

महाराष्ट्र शासन

मुद्रांक जिल्हाधिकारी, मुंबई यांचे कार्यालय
202-205, दुसरा मजला, जुने जकात घर
फोर्ट, मुंबई - 400 001

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जा. क्र./मुजि/मुंबई/तक्रार/अभि. प्र. क्र. 194-2024/- 4991

दिनांक -

17 OCT 2024

प्रति,

मा. अपर मुद्रांक नियंत्रक, मुंबई
प्रधान मुद्रांक कार्यालय, नगर भवन
फोर्ट, मुंबई - 400 001

विषय मुद्रांक शुल्क चुकवलेबाबत तक्रार

Complaint pointing out suppression of the correct plot area and further entire available potential FSI generated on the Mhada plot/ land taken in Redevelopment by the Developer Oberoi Realty Ltd. from the Adarsh Nagar Shramik Co-operative Housing Society Ltd. and further the Developer not only cheating the members of the Society for their rightful entitlement by the said suppression, but also evading of the Stamp Duty by suppressing the actual plot area demarcation of the MHADA authorities and the additional potential FSI available for the Developer apart from the FSI available on the gross plot of land in terms of DCPR Regulation 33(5), the Developer suppressed an additional FSI available in terms of Prorata layout FSI generated on MHADA land as per MHADA Circulars 5998 r/w 6260 r/w 6615 issued by MHADA, which is not considered by the Adjudicating officer/ Collector of Stamps, though there are clauses in the Development Agreement mention the same and that the same go unaccounted for, thereby not only causing huge loss to the entitlement of the members of the Society of the plot in Rehab area, but also causing huge revenue loss to the State Government and defrauding the Government, which the Developer obtains in actual consideration in the Development Agreement.

- संदर्भ 1) मा. अपर मुद्रांक नियंत्रक, मुंबई यांचे कार्यालयाचे पत्र क्र. मुख्य शाखा/ शशिकांत अमीन व इतर 2/2572/2024 दिनांक 07/06/2024.
- 2) या कार्यालयाची नोटीस क्र. मु.जि.मुं./चु.मु.शु./2945-2949/2023 दिनांक 18/06/2024.
- 3) या कार्यालयात दिनांक 24/06/2024 रोजी मुक्रर करण्यात आलेली सुनावणी.
- 4) मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू), मुंबई यांचे कार्यालयाचे पत्र क्र. मु. का. अ./मुं.मं./1520/2024 दिनांक 04/07/2024.

- 5) आदर्श नगर श्रमिक को-ऑपरेटिव्ह हाऊसिंग सोसायटी लि. यांचे पत्र क्र. मा.स./53/2024-25 दिनांक 20/07/2024.
- 6) Wadia Ghandy & Co., Advocates, Solicitors & Notary यांचे पत्र क्र. NL/KBM/10326/2427/2024 दिनांक 20/07/2024.
- 7) या कार्यालयात दिनांक 09/07/2024 रोजी मुक्रर करण्यात आलेली सुनावणी.
- 8) या कार्यालयात दिनांक 24/07/2024 रोजी मुक्रर करण्यात आलेली सुनावणी.
- 9) Shashikant S. Amin, Anvay Bhole, Ammai Dharap यांनी दिनांक 29/07/2024 रोजीचे पत्राद्वारे सादर केलेले म्हणणे.
- 10) या कार्यालयात दिनांक 29/07/2024 रोजी मुक्रर करण्यात आलेली सुनावणी.
- 11) मा. अपर मुद्रांक नियंत्रक, मुंबई यांचे कार्यालयाचे पत्र क्र. मुख्य शाखा/ शशिकांत अमीन व इतर2/4288/2024 दिनांक 23/08/2024.

महोदय,

1. Shashikant S. Amin, Anvay Bhole, Ammai Lachayya Dharap यांची दिनांक 21/05/2024 रोजीची तक्रार या कार्यालयास संदर्भ क्र. 1 अन्वये प्राप्त झालेली आहे. त्या अनुषंगाने सदर तक्रार प्रकरणी महाराष्ट्र मुद्रांक अधिनियमानुसार मुददे निहाय अहवाल सादर करण्याचे निर्देश दिले आहेत. तक्रारीचे अवलोकन केले असता सदर तक्रार ही Development Agreement शी संबंधित असून Development Agreement हे अभिनिर्णय प्रकरण क्र. Adj/M/194/2024 अन्वये दिनांक 06/05/2024 रोजी अभिनिर्णित केले आहे. Development Agreement चा सदर दस्त हा Adarsh Nagar Shramik Co-Operative Housing Society Limited (The Society - One Part) आणि Oberoi Realty Limited (The Developer - Other Part) यांच्या मधील अनिष्पादीत दस्त आहे. तसेच सदर दस्त दिनांक 06/05/2024 रोजी निष्पादीत होऊन सह दुय्यम निबंधक वर्ग-२, मुंबई शहर क्र. 5 या कार्यालयात 06/05/2024 रोजी नोंदणीकृत केलेला आहे. या कार्यालयातील सहायक नगर रचनाकार यांनी विकासकाच्या हिश्याचे रक्कम रु. 352,33,74,000/- इतके मुल्य आणि सहकारी संस्थेच्या हिश्याचे मुल्य रक्कम रु. 374,18,27,500/- इतके निश्चित केले आहे. तसेच बँक गॅरंटी रक्कम रु. 65,00,00,000/- इतकी नमुद केली आहे. त्यानुसार सहकारी संस्थेच्या हिश्याचे मूल्य जास्त असल्याने रक्कम रु. 374,18,27,500/- वर महाराष्ट्र मुद्रांक अधिनियमचे अनुसूची-1 चे अनुच्छेद 5(ग-अ) नुसार 5% दराने रु. 18,70,91,400/- इतके मुद्रांक शुल्क आणि बँक गॅरंटी रक्कम रु. 65,00,00,000/- वर महाराष्ट्र मुद्रांक अधिनियमचे अनुसूची-1 चे अनुच्छेद 54(ii) नुसार 0.3% दराने रु. 19,50,000/- इतके मुद्रांक शुल्क, असे एकुण रु. 18,90,41,400/- इतके मुद्रांक शुल्क वसूल केले आहे.



2. तक्रारीचे अवलोकन केले असता तक्रार यांनी तक्रारीमध्ये खालील मुद्दे मांडलेले आहेत -

(1) The present Complaint brings to your notice the deliberate suppression of the correct and entire available total potential of the land including the standard Floor Space Index (FSI) generated on the MHADA plot/lands during redevelopment undertaken by the Developers under the DCPR 33(5) in consideration thereto. Not only the Developers hand in gloves with the PMC appointed by the society and managing committee members, cheat the members of Cooperative Housing Societies by suppressing their rightful entitlement, but they also evaded Stamp Duty by concealing the actual additional potential prorata FSI available to them beyond the FSI on the plot of land generated on the basis of DCPR Regulation 33(5). Specifically, the Developers suppress additional potential FSI related to the Prorata layout FSI generated on MHADA land, as per MHADA Circulars 5998 r/w 6260, r/w 6615. This is goes unnoticed, in spite of there being clauses in the Development Agreement mentioning this additional Prorata Layout FSI being reserved by the Developers as a consideration, it remains unnoticed and unaccounted for by the concerned Collector of Stamps adjudicating the Development Agreement under submitted to him under section 31 of the Bombay Stamp Act, which obligates the concerned officer of the Government to have the document perused and prepare his valuation accordingly as to the considerations exchanged and received by the parties in the document submitted for adjudication. This suppression not only causes significant loss to the entitlement of society members in the Rehab area, but also results in substantial revenue loss to the State Government, effectively defrauding the State Government and Developer entitling to unlawful gains which are unaccounted for with the assistance of the adjudicating officer, not considering the said clauses of Prorata Layout FSI mentioned in the Development Agreement.

(2) The present complaint is brought to your notice in respect of one of the Development Agreement, executed by Developer Oberoi Realty Ltd, of the Complainant society, which will demonstrate aforesaid fact in detail, which the present complainants requesting the Hon'ble Authority to take cognizance of said issue brought to the notice and take immediate action on the said document mentioned referred to above registered with Sub Registrar of Assurances Worli 5 Mumbai and further to take further take appropriate actions to prevent such losses in future in other documents coming before the authority. The fact giving rise to the filing of the present complaint is as follows:-

(3) It is submitted that already the undersigned members have filed a detailed criminal complaint with the Economic Offences Wing Mumbai against the Managing Committee members of the Society, consisting of 17 individuals, Project Management Consultant (PMC) partners Mr. Nikhil Dixit and Mr. Vilas Vasant Dixit, Developer representative Mr. Pravin Mahadik and Mr. Arunkumar Kotian the authorized signatory and the MHADA officials involved, who stand accused of engaging in cheating, misrepresentation, and forgery, along with preparing and producing false, bogus and fabricated resolutions concerning the Society's governance in Redevelopment process. These actions were allegedly undertaken to illicitly progress the redevelopment project of Building Nos. 33-39, Adarsh Nagar Shramik Co-operative Housing Society Ltd., while failing to maintain transparency with the Society's members and disregarding the due process of law as required. It is further submitted that the Society's property was illicitly negotiated with the Developer by understating the true total Floor Space Index (FSI) potential of the land generated along with the Prorata FSI generated by way of the MHADA Resolutions which are applicable in the present case. This purportedly occurred through collusion with the Developer, his representatives, officials from the Maharashtra Housing and Area Development Authority (MHADA), PMC and along with managing committee of society, thereby defrauding the Society's members of their correct legitimate entitlement of the newly constructed flat premises. The said complaint is pending investigation with the Economic offences wing Mumbai and that the present complaint is filed in addition to the said complaint in respect of the cheating caused to the complainants and members and that neither it should be construed that by considering the present complaint, the complainants have waived all their rights and remedies which the Complainants have in law in respect of the illegal Development Agreement dt. 06.05.2024 executed between the Adarsh Nagar Shramik Co-operative Housing Society Ltd and Oberoi Realty Ltd.



