregistered gift deed is legally valid and hence the 2nd respondent is not justified in not mutating the property in the name of the petitioner on the ground that the gift deed in question is an unregistered one.

6. Chapter VII (Sections 122 to 129) of the T.P. Act deals with the gift of movable or immovable property. Section 122 defines 'gift' as a transfer of certain existing movable or immovable property made voluntarily and without 2024:KER:78277 consideration, by one person, called the donor, to

another, called the donee, and accepted by or on behalf of the donee. Section 123 provides how the transfer of a gift is effected. It says that for the purpose of making a gift of immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor and attested by at least two witnesses. However, Section 129 specifically lays down that the provisions of Chapter VII of the T.P. Act are not applicable to gifts of movable property made in contemplation of death or shall be deemed to affect any rule of Muhammadan law. Whenever the provisions of Chapter VII of the T.P. Act and Muslim law conflict, the latter shall prevail.

7. A gift under Muslim law is called hiba. Any Muslim, to whatever school of law he or she may belong, can make a hiba, of the whole of his or her property. A hiba is a bilateral transaction which takes effect when the donor declares that he has made a gift and the donee signifies his or her acceptance of the same. Over and above these, there is the requirement that ordinarily such possession of the gifted property as it may be possible to transfer must be handed over by the donor to the donee. Without these three essential conditions - declaration (ijab), acceptance (qubul) and delivery 2024:KER:78277 of possession (qabza) respectively - a gift under Muslim law will be legally incomplete. A gift of immovable property need not be reduced to writing nor necessarily registered under Muslim law. An oral gift fulfilling all three essential conditions is perfectly valid under Muslim law. Declaration as well as acceptance of the gift may be oral, whatever the nature of the property gifted1. The requirement relating to writing or registration laid down for gifts under Section 123 of the T.P. Act does not apply to Muslims. Section 129 of the T.P. Act preserves the rule of Mohammedan Law and excludes the applicability of Section 123 of the T.P. Act to a gift of immovable property by a Muslim. Registration being irrelevant to its legal force, a deed setting out Muslim gift cannot be regarded as constitutive of the gift and is not compulsorily registerable.

8. Of course, Muslim Personal Law does not prohibit written gifts. Writing in respect of a gift may take place in two different ways. The gift may be made orally and completed in all respects, but later, it may be stated in writing that the said gift has been made. Alternatively, writing may be contemporaneous with the making of the gift. In the former case, it is well settled that the writing evidencing the past transaction of oral gift need not be registered notwithstanding 1 Tahir Mahmood, The Muslim Law of India, Butterworths, 2002, p164 2024:KER:78277 the provisions in the Indian Registration Act . Under Section 172 of the Registration Act, an instrument of gift of immovable property must be registered. Section 49 of the Registration Act, which deals with the effect of non-registration of documents required to be registered, says that no document required by Section 17 or by any provision of the T.P. Act to be registered shall affect any immovable property comprised therein. In fact, Section 17 of the Registration Act does not prescribe a registered instrument for a valid gift; it only prescribes that if the gift is effected by a written instrument, then it must also be registered. The expression 'instrument of gift of immovable property' in Section 17 of the Registration Act denotes an instrument or deed that creates, makes or completes the gift, thereby transferring the ownership of the property from the donor to the donee. A deed of gift simply acknowledging the past transaction of oral gift is not in itself an instrument effecting, creating or making the gift but a mere piece of evidence. It cannot be treated as an instrument of gift which requires registration. So an oral gift recognised by the Muslim Law is not ruled by the Registration Act.

9. Various High Courts3 took the view that where the 2 (ibid at p 164,165) 3 Chota Uddandu Sahib v. Masthan Bi (Died) and Others (AIR 1975 AP 271), Ghulam Ahmad Sofi v. Mohd. Sidiq Dareel and Others (AIR 1974 J&K 59), Nasib Ali v. Wajed Ali (AIR 1927 Cal. 197) 2024:KER:78277 execution of the instrument of gift is contemporaneous with the making of the gift, it must be registered as provided under Section 17 of the Registration Act. However, the law was finally settled by the Supreme Court4 and held that the distinction that if a written deed of gift recites the factum of prior gift then such deed is not required to be registered but when the writing is contemporaneous with the making of the gift, it must be registered, is inappropriate and does not seem to us to be in conformity with the rule of gifts in Mohammedan Law.

10. Merely because the gift is reduced to writing by a Muslim, instead of it having been made orally, such writing does not become a formal document or instrument of gift. When a gift could be made by a Muslim orally, its nature and character are not changed because of it having been made by a written document. What is important for a valid gift under Muslim Law is that three essential requisites must be fulfilled. The form is immaterial. If all three essential requisites - declaration, acceptance and delivery of possession - are satisfied, constituting a valid gift under Muslim Law, the transaction of the gift would not be rendered invalid because it has been written on a plain piece of paper 5. So also, mere 4 Hafeeza Bibi & Others v. Shaikh Farid (Dead) by LRs and Others (2011) 5 SCC 654 5 (ibid) 2024:KER:78277 registration of a gift deed will not validate a purported gift which is otherwise invalid as Muslim. As rightly observed by Justice V.R. Krishna Iyer, a Muslim gift may be valid even without a registered deed and may be invalid even with a registered deed6.

11. Coming to the merits of the case, the recital in Ext.P3 would show that the father of the petitioner orally gifted the property to the petitioner, the petitioner accepted it and the property was delivered to him. All the essential conditions of a Muslim gift, i.e., declaration, acceptance and delivery of possession have been satisfied. There is also a recital in Ext. P3 that the father of the petitioner handed over the original title deeds, Exts.P1 and P2, to the petitioner. Hence, the gift orally made and later endorsed as per Ext.P3 is perfectly valid under Muslim Personal Law.

12. For the aforementioned reasons, the 2nd respondent is not justified in not mutating the property on the ground that Ext.P3 is an unregistered document. Accordingly, Ext.P5 is set aside. The petitioner shall produce the original of Exts. P1 to P3 before the 2nd respondent. The 2nd respondent is directed to affect the transfer of registry of the property covered by Ext.P3 in the name of the petitioner within a period 6 Assan Rawther v. Ammu Umma (1971 KLT 684) 2024:KER:78277 of two weeks thereafter. After effecting the transfer of registry as directed above, the 2nd respondent shall provide a Thandaper Account to the petitioner and accept land tax from him.

The writ petition is disposed of as above.

Sd/-

DR. KAUSER EDAPPAGATH JUDGE kp 2024:KER:78277 APPENDIX OF WP(C) 36930/2024 PETITIONER EXHIBITS Exhibit-P1 A TRUE COPY OF THE REGISTERED SALE DEED NUMBER 4802/1986 OF THE SRO PALAKKAD DATED 25.09.1986.

Exhibit-P2 A TRUE COPY OF THE REGISTERED SALE DEED NUMBER 207/1991 OF THE SRO, PALAKKAD DATED 11.01.1991.

Exhibit-P3 A TRUE COPY OF THE GIFT DEED DATED 18.01.2016 EXECUTED BY S.M. HANEEFA IN FAVOUR OF THE PETITIONER.

Exhibit-P4 A TRUE COPY OF THE APPLICATION DATED 01.10.2024 SUBMITTED BY THE PETITIONER.

Exhibit-P5 A TRUE COPY OF THE COMMUNICATION DATED 04.10.2024 ISSUED BY THE SECOND RESPONDENT.

Exhibit-P6 A TRUE COPY OF THE JUDGMENT DATED 16.03.2023 IN W.P.(C) NO. 31543/2022 OF THIS HONOURABLE COURT.

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