(4) It is submitted that after submitting aforesaid criminal complaint with Economic Offences Wing (EOW) Mumbai, the Complainants obtained the aforesaid executed Development Agreement Copy from the website of IGR <https://esearchigr.maharashtra.gov.in/>.

(5) It is submitted that on perusal of the said executed Development Agreement, various suppressions made by the Developer Oberoi Realty Ltd. came to the notice of the undersigned, which were suppressed from the adjudicating authorities while filing the unexecuted document for adjudication under file ADJ No. 194 of 2024 in comparison to the true annexures of the Development Agreement which were circulated and informed with the members of the society which were able to be seen from the order of adjudication annexed to the Development Agreement. The complainants have applied for the entire record of the ADJ file, however, the same has not been received by us., however, the present complaint is being filed by us, based on the online copy of the development Agreement and the other evidence that the Complainants have obtained from the authorities, where the Developer has made the applications.

(6) Sir, as stated above, we are the bonafide members of Adarsh Nagar Shramik Co-Operative Housing Society Limited, a Co-Operative Housing Society incorporated and registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 under Registration No. BOM(W-G/SOUTH) HSG (OH) / 3512/1988 having its registered office at Welfare Centre, Adarsh Nagar, Worli, Mumbai 400030, hereinafter referred to as "the Society".

(7) It is submitted that by a Deed of Sub-Lease dated 26th March, 2007 registered with the Office of the Sub-Registrar of Assurances under Serial No.3328 of 2007 ("said MHADA Sub Lease"), MHADA sub- demised the said Land admeasuring 10,282.58 square meters that was underneath and appurtenant to the Old Residential Buildings for a term of 90 years with effect from 1st April, 1980 on the terms and conditions mentioned therein and that further by a Deed of Sale dated 26th March, 2008 registered with the Office of the Sub-Registrar of Assurances under Serial No. 3401 of 2008, MHADA conveyed and sold the Old Residential Buildings to the Society ("MHADA Sale Deed") for the consideration as mentioned therein.

(8) It is submitted that Old Residential Buildings are more than 70 years old, though, barring Building no. 38, which did not go into extensive repairs, rest all the other buildings, did undergo repairs and are stable. The Members of the Society felt that considering conveyance of the Buildings are done from the MHADA, the Society members, felt that the said entire property could be duly redeveloped with the consent of MHADA, MCGM and other authorities as permissible under the provisions of the Development Control and Promotion Regulations for Greater Mumbai, 2034 ("DCPR") and also all other applicable provisions of law, rules, regulations, byelaws and schemes of Government, MHADA, MCGM, SRA and other concerned authorities including under Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act"), by appointing a highly competent and skilled Developer with considerable experience in developing real estate projects in Mumbai City by sharing of the Floor Space Index Potential of the land with the Developer for the newly redeveloped flats for the members. It is submitted that the said negotiations with the Developer are in form of a barter system, whereby the society shares our total FSI potential in a sharing ratio with the Developer so as to secure the members with higher carpet area flats along with the other benefits needed in the newly redeveloped flats.

(9) It is submitted that accordingly to proceed with the said aspect of redevelopment project of Society, for proper guidance, Society managing committee had appointed M/s. Shilp Associates as its project management consultant ("Society PMC") in its General Body meeting dt.09.08.2015, to advise the Society during the course of the redevelopment of the said property and accordingly a letter of appointment came to be issued to M/s. Shilp Associates as its project management consultant which was duly accepted by the said firm. It is submitted that during the course the said PMC, hand in gloves with the managing

committee and Developer, underrepresented the members the correct total potential of the land generated on the land of the society available including the Tit bit area that is made available to the society as per the MHADA circular. The PMC submitted the feasibility report to the members, whereby the potential of the land was shown as 84964.36 Sq. Mts inclusive of the prorata Layout FSI generated on the said MHADA plot considering the prorata area of 30 Sqmts per tenement. It is to be submitted that Redevelopment of the society is to be done under DCPR regulation 33(5). Hereto annexed and marked as Exhibit- "A" is the copy of the Feasibility Report of the Society.

(10) It is submitted that during the course of the redevelopment process, various illegalities came to be systematically executed by the aforesaid managing committee of society and PMC along with the Developer and his representatives for which as stated above we are constrained to file the criminal complaint with the Economic Offences wing Mumbai. It is submitted that the said PMC was not qualified to act as the PMC of the society as the Developer was his client and that the same was seen from the website of the PMC, which the complainant's letter found out. Hereto annexed and marked as Exhibit- "B" is the Copy of the online website client profile. The PMC was time and again protecting the interest of the Developer only and never disclosed the real potential of the land to the members so as to negotiate the correct legitimate entitlement of the members. The Complainants state that they have filed a complaint for professional misconduct with the Council of Architecture at Delhi for the aforesaid Professional Misconduct and that the same is pending for hearing. In the course of illegality, on the strength of the forged and fabricated documents and fabricated resolutions, the said PMC to assist the developer to secure all the gains in the project, prepared and produced plans of the newly constructed sale and rehab buildings. Hereto annexed and marked as Exhibit- "C" is the Copy of the said plans plot area FSI/ total built up area statement proforma of plans submitted with MHADA.

(11) The said PMC acting on behalf of the society without there being a Development Agreement, obtained an Offer letter from the MHADA dt.23.12.2023. The said offer letter was obtained on the strength of the bogus resolutions, which were never approved by the General Body anytime. In fact, it should be noted that the Development Agreement was not entered into with the Developer by then. Hereto annexed and marked as Exhibit- "D" is the Copy of the Mhada Offer letter dt. 23.12.2023. That it is to be noted that MHADA has the facility of applying for FSI on the given plot in installment basis as and when necessary and that as such the said offer letter was applied presently for 3 FSI, however, it is to be noted that in the said offer letter, the Mhada has made available layout prorata FSI at a present prorata area of 24.07 for 504 members, which is provided at a very discounted price to the Society/Developer, which is a form of consideration that the Developer considers in the negotiations, which was deliberately concealed from the members as well when negotiating hand in gloves with the PMC. That it is to be noted that the said entitlement is of the society members, who are on the said Mhada layout which the society members in a barter mode of system, get their rehab newly constructed area. This prorata FSI has gone unaccounted in the present adjudication process, and it is stated that in almost all the redevelopment projects in Mumbai on Mhada Layouts, thereby causing huge revenue loss of Stamp Duty to the State Government.

(12) The said PMC, on behalf of the Developer, also submitted the proposal to the MCGM authorities' online proposal for Chief Fire officer NOC along with proposed building plans and other requisite documents and undertakings for CFO remarks and approval of the same. The said plans demonstrate total FSI generated and utilized for the Rehab portion and Sale Buildings along with Scrutiny fees paid. Hereto annexed and marked as Exhibit- "E" is the Copy of the some of the documents submitted to the MCGM CFO along with the payment receipts made to MCGM showing total built up area being built. That it should be seen that the said PMC of the Society as stated hereinabove, has given an area certificate on his letter head which is to the tune of 2,81,455.14Sqmts. This area if valued by the adjudicating officer while valuing the document, will demonstrate that in comparison to the value passed to the members, the consideration received by the Developer in the deal is more and that the



Stamp duty ought to have been charged on the said value of the potential FSI being made available to the Developer.

(13) That when the Development Agreement came to be circulated to the members of the society for discussions, the members were circulated with a proforma A along with other Annexures of the Development Agreement. The said document was circulated to all the members physically as well as by soft copy to members of Society on what's app. We are herewith submitting the proof of the same whereby one of the managing committee member Advocate Shri Sahadev Bhoga forwarded the same to the members of the society on what's app group named "Adarsh Nagar 33-39 Bldg." consisting of some members of the society, which demonstrates the said proforma was circulated and shown as the annexure in the Development agreement to the members. It is however, submitted that when we see final executed Development Agreement executed, the same is not seen as annexure and it appears that the same is deliberately suppressed and removed with the intention to suppress the said document, which discloses a more potential area than the area considered in the present for adjudication with the deliberate intention to evade the payment of Stamp Duty to the Government by the officials. Hereto annexed and marked as Exhibit- "F" is the Copy of the Proforma A and what's app communication forwarding the same. That it is to be seen that the said table shall show how the prorata has been mentioned as 45 Sq. Mts and the area of FSI it generates and the 35% fungible FSI thereon.

(14) That the undersigned members, as the PMC did not provide the correct details of the actual land potential FSI generated, the Complainants themselves researched and came across various Mhada resolutions, which are made applicable to the MHADA layouts while redevelopment is proposed by the society which were seen from the Offer letter issued to the society dt.23.12.2023. On going through the said resolutions and comparing the same with last sanctioned Layout plan of Adarsh Nagar, as per the said resolutions, Additional FSI is made available to all the tenements on the Adarsh Nagar Layout in prorata of the amenities plot and reservations on the said layout in form of layout prorata area and layout prorata FSI made available at subsidized rates to the Developer/ Society in redevelopment project. Accordingly, the undersigned by interpreting the said resolutions along with correlating the said calculations with another project executed on Mhada layout using said circulars of the MHADA, have prepared a chart showing the actual prorata area entitlement on the Adarsh Nagar Layout to each tenement and that the layout FSI being made available and that furthermore the actual total potential FSI generated as per MHADA resolutions 6260 on the said plot of land admeasuring 12791 Sqmts of the society is approximately 1.91.162.81 Sqmts. Hereto annexed and marked as Exhibit- "G" is the Copy of the Chart FSI prepared by the complainants. Hereto annexed and marked as Exhibit- "H" is the Copy of the Circulars of the MHADA applicable. That it is to be noted that the present society is consisting of 504 member on the said plot of land and that total members on the Adarsh Nagar layout is 1534 members and as such it is to be noted that the present society represents 1/3 members on the said layout thereby entitling such huge Prorata FSI, which the Developer due such huge size of the plot can very well utilize the same efficiently and that it should be considered in the value.

(15) That CRZ came into existence on 09.02.1991 and on 09.02.1991, the sanctioned plan of MCGM of Mumbai was based on DCR 1967 amended till 18.02.1991.

(16) On the date of CRZ notification the regulation applicable on Adarsh Nagar plot was DCR 1967 amended till 18.02.1991. The DCR 1991 came into existence on March 1991 was not applicable to Adarsh Nagar plot for FSI purposes because of CRZ notification. That thereafter the entire Fungible Area concept came to be introduced after 19.02.1991 and was not applicable to the plot of Adarsh Nagar till 2018. The CRZ notification 1991 was governed by MCZM plan of 1991, and this plan got revised in 2018. Subsequently, in the year 2018, CRZ regulations were modified, and the development restrictions was reduced from 500 meters to 50 meters of High tide line as a result of which the entire Adarsh Nagar layout got out of CRZ restrictions and the applicable DCR regulations has now changed from 1967 to 1991 and 1991 has subsequently replaced with the DCPR 2034. As the result of the



aforesaid facts all the FSI restrictions as mentioned in 1967 has been relaxed and the entire layout is governed by DCPR 2034. MHADA last sanctioned Adarsh Nagar Layout has not taken into consideration Maharashtra Coastal Zone plan amended in 2018-19 and last updated CRZ notification as the 50 meter line is not visible on the layout. The Layout is still reflecting the CRZ line as a 500-meter line which needs to be rectified in the layout plan to reflect the accurate area statement along with the prorata area statement inclusive of TDR/DRC generated on the reservations/amenities. However, MHADA officials without rectifying their layout plans are approving the Proposals submitted by the Developers and issuing NOC by considering the entire layout as being out of CRZ, which if seen compared to the last sanctioned layout of Adarsh Nagar will be contrary.

(17) That the said old sanction Layout though has shown the prorata area as 24.07 Sqmts per tenement when CRZ was applicable, however, the said MHADA authority in past has granted prorata area to one of the executed projects of Building No. 17 in the very same Adarsh Nagar Layout which is much more than 24.07 Smts. The documents showing the said Prorata made available to the said society at 1.596 FSI is attached for the reference of this authority. Hereto annexed and marked as Exhibit- "I" is the Copy of the NOC Documents of Building No. 17. That to substantiate that the statement prepared by complainants is correct one as per the Mhada resolutions applicable, we are hereby providing NOC issued to one of the Society which is executed project in the same Adarsh Nagar Layout of Building no. 17, which is consisting of 23 members, which has received for a small plot of land admeasuring 809.36Sqmts plus a Tit Bit area of 325Sqmts has generated a Prorata layout FSI of 1500 Sqmts. If we divide the said 1500Smts by 23members then we get per member prorata FSI entitlement = 65.21Sqmts at 1.596 FSI and that per member prorata area will be $65.21/1.596=40.85\text{sqmts}$.

(18) That it is to be noted that at the FSI of 1.596, per member prorata FSI entitlement is 65.21Sqmts then on the present plot of land the FSI is permissible is of 4 and that the amount of the actual prorata FSI which is generated and entitlement of the 35% fungible area thereon as per the regulations. That further to demonstrate the Prorata FSI is also entitled to 35% fungible area thereon, we have attached a NOC of project of the Bandra Reclamation, whereby from the NOC letter and the Payment sheet annexed hereto it will be clear that the Layout prorata FSI is also entitled for the fungible 35% area admissible which is granted by the MHADA officials in the said project which is a MHADA Layout under 33(5) DCPR. That it is to be seen that not only is the Mhada layout generating the Prorata Layout area distributed per tenement, however, FSI is generated by multiplied by the FSI index available on the respective plot of land, the same is also eligible for the 35% fungible area computed with the respective FSI available on the respective plot of land. This Potential FSI is made available by the MHADA to the Developer at a very discounted price at 50% ready reckoner value the same can be seen from the MHADA offer letter of the Adarsh Nagar Shramik Co- operative Housing Society Ltd. To demonstrate, we are submitting the payment sheet and the offer letter showing how the prorata FSI is generated on the said basis, which will authenticate that that said computation of the potential of the land prepared by complainants undersigned is correct. Hereto annexed and marked as Exhibit. "J" is the Copy of the payment sheet and offer letter of Bandra project. That further the present offer letter of the Adarsh Nagar society issued by the MHADA obtained illegally by the Managing Committee members may be seen that whereby the Mhada officials have granted prorata Layout FSI of 1 only on prorata area available per tenement and that on subsequent applications of the Society or the Developer, the further FSI area shall be released which is the practice and accordingly the said aspect is retained by the clause 3a and 4a of the aforesaid Development Agreement dt. 06.05.2024 by the Developer and that as such the adjudication of the value of consideration done by the Adjudication officer is defective and cannot be said to be correct without considering the said value.



(19) That further it should be noted that as per clause 3a of the Development Agreement, the same reads as hereunder :-

3. GENERAL CONDITIONS TO BE FOLLOWED BY THE DEVELOPER FOR THE CONSTRUCTION OF THE SOCIETY BUILDINGS

(a) The Developer presently estimates to consume a minimum of 4.00 FSI (computed on gross plot area of the Land) plus Fungible FSI thereon plus entire Pro Rata FSI per Member (available today or in future) plus Fungible FSI thereon, on the Land under Regulation 33(5) of DCPR 2034. However, only if the Government amends Regulation 33(5) of DCPR 2034 and increases the permissible FSI above 4.00 and the Developer chooses to utilize the incremental FSI over and above 4.00 FSI, then, the Developer shall pay the incremental Hardship allowance for the Members to the Society in the manner stated at Clause 4(a) below.

(20) That from the above it must be seen that the Developer has taken over from the Society its entire potential that the society members had in form of entitlement from MHADA, in the Development Agreement, which is not considered by the adjudicating officer and that further the same aspects and calculations are in the chart submitted by us, which further authenticates the chart submitted by the present complainants. It is submitted that although the duty of the adjudicating officer (Collector of Stamps) preparing the valuation report is to peruse the clauses minutely, the said clause has not been considered and/overlooked by the said officer adjudicating the present Development Agreement (and for that matter in almost all Development Agreements adjudicated it appears that similar procedure is adopted) and further though having power of conducting inquiry etc. as per the registration circulars and rules issued thereto, the said officer for the reasons best known to him, proceeded blindly on the basis of the check list and affidavit submitted by the Developer Oberoi Realty Ltd and proceeded to adjudicate the said document within 7 days of its submission to the Collector of Stamps for adjudication, thereby causing a loss to the Government may be to the tune of Rs. 80-85 crores approximately which needs to be freshly adjudicated based on the documents submitted above.

(21) That the complainants have prepared a chart based on the aforesaid Mhada resolutions which shows the actual land potential of the plot of the society and that what is the correct Total FSI generated on the said society plot of land as per the MHADA resolutions stated hereinabove. If the said plot of land is compared with the document submitted by the PMC with the CFO website in respect of the total gross built up area, then the same will show that not only the complainants have been systematically deceived and cheated of their property and that the same has been systematically parted with Developer, but it will also show that the Government has also been cheated by suppression of True FSI potential received by the Developer, with the intention of evasion of the Stamp Duty, thereby causing unlawful loss to the members and secure unlawful gains to the Managing committee, PMC and the Developer and that also said act further causing loss to the Government. That the aforesaid cheating to the members and the authority has been done with in connivance of the aforesaid persons and also with the connivance of the MHADA officials, who though under the Mhada resolutions clause 3B of Resolution 6260, are obligated to inform to the society their respective potential, however, for their own vested interest to be settled with the Developers and hand in gloves with the PMC, the said information is never shared with the societies at all on MHADA Layouts in the Mumbai area and elsewhere, thereby a huge FSI generated in the large MHADA layouts go to the kitty of the Developer at a subsidized amounts and that the respective members of the society are not compensated with the correct legitimate fair entitlement and that further the same illegalities continue at the time of adjudication of the Development Agreement and that there is also deliberate evasion of the stamp duty causing loss to the Government.



(22) That after the adjudication done with from the office of the Collector of Stamps, it is to be noted that the same came to be registered on the very same day of the adjudication order dt. 06.05.2024, this demonstrates the malafides of the persons signatories to the document were holding. Hereto annexed and marked as Exhibit- "K" is the Copy of the Development Agreement.

(23) That further it is to be noted that the circulars of the department are applicable for adjudication are not considered by the adjudication officer and that in the adjudication order, the Ld. Collector has considered the Circular bearing no. 27, which in the present case is not applicable and that further the Ld. Collector to assist the Developer in lowering the value of FSI has applied an Circular for valuation of the ASR value at 85% which was never applicable. It is submitted that the circular applicable to the present case of the Development Agreement of the plots situated in the MHADA Layout is circular no. 71, which is not at all considered by the Ld. Collector and that the Ld. Authority for assisting the Developer has pick and chosen all the circular as to suit its needs. Hereto annexed and marked as Exhibit- "L" is the Copy of the circular bearing no. 71 dt. 12.11.2018. applicable of the authorities for adjudication. That if the circulars are interpreted in true sense, then it should be seen that the entire consideration obtained by the parties should be considered and that then the highest must be taken for computation of the Stamp Duty @5% which is not done in the present case not only due to suppression of the correct potential from the authorities, however, it is seen that the Ld. Collector or its subordinates who must have prepared its valuation, have applied their circular, which was not at all applicable to the said plot of land and reduced the ASR rate to 85% value.

(24) That when the demarcation and site physical measurements of the property land was done by MHADA, the area of the Plot which was seen was 12984.75Sqmts, which can be seen from the document issued by the MHADA and that the very same measurements are utilized in the plans submitted in Mhada and shown in Exhibit C annexed hereinabove and that the executed development agreement records different area. That the said document mentions the area of TIT bit area as to the extent 2838.11Sqmts, however the executed development agreement mentions the TIT Bit area of 2508.50Sqmts and that the developer has taken the said benefit of the area in the plans submitted to MHADA shown in Exhibit C above and plans annexed hereto below. Hereto annexed and marked as Exhibit- "M" is the Copy of the Demarcation letter dt. 20.12.2023.

(25) That the Complainants are also attaching the Adarsh Nagar Layout plan and the plans submitted to MHADA for the offer letter by the Society/ Developer to demonstrate the aforesaid facts narrated above. Hereto annexed and marked as Exhibit- "N"-colly is the Copy of the plans of new buildings and Hereto annexed and marked as Exhibit- "O" is the copy of the Adarsh Nagar Layout.

(26) That complainants state that apart from the fact that the complainants have been cheated by the Developer in respect of the aforesaid understating of the actual potential FSI of the Land, the Complainants state that the State Government is also misrepresented of the FSI generated on the land, thereby causing the huge loss to the State Government as well; which the Complaints place before the authority to take appropriate action on the following grounds and evidence for your considerations:-

(a) The document of the feasibility report of the PMC will reflect that the potential of the land is much more than taken in adjudication order valuation report annexed to the Development agreement. Ex-A.

(b) That further the Plans submitted to the MHADA for approval/ offer letter, the Built-up area statement and chart will demonstrate that the potential generated and the factors concealed from the authorities in comparison to the area considered for adjudication of balance FSI available to the Developer in the Order of adjudication/valuation report. Ex-C.



(c) That the proforma A, which was circulated to the members, has been deliberately concealed from the Development Agreement submitted for adjudication, thereby to mislead the authorities in respect of the correct balance FSI available to the Developer as a consideration in comparison to the considered adjudicated balance FSI available to the Developer in the Order of adjudication /valuation report. Ex-F.

(d) That complainants have on the basis of another project executed in the layout and that further FSI being made available at discounted price by MHADA to the Developers is being shown by production of the other project payment sheet and NOC. Ex-I in comparison to the considered adjudicated balance FSI available to the Developer in the Order of adjudication/valuation report. Ex-

(e) That it should be further seen that the NOC and offer letter issued by the MHADA include a condition in the offer letter, whereby it states that applicable stamp duty imposed on the allotment of the FSI has to be borne by the Applicant, however, at the time of adjudication, the same is not disclosed and that as such the same goes to the kitty of the Developer without paying of the stamp duty thereon.

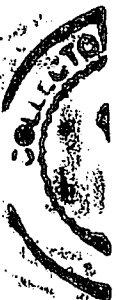
(f) That we have produced MHADA circulars that are applicable and that demonstrate additional Prorata FSI being made available on the MHADA Layouts and that the entitlement of the 35% Fungible FSI thereon. Ex-H.

(g) That the Complainants have prepared the chart which can be authenticated by the Mhada resolutions read with the other project NOC issue and further the very same Adarsh Nagar Shramik Society offer letter issued by MHADA which show over and above the basic FSI, the initial Layout Prorata FSI granted to them initially, which is concealed from this authority, Ex-G, Ex-D and EX-J.

(h) That further it should be seen that the Developer has submitted the plans with the MCGM and that the very same PMC has issued a certificate to the Chief Fire officer, which states the total Built up area of the Buildings on the said plot to be 281455.54Sqmts, this document at Ex E will demonstrate the extent of suppression of actual potential of the land received by the Developer in consideration from the authorities to the extent has been concealed from the authorities thereby evading stamp duty payable on the document.

(i) That it is to be seen that seen that Section 28 of the Bombay stamp Act 1958, provides that the consideration if any the market value and all other facts and circumstances which affecting the chargeability of any instrument with the duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein, however, in the present case the Developer Oberoi Realty Ltd., who presented the instrument for adjudication, in the present case suppressed the correct facts and further the documents submitted by the complainants show the actual correct facts and circumstances that affect chargeability of the instrument submitted for the adjudication and as such the same proves that the adjudication Order dt. 06.05.2024 is illegal improper and bad and that the same needs to be quashed and set aside and that a revised adjudication considering the aforesaid facts have to be done by the Collector of Stamps. As such there is deliberate violations of the provisions of the Stamp Act which are punishable under the Act.

(j) That it ought to have been seen that the collector adjudicating the stamps under section 31 had powers under the Maharashtra Stamp determination of True Market value of property rules 1995, Rule 6 provide for a detailed powers of the Collector to call for any information or record from any public office, officer or any authority under State Government or any local authority, record statement from any member of the public, officer or authority under the State Government or any local authority and that in the present case the same has not been followed whereby the



Collector could have called for the information from the Mhada Authorities, MHADA is an apex public body constituted under MHADA ACT 1976, established in 1977 under Housing Department of Government of Maharashtra which is the authority under the State Government and take appropriate information in respect of the actual potential FSI available on the subject property in the instrument submitted to the Collector for adjudication under section 31.

(k) That non-exercising powers under rule 6 of the Maharashtra Stamp Determination of True Market Value of Property Rules 1995 has caused loss of revenue to the State Government as the Developer Oberoi Realty Ltd. has evaded payment of stamp duty on the correct consideration that it has received in the subject instrument Development Agreement submitted for adjudication.

(l) That information from the MHADA authorities could have been called for assessing the correct value of consideration received by the parties, which has not been done in the present case.

(m) That there is collusion of the various other authorities involved in perpetuating the said illegality of under representation of the FSI consideration received under Redevelopment and that latter on the said amount of consideration goes unaccounted in the kitty of the Developer, thereby causing huge revenue loss to the Government Authorities and authorities only taking note of the same only when the same is brought to the notice of the authorities.

(n) That not only this, the Ld. Collector has also not considered the clause of 8 (uu) of the Development Agreement, which mentions that about the TDR and DRC rights to be taken and utilized in future, the same ought to have been valued as per circular of the Department of IGR guidelines issued time to time.

(o) That the order of the adjudication dt. 06.05.2024, shows non- application of mind from the fact that the adjudicated values have handwritten corrections and that if the same are recalculated, it can be seen that the calculations are also incorrect, thereby showing non-application of mind and doing the calculations in hurried manner for the reasons best known to the Collector to favor the Developer.

(p) That it ought to be seen that the Ld. Collector has considered the IGR circulars which were not applicable to the case and has hurriedly made the calculations. The Ld. Collector has considered 85% rate ASR rate of the land as per circular 21, it is submitted that the said circular, is not at all applicable to the present case as the said circular is applicable for other category of lands as the circular applicable in present case is circular number 71 issued by IGR dt. 12.11.2018, which is not at all considered.

(q) That the demarcation letter issued by MHADA was also suppressed from authorities apart from the plans prepared and submitted to the authorities produced at Exhibit M compared with executed development agreement will demonstrate the suppression of the actual plot area received in consideration.

(r) That it is to be seen that Stamp duty is charged on valuation of the considerations received by the parties and at the time of Development Agreement, at one side considering the entire potential FSI in all forms generated on the land being made available to the developer multiplied with the ASR rate of the land and the same should be compared with the cost of the acquisition paid by the Developer to the society members and whichever is higher value of consideration, should be taken as the value for computation to charge the Stamp duty @5% and that this is as per circular no 71 issued by the Chief Controlling Revenue Authority.. which is not done in the present case.



(27) In the circumstances above, it is most humbly submitted that aforesaid circumstances, warrant immediate action on the complaint presented to this authority and as such the Complainants have approached to this authority with a request to take appropriate action on the said document and all the persons involved in the same.

(28) The Complainants request your good office to kindly look into this matter and also provide us with an opportunity of hearing and that if needed we shall appoint our advocate to represent our case and explain the facts and as such, we request you to give us the notice of hearing in advance.

PRAYER CLAUSE :-

(29) In the circumstances above, it is most humbly prayed to the authority as hereunder:-

(a) That this Hon'ble Authority may be pleased to call for all the record and proceedings of the case bearing no ADJ/194/2024 and impugned Judgement and Order dt. 06.05.2024 passed by the Collector of Stamps Mumbai and after perusing the legality, validity and propriety, be pleased to quash and set aside the Adjudication Order dt.06.05.2024 and further be pleased to direct the impounding of the executed Development Agreement dt.06.05.2024 bearing no. 7332 of 2024 registered with Office No. 5.

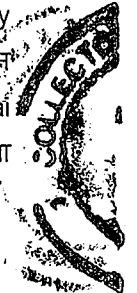
(b) That this Hon'ble Authority may further be pleased to direct the Collector of Stamps, a fresh adjudication of the executed Development Agreement dt.06.05.2024 vide case file ADJ/194/2024 document by taking recourse to the rule 6 of the Maharashtra Stamp (Determination of True Market Value of Property) Rules 1995 and after recording statements of the MHADA, MCGM officers and other or any other officers involved and necessary and all the documents placed on record by the Complainants by this complaint, be pleased to adjudicate the fresh valuation of the consideration in the document ADJ/194/2024 and calculate the fresh Stamp Duty on the executed Development Agreement dt.06.05.2024 and direct the collector to recover the evaded deficit stamp duty along with the applicable penalty under the Bombay Stamp Act 1958.

(c) This Hon'ble Authority may be further pleased to initiate criminal prosecution against all the persons in involved in the process for undervaluation/ under representation of the Consideration (FSI potential) in the document bearing no. 7332 of 2024 registered with Sub Registrar of Assurance 5 as per the Bombay Stamp Act 1958.

(d) Pending hearing and final disposal of the present Complaint, this Hon'ble Authority may be pleased to exercise power under section 33A or any other powers under the act available for impounding the document, be pleased to forthwith impound the document bearing no. 7332 of 2024 registered with Sub Registrar of Assurance 5 with this office.

(e) Any other order in the interest of Justice as the case may require.

3. उपरोक्त तक्रारीच्या अनुषंगाने संदर्भ क्र. 2 अन्वये (i) The Secretary, Adarsh Nagar Shramik Co-Operative Society Limited, (ii) Oberoi Realty Ltd, (iii) Resident Executive Engieeer, Mumbai, Bandra (East), (iv) VP & CEO Mhada, Bandra (East), Mumbai आणि (v) Shashikant S Amin, Anvay Bhole, Ammai Lachayya Dharap यांची संदर्भ क्र. 2 अन्वये दिनांक 24/06/2024 रोजी सुनावणी मुक्रर करण्यात आली होती. दिनांक 24/06/2024 रोजीच्या सुनावणी दरम्यान Shashikant S Amin, Anvay Bhole, Ammai Lachayya Dharap यांच्या तर्फे Rajesh L Dharap, Advocate, High Court, Mumbai यांनी वकालतनामा सादर केलेला आहे. दिनांक 24/06/2024 रोजीच्या सुनावणी दरम्यान Oberoi Realty Limited यांच्या तर्फे Wadia



Ghandy & CO, Advocates & Solicitors यांनी वकालतनामा सादर केलेला आहे. तसेच Adarsh Nagar Shramik Co-Operative Housing Society Limited यांच्या तर्फे Ms Madhavi Bagkar, Advocate यांनी वकालतनामा सादर केलेला आहे. तसेच दिनांक 24/06/2024 रोजीच्या सुनावणीच्या अनुषंगाने दिनांक 09/07/2024 (पुढील चौकशी तारीख), दिनांक 24/07/2024 (पुढील चौकशी तारीख) आणि दिनांक 29/07/2024 (पुढील चौकशी तारीख) रोजी सुनावणी मुक्रर करण्यात आली आहे.

4. संदर्भ क्र. २ ची नोटीस आणि सुनावणीना अनुसरून तक्रारीच्या अनुषंगाने मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू.), मुंबई यांनी संदर्भ क्र. 4 अन्वये लेखी म्हणणे सादर केलेले आहे. आदर्श नगर श्रमिक को-ऑपरेटिव्ह हाऊसिंग सोसायटी लि. यांनी संदर्भ क्र. 5 अन्वये लेखी म्हणणे सादर केलेले आहे. तसेच Oberoi Realty Limited यांच्या तर्फे Wadia Ghandy & CO, Advocates & Solicitors यांनी संदर्भ क्र. 6 अन्वये लेखी म्हणणे सादर केलेले आहे. तसेच Shashikant S Amin, Anvay Bhole, Ammai Lachayya Dharap यांनी संदर्भ क्र. 9 अन्वये लेखी म्हणणे सादर केलेले आहे.

5. मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू.), मुंबई यांनी त्यांचे कार्यालयाचे पत्र क्र. मु. का. अ./मु.मं./1520/2024 दिनांक 04/07/2024 (संदर्भ क्र. 4) अन्वये खालीलप्रमाणे म्हणणे सादर केलेले आहे-

(1) आपले संदर्भिय पत्र क्र.१ निवासी कार्यकारी अभियंता, मुंबई मंडळ यांचे कार्यालयात प्राप्त झाले असून या पत्रामध्ये आपण नमूद केले आहे की, शशिकांत अमीन व इतर दोन यांनी मुद्रांक शुल्क चुकवलेबाबत अपर मुद्रांक नियंत्रक, मुंबई या कार्यालयात दि. 21.05.2024 रोजी तक्रार अर्ज दाखल केला आहे. सदर तक्रारीमध्ये आदर्श नगर श्रमिक सह. गृह.नि.संस्था मर्या. या संस्थेकडून विकासक मे. ऑबेरॉय रिऑलिटी लि. ने पुनर्विकासाकरीता केलेल्या विकास करारनाम्याकरीता योग्य मुद्रांक शुल्क भरले नसल्याची तक्रार केली आहे. या अनुषंगाने संदर्भिय पत्र क्र. 1 अन्वये दि. 24.06.2024 रोजी दुपारी 3.00 वाजता आपल्या कार्यालयात उपस्थित राहण्याबाबत कळविण्यात आले होते. यानुसार, निवासी कार्यकारी अभियंता, मुंबई मंडळ या कार्यालयाचे उप अभियंता (शहर विभाग) / नि. का. अ. हे या सुनावणीस उपस्थित होते. सदर सुनावणी दरम्यान आपण तक्रारदारास तक्रार अर्जाची प्रत निवासी कार्यकारी अभियंता, मुंबई मंडळ यांना उपलब्ध करून देण्याबाबत निर्देश दिले व या तक्रारीबाबत म्हाडाचे लेखी म्हणणे सादर करण्याबाबत उपअभियंता (शहर विभाग) / नि.का.अ. यांना निर्देश दिलेलेत.

(2) आपल्या निर्देशानुसार तक्रारदाराने अर्जाची प्रत दि. 25.06.2024 रोजी निवासी कार्यकारी अभियंता, मुंबई मंडळ यांच्या कार्यालयास उपलब्ध करून दिली. या तक्रार अर्जामध्ये अर्जदार यांनी आदर्श नगर श्रमिक सह. गृह. नि. संस्था मर्या. या संस्थेचे विकासक मे. ऑबेरॉय रिऑलिटी लि. यांनी विकास करारनामा नोंदणीकृत करण्याकरीता नोंदणी शुल्काची परिगणना करतेवेळी संस्थेस उपलब्ध होणारे प्रोराटा बांधकाम क्षेत्रफळ व अतिरिक्त बांधकाम क्षेत्रफळ गृहीत धरलेले नसल्यामुळे नोंदणीशुल्काची रक्कम कमीची येत असून यामुळे शासनाचे नुकसान होत असल्याची तक्रार केली आहे. यामुळे संस्थेच्या सभासदांना उपलब्ध होणाऱ्या पुनर्वसन क्षेत्रफळामध्ये नुकसान होत असल्याची तक्रार केली आहे. तसेच, सद्यस्थितीत म्हाडाच्या दि. 29.12.2023 रोजीच्या देकारपत्रानुसार संस्थेच्या पुनर्विकासाकरीता 24.07 चौ. मी. प्रति सदनिका प्रमाणे प्रोराटा बांधकाम क्षेत्रफळाकरीता देकार जारी करण्यात आले असून महाराष्ट्र कोस्टल झोनच्या आराखड्यानुसार म्हाडामार्फत मंजूर करण्यात आलेल्या आदर्श नगर, वरळी अभिन्यासामध्ये सुधारणा केल्यास संस्थेच्या पुनर्विकासाकरीता जास्तीचा प्रोराटा क्षेत्रफळ उपलब्ध होईल असे अर्जदाराने नमूद केले आहे.



(3) सदर प्रकरणी नमूद करण्यात येते की, म्हाडा अभिन्यासांमधील इमारतींचा पुनर्विकास विकास नियंत्रण व प्रोत्साहन नियमावली 2034 मधील विनियम 33(5) नुसार करण्यात येतो. या नियमावलीनुसार म्हाडा अभिन्यासातील संस्थेच्या उपविभाजित भूखंडावर 3.00 च.क्षे.नि. (फंजिबल व्यतिरीक्त) अनुज्ञेय आहे. तसेच, संस्थेचा उपविभाजित भूखंड 4,000.00 चौ.मी. किंवा अधिक असल्यास व या भूखंडास किमान 18.00 मीटर रुंदीचा पोहचरस्ता उपलब्ध असल्यास शासनाच्या पूर्व परवानगीने 4.0 च. क्षे. नि. (फंजिबल व्यतिरीक्त) अनुज्ञेय आहे. याव्यतिरीक्त मंजूर म्हाडा अभिन्यासानुसार अंतर्गत / डी.पी. रस्ते, स्कीम O.S. / R.G. इत्यादींवर 3.00 च.क्षे.नि. नुसार उपलब्ध होणाऱ्या अतिरिक्त बांधकाम क्षेत्रफळामधून प्राधिकरण ठराव क्र. 6615 दि. 06.08.2013 नुसार 10% अतिरिक्त बांधकाम क्षेत्रफळ मा. उपाध्यक्ष / प्राधिकरण यांच्या अधिकारात वितरणाकरीता राखीव ठेवून उर्वरित अतिरिक्त बांधकाम क्षेत्रफळ संस्थांना अस्तित्वातील गाळ्यांच्या समप्रमाणात (Prorata) वितरीत करण्यात येते.

(4) आदर्श नगर वरळी या म्हाडा अभिन्यासास दि. 20.06.2022 रोजी मंजूरी प्रदान करण्यात आली असून या मंजूर अभिन्यासानुसार आदर्श नगर वरळी अभिन्यासामधील सहकारी गृहनिर्माण संस्थांना 24.07 चौ. मी. प्रती सदनिका इतके प्रोराटा बांधकाम क्षेत्रफळ अनुज्ञेय आहे. MOEF च्या दि. 18.01.2019 रोजीच्या अधिसूचनेनुसार सदर अभिन्यासामध्ये सुधारण करण्याची कार्यवाही प्रगतीपथावर आहे.

(5) आदर्श नगर श्रमिक सह. गृह. नि. संस्था मर्या. या संस्थेने, संस्थेच्या इमारतींच्या पुनर्विकासाकरीता विकासक म्हणून मे. ओबेरॉय रिऑल्टी लि. यांची नियुक्ती केली व या नियुक्तीस उपनिबंधक सहकारी संस्था, मुंबई शहर, पूर्व उपनगरे व कोकण मंडळ कार्यक्षेत्र, म्हाडा यांनी दि. 10.02.2023 रोजीच्या पत्रान्वये मान्यता दिली आहे. तदनंतर, संस्थेने दि. 06.11.2023 रोजी संस्थेच्या इमारतीच्या पुनर्विकासाचा प्रस्ताव कार्यकारी अभियंता, शहर विभाग, मुंबई मंडळ यांच्या कार्यालयाकडे सादर केला. विनियम 33 (5) मधील तरतूदीनुसार गृहनिर्माण संस्थेस पुनर्विकासाकरीता परवानगी देतांना संस्थेच्या एकूण सभासदांपैकी किमान 51% सभासदांची संमतीपत्रे म्हाडास सादर करणे बंधनकारक आहे. यानुसार संस्थेने पुनर्विकास प्रस्तावासोबत सादर केलेल्या एकूण 504 सभासदांपैकी 326 सभासद म्हणजेच 64.68% सभासदांच्या संमतीपत्रांची कार्यकारी अभियंता/शहर विभाग / मुं.मं. यांनी प्रत्यक्ष पडताळणी केली. तसेच संस्थेच्या उपविभाजित भूखंडाचा सिमांकन नकाशा तयार केला. यानुसार संस्थेच्या पुनर्विकास प्रस्तावास मा. उपाध्यक्ष प्रा. यांची मंजूरी प्राप्त झाल्यानंतर दि. 29.12.2023 रोजीच्या पत्रान्वये संस्थेस देकारपत्र जारी करण्यात आले आहे.

(6) यानुसार श्रमिक सह. गृह.नि. संस्था मर्या. या संस्थेच्या पुनर्विकासाकरीता सिमांकनानुसार एकूण 12,791.08 चौ.मी. भूखंडावर 3.00 च. क्षे. नि. नुसार उपलब्ध होणाऱ्या 38,373.24 चौ. मी. 12,131.28 चौ. मी. प्रोराटा बांधकाम (दि. 20.06.2022 रोजीच्या मंजूर अभिन्यासानुसार) क्षेत्रफळ असे एकूण 50,504.28 चौ. मी. बांधकाम क्षेत्रफळाकरीता विनियम 33(5) मधील तरतूदीनुसार अधिमुल्याचा भरणा करण्याकरीता दि. 29.12.2023 रोजी संस्थेस देकारपत्र जारी करण्यात आले आहे. या देकारपत्रानुसार अतिरिक्त बांधकाम क्षेत्रफळाचे वितरण संस्थेस करण्याकरीता ना हरकत प्रमाणपत्राची मागणी करण्यापूर्वी संस्थेने देकारपत्रामध्ये नमूद केलेल्या अधिमुल्याचा भरणा करणे, एम. सी. झेड. एम. ए. चे ना हरकत प्रमाणपत्र व संस्थेने विकासकासोबत केलेला नोंदणीकृत विकास करारनामा म्हाडास सादर करणे बंधनकारक आहे. या देकारपत्राची प्रत आपल्या माहितीकरीता सोबत जोडण्यात येत आहे.

(7) संस्थेस उपरोक्त देकारपत्रानुसार अधिमुल्याचा भरणा म्हाडाकडे करून आवश्यक अटी व शर्तीची पूर्तता केल्यानंतर त्याप्रमाणात अतिरिक्त बांधकाम क्षेत्रफळ वितरित करण्याकरीता संस्थेस ना हरकत प्रमाणपत्र जारी करण्यात येईल. यानंतर संस्थेने / संस्थेचे विकासक यांनी नियोजन प्राधिकरण / म्हाडा



यांचेकडे आय.ओ.ए. करीता परिपूर्ण प्रस्ताव सादर केल्यानंतर नियोजन प्राधिकरण / म्हाडामार्फत अनुज्ञेय फंजिबल बांधकाम क्षेत्रफळ संस्थेस वितरित करण्यात येईल.

(8) तसेच तक्रारदाराने आदर्श नगर बीच कॉर्नर सह. गृह. संस्था या संस्थेस जास्तीचा प्रोराटा बांधकाम क्षेत्रफळ वितरित केल्याबाबत नमुद केले आहे. याबाबत नमुद करण्यात येते की, आदर्श नगर बीच कॉर्नर सह. गृह. संस्था, इ. क्र. 17 च्या पुनर्विकासाकरीता जारी केलेल्या दि. 22.03.2021 रोजीच्या ना हरकत प्रमाणपत्रान्वये संस्थेस प्राधिकरण ठराव क्र. 6615 दि. 06.08.2013 नुसार मा. उपाध्यक्ष / प्रा. यांच्या 10% अधिकार क्षेत्रातील अभिन्यासातील राखीव प्रोराटा बांधकाम क्षेत्रफळामधून 1500.00 चौ. मी. प्रोराटा बांधकाम क्षेत्रफळाचे वितरण करण्यात आले आहे.

(9) भविष्यात सी. आर. झेड. लाईनच्या स्थलांतरणानुसार, शासनाच्या धोरणानुसार चटई क्षेत्र निर्देशांक लागू झाल्यामुळे संस्थेस उपलब्ध होणाऱ्या बांधकाम क्षेत्रफळामध्ये वाढ झाल्यास आणि त्यानुसार संस्थेने अतिरिक्त बांधकाम क्षेत्रफळाची मागणी केल्यास सक्षम प्राधिकरणाच्या मंजूरीनंतर संस्थेस अतिरिक्त बांधकाम क्षेत्रफळाकरीता स्वतंत्र देकारपत्र जारी करण्यात येईल. तसेच संस्थेच्या भूखंडालगतच्या डी.पी. प्लॉट व आर.जी. भूखंडाचे स्थलांतरण करून संस्थेने चौथ्या चटई क्षेत्र निर्देशांकाची मागणी केल्यास या प्रस्तावाला शासनाची मंजूरी प्राप्त झाल्यानंतर संस्थेला चौथ्या चटई क्षेत्र निर्देशांकानुसार प्राप्त होणाऱ्या अतिरिक्त बांधकाम क्षेत्रफळाकरीता देकारपत्र जारी करण्यात येईल.

(10) विकास नियंत्रण व प्रोत्साहन नियमावली 2034 मधील विनियम 33 (5) च्या कलम 2 मध्ये पुनर्वसन गाळ्यांच्या किमान चटई क्षेत्रफळाबाबत तरतुद नमुद आहे. यानुसार किमान पुनर्वसन क्षेत्रफळाबाबतची अट संस्थेस जारी केलेल्या दि. 23.12.2023 रोजीच्या देकारपत्रामध्ये अट क्र. 16 नमुद करण्यात आली आहे. या किमान पुनर्वसन चटई क्षेत्रफळापेक्षा जास्त चटई क्षेत्रफळाच्या सदनिकांमध्ये संस्थेच्या सभासदांचे पुनर्वसन करणे ही बाब संस्था व संस्थेने नेमलेल्या विकासक यांच्या मधील विषय असल्यामुळे सदर बाब ही म्हाडाच्या अखत्यारीत येत नाही.

6. आदर्श नगर श्रमिक को-ऑपरेटिव्ह हाऊसिंग सोसायटी लि. यांनी त्यांचे पत्र क्र. मा.स./53/2024-25 दिनांक 20/07/2024 (संदर्भ क्र. 5) अन्वये खालीलप्रमाणे म्हणणे सादर केलेले आहे-

(1) तक्रारकर्ता श्री अन्वय भोळे यांचे दिनांक 24 जून 2024 चे पत्र व संलग्न तक्रारीवरून असे दिसून येत आहे की सदर तक्रार ही संस्था व विकासक मे. ऑबेरॉय रीअल्टी लि. यांचे मधील विकास करारनाम्यावर मुद्रांक शुल्काचा भरणा करीत असताना मे. ऑबेरॉय रीअल्टी लि. यांनी अपूर्ण माहिती सादर करून कमी भरले असल्याबाबत आहे.

(2) विकासक मे. ऑबेरॉय रीअल्टी लि. यांनी विकास करारनामा नोंदणी करीत असताना आपण पत्र जा. क्र./मुजि/मुंबई/अभि.प्र. क्र. 194-2024 आदेश/2278-2279 दिनांक 6 मे 2024 अन्वये दिलेल्या आदेशानुसार मुद्रांक शुल्काचा भरणा केलेला असल्याने तो योग्यच असणार असा आमचा विश्वास आहे.

(3) संस्थेचे एकूण 504 सभासद असून 7 इमारती (इमारत क्र. 33 ते 39) मध्ये वास्तव्यास आहेत. संस्थेच्या इमारती या 70 वर्षे जुन्या असून सभासदांच्या मागणीनुसार संस्थेने पुनर्विकास प्रक्रिया सुरु करण्याचा निर्णय वर्ष 2007 मध्ये घेतला व वर्ष 2009 मध्ये महाराष्ट्र शासन सहकारी



संस्था अधिनियम 1960 मधील कलम 79ए अनुसार पुनर्विकासासाठी केलेल्या सूचनांचे / निर्देशांचे पालन करीत पुढील पुनर्विकास प्रक्रिया पार पाडण्यात येत आहे.

(4) संस्थेने पुनर्विकास प्रक्रीयेमध्ये घेतलेले निर्णय हे विशेष सर्वसाधारण सभेमध्ये बहुमताने पारित केलेले/सूचित केलेले आहेत.

(5) मे. शिल्प असोसिएट्स, प्रकल्प व्यवस्थापक हे म्हाडाच्या मान्यताप्राप्त यादीतील प्रकल्प व्यवस्थापक असून त्यांची निवड दिनांक 09-08-2015 रोजी आयोजित करण्यात आलेल्या विशेष सर्वसाधारण सभेमध्ये बहुमताने करण्यात आलेली आहे.

(6) तक्रारदार श्री. शशी अमीन, श्रीम. अम्माई धारप यांनी विकासक व म्हाडा यांना संमतीपत्रे दिलेली असून संमतीपत्रे देत असताना मे. ऑबेरॉय रीअल्टी लि. यांनी दिलेली हार्डशिप अलाऊन्सच्या ५% रक्कम स्वीकारली आहे.

(7) तक्रारदार यांनी वरील तक्रारीमध्ये केलेले आरोप हे आम्हाला मान्य नाहीत. सदर आरोप हे खोडसाळपणे पुनर्विकास प्रक्रीयेमध्ये अडथळा निर्माण करण्यासाठी केलेले आहेत.

(8) तक्रारदारांनी संस्था, प्रकल्प व्यवस्थापक, विकासक व मुद्रांक शुल्क कार्यालयातील अधिकारी यांनी संगनमताने मुद्रांक शुल्काची विकास करारनाम्यावरील आकारणी कमी केली असल्याचा जो आरोप केला आहे. तो तथ्यहीन, बदनामीकारक व प्रतिमा मलिन करणारा आहे.

7. Oberoi Realty Limited यांच्या तर्फे Wadia Ghandy & CO, Advocates & Solicitors यांनी त्यांचे पत्र क्र. NL/KBM/10326/2427/2024 दिनांक 20/07/2024 (संदर्भ क्र. 6) अन्वये खालीलप्रमाणे म्हणणे सादर केलेले आहे-

(1) We are concerned for our client, Oberoi Realty Limited ("ORL"), who have placed in our hands copies of the captioned Complaint and Notice and have instructed us to state as under.

(2) Under the said Notice issued by your office, you had intimated our client of the Complaint filed by Shashikant Amin, Anvay Bhole and Ammai Lachayya Dharap and directed our client to remain present for hearing on 24th June, 2024. However, a copy of the Complaint was not furnished to our client and was furnished to our client on 24th June 2024. Thereafter on 9th July, 2024, your good office directed all the parties to file their respective replies, if any, to the said Complaint on or before 20th July, 2024 and serve a copy thereof to the Complainant.

(3) Under the said Complaint, the Complainants have made vague allegations against our client and your good office in respect of the market value of the said Property computed by your good office and the stamp duty fixed by your good office under the Adjudication Order. In this regard we would like to bring to your kind attention that the market value of the said Property; the consideration under the said Development Agreement, and the stamp duty on the Development Agreement are duly computed by your good office after considering all the relevant factors and prevailing guidelines issued by the competent authorities from time to time.



(4) Before dealing with the allegations in the Complaint, our client desires to put on record the necessary facts which would assist your good office in adjudicating the said Complaint, -

(i) The Municipal Corporation of Greater Mumbai is the owner of the said Land and has leased the said Land in favour of Maharashtra Housing and Area Development Authority ("MHADA") for a term of 999 years. MHADA had constructed the Buildings on the said Land and allotted the tenements in the Buildings on rental basis to various allottees. The allottees of these tenements have formed the said Society. MHADA has sold and conveyed the said Buildings in favour of the Society vide a registered Sale Deed dated 26th March, 2008 and had sub-leased a portion of the said Land in favour of the Society vide a registered Deed of Sub-Lease dated 26th March, 2008.

(ii) Since the said Buildings are old and built over 70 years, have undergone considerable wear and tear over time and are dilapidated, the members of the Society felt that it is imperative that the said Property be redeveloped under the provisions of Regulation 33(5) of DCPR, 2034.

(iii) The Society received bids from various developers including our client and an overwhelming majority of over 70% of the members of Society accorded their consent and agreed to appoint our client to undertake the development/redevelopment of the said Property.

(iv) Overwhelming majority of the members passed the Resolutions, thereby approving the Development Agreement and over 70% of the members granted irrevocable consents in favour of our client to develop the said Land.

(v) It is critical to note that insofar as the Land is concerned, the permissible FSI that can be utilized thereon is required to be purchased from MHADA and MHADA needs to permit utilization of the same by way of its Offer Letters. MHADA issued its Offer Letter dated 29th December 2023 ("MHADA Offer Letter") to the Society and the Developer wherein a total 50,504.52 sqm is the permissible built-up area on the Land. A copy of the MHADA Offer Letter is annexed at **EXHIBIT A** hereto.

(vi) Our client sought adjudication of the stamp duty leviable on the Development Agreement. Our client submits that by your Adjudication Order dated 6th May, 2024, you computed the following:-

(a) **Market Value of Developer's Share:**

The market value of our client's share under the Development Agreement was assessed and fixed at Rs.352,33,74,000/- (Rupees Three Hundred and Fifty Two Crore Thirty Three Lakh and Seventy Four Thousand only). This market value of our client's share under the Development Agreement was on the basis of and took into account, permissible FSI of 4 on the said Land (51,164 square meters) plus 35% Fungible Compensatory FSI thereon (17,907.4 square meters) aggregating to 69,071.40 square meters ("Permissible BUA"). From the Permissible BUA, you deducted the new area to be given to the Society (35,070.78 sqm), which resulted in a balance area of 34,000.62 sqm available to our client. The market value of this 34,000.62 sqm was computed as Rs.392,09,51,498/- from which you deducted Rs. 39,75,77,846/- being the market value of 17,907.40 sqm Fungible FSI, resulting in a market value of developer's share of Rs.352,33,74,000/-.



(b) Market Value of Consideration to the Society:

The market value of the consideration to the Society was assessed and fixed at Rs.374,18,27,500/- (Three Hundred and Seventy Four Crore Eighteen Lakh Twenty Seven Thousand and Five Hundred only). This was on the basis of and took into account the market value of the area given to the Society; the area of the car parking spaces for the Society; the rent and other charges and amounts payable by our client to the Society under the Development Agreement; development charges; infrastructure charges; common facilities; club house and gym, premium for additional constructed area to be given to the society; bank guarantee to be given to the Society etc.

(vii) Since the Market Value of Consideration to the Society (Rs.374,18,27,500/-) was higher than the Market Value of Developer's Share (Rs.352,33,74,000/-), the market value of the Development Agreement was fixed at Rs.374,18,27,500/- and you directed our client to pay Rs.18,90,41,400/- (Rupees Eighteen Crore Ninety Lakh Forty one Thousand and Four Hundred only) towards the full stamp duty on the Development Agreement as per Article 5(g-a) of Schedule I to the Maharashtra Stamp Act, 1958 ("Stamp Act"). Our client paid the full stamp duty of Rs. 18,90,41,400/- on the Development Agreement as per the Adjudication Order and the same is duly certified by you by way of endorsement on the Development Agreement under Section 32 of the Stamp Act. Thereafter on the same day, our client and the Society executed and registered the Development Agreement. A copy of the extract of the Development Agreement whereon your office as duly certified the full stamp duty as paid by way of endorsement under Section 32 of the Stamp Act is annexed at EXHIBIT B hereto.

(viii) You will appreciate that the total permissible built-up area of 69,071.40 sqm taken into account in the Adjudication Order is far higher than the 50,504.52 sqm total permissible built-up area sanctioned in the MHADA Offer Letter. This is for the reason that while the MHADA Offer Letter permits consumption of 3.00 FSI on the Land, the Adjudication Order takes into account 4.00 FSI which is the maximum permissible FSI as per Regulation 33(5) of DCPR 2034.

(5) In this backdrop, our client states that the Complaint has been filed by 3 disgruntled members of the Society, who are a miniscule minority intent on harassing and extorting the Society and our client. The Complainants No. 1 and 3 have accepted our client as the developer of the Property and accorded their no-objection to their appointment as a developer and have also accepted 5% corpus from and out of the total corpus amount payable under the Development Agreement. The very fact that the Complainant Nos. 1 and 3 issued their respective irrevocable consents in favour of the Developer on 24th September, 2023 makes it clear that they have irrevocably consented to the development of the Property by the Developer. The present Complaint, which is filed thereafter on 21 May, 2024 by the very same Complainant Nos. 1 and 3 (who have already issued their irrevocable consents in favour of the Developer), makes it apparent that the present Complaint is motivated and is filed with oblique motives. Copies of their respective Consents executed in favour of our client are annexed as EXHIBIT C-1 and EXHIBIT C-2 respectively.

(6) Our client shall now respond to the allegations in the Complaint.

(i) The layout pro rata FSI of 12,131.28 sqm is allegedly not accounted for in the Adjudication Order:

(a) This allegation is false, misleading and irrelevant. of the Complainants is completely false and incorrect. As mentioned above, the total permissible built-up area of 69,071.40 sqm taken into account in the Adjudication Order is far higher than the 50,504.52 sqm total permissible built-up area (which is inclusive of the 12,131.28 sqm layout pro rata FSI) sanctioned in the MHADA



Offer Letter. This is for the reason that while the MHADA Offer Letter permits consumption of 3.00 FSI on the Land, the Adjudication Order takes into account 4.00 FSI which is the maximum permissible FSI as per Regulation 33(5) of DCPR 2034.

(b) The Complainants have sought to compare pro rata FSI available in respect of other plots of lands with the pro rata FSI sanctioned by MHADA on the said Property to allege that the true market value of the Property is allegedly not computed. Our client submits that each land and proposal for development is on different parameters and the Complainants cannot expect the pro rata FSI available in respect of one plot of land to be akin to another plot of land and the same reflects an incorrect understanding and inadequate knowledge of DCPR 2034 and valuation of properties as per Stamp Act.

(c) These allegations are established as bald and without substance since the total permissible built-up area of 69,071.40 sqm taken into account in the Adjudication Order is far higher than the 50,504.52 sqm total permissible built-up area (which is inclusive of the 12,131.28 sqm layout pro rata FSI) sanctioned in the MHADA Offer Letter. Therefore, these allegations are without any merit and should be disregarded.

(ii) The plans submitted by our client to the CFO, MCGM, allegedly records a higher FSI for the Rehab and Sale portions on the said Land to the tune of 2,81,455.50 square meters:

(a) Our client states that prior to the MHADA Offer Letter dt. 29th December, 2023, they had applied to the CFO, MCGM for the sale and rehab buildings and had proposed a construction area of 2,81,455.54 square meters. However, since the MHADA Offer Letter dt. 29th December, 2023 permits consumption of 50,504.52 sqm as the total permissible built-up area, our client has already applied to CFO, MCGM for revised approval as per the maximum FSI permissible under Regulation 33(5) i.e. 4.00 FSI.

(b) Our client states that in any event, Fire NOC issued by the CFO, MCGM is not determinative of what is the permissible FSI that can be used on the Land. Only the MHADA Offer Letter can establish what is the permissible FSI that can be used on the Land.

(iii) The Complainants have alleged that our client has suppressed the alleged additional potential FSI related to the Pro rata layout FSI allegedly 'generated on the said Land':

(a) This allegation is bald, vague and incomprehensible. The Complainants have made totally vague statements in a misguided effort to mislead and confuse this Hon'ble Office. Our client submits that your good office has taken into consideration all the relevant factors and guidelines issued by the Inspector General of Registration and Controller of Stamps and under the provisions of the Stamp Act and the delegated legislation thereunder for computation of the market value and fixed the stamp duty.

(b) In any event, the total permissible built-up area of 69,071.40 sqm taken into account in the Adjudication Order is far higher than the 50,504.52 sqm total permissible built-up area (which is inclusive of the 12,131.28 sqm layout pro rata FSI) sanctioned in the MHADA Offer Letter.



(iv) The market value of the Developer's Share under the Development Agreement is allegedly incorrectly computed by your office:

(a) This is a bald and vague allegation. There are no specifics or details furnished as to why the market value of the Developer's Share is allegedly incorrectly computed. It is reiterated that the market value of Developer's Share under the Development Agreement is correctly computed in the Adjudication Order

(v) The stamp duty on the Development Agreement is allegedly Incorrectly computed and the same is not in accordance with the MHADA Offer Letter and the various resolutions and circulars issued by MHADA:

(a) This is a bald and vague allegation. There are no specifics or details furnished as to why the stamp duty on the Development Agreement is allegedly incorrectly computed. It is reiterated that the stamp duty on the Development Agreement is correctly computed in the Adjudication Order. As mentioned earlier, the total permissible built-up area of 69,071.40 sqm taken into account in the Adjudication Order is far higher than the 50,504.52 sqm total permissible built-up area (which is inclusive of the 12,131.28 sqm layout pro rata FSI) sanctioned in the MHADA Offer Letter. The computation of the stamp duty on the Development Agreement has been computed taking into consideration all the resolutions, circulars and relevant details of the transaction envisaged under the Development Agreement.

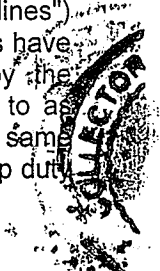
(vi) The Society and our client have allegedly suppressed the potential of the FSI on the Land and hence the computation of the market value of the Property is incorrect:

(a) Our client states that this is another bald claim. The total permissible built-up area of 69,071.40 sqm taken into account in the Adjudication Order is far higher than the 50,504.52 sqm total permissible built-up area (which is inclusive of the 12,131.28 sqm layout pro rata FSI) sanctioned in the MHADA Offer Letter. Thus, the question of any suppression of the potential FSI on the Land does not arise.

(b) Our client states that as per Regulation 33(5) of DCPR 2034, the maximum permissible FSI on the Land is 4.00 which is duly considered and taken into account in the Adjudication Order and this forms the basis on which the market value of the Property and the stamp duty on the Development Agreement have been respectively computed. Our client states that the Adjudication Order is detailed and has considered each and every factor and guideline for computation of the market value and the stamp duty.

(vii) Your office has allegedly incorrectly relied upon Regulation 27 of the Guidelines for Valuation Issued by the Inspector General of Registration and Controller of Stamps:

(a) The Complainants allege that while computing the market value and the stamp duty, your office has incorrectly relied upon Regulation 27 of the Guidelines for Valuation issued by the Inspector General of Registration and Controller of Stamps for the period 2023-2024 ("2023-2024 Guidelines") which is allegedly not applicable in the present case. The Complainants have placed reliance on Circular dated 12th December, 2018 issued by the Inspector General of Registration and Controller of Stamps (referred to as Circular no.71 in the Complaint) and have incorrectly stated that the same ought to be considered while computing the market value and the stamp duty in the present case.



(b) The said Circular dated 12th December, 2018 provides a guideline for valuation of development agreement of redevelopment of MHADA buildings for the year 2019-2020. Thereafter, the Guidelines for Valuation for the period 2020 to 2021 were issued which superseded the Circular dated 12th December, 2018. The Guidelines for Valuation for the period 2020 to 2021 were themselves superseded by the 2023-2024 Guidelines. Thus, the 2023-2024 Guidelines supersede the Circular dated 12th December, 2018 which provided for the guideline for valuation of development agreement of redevelopment of MHADA buildings in the year 2019-2020. Our client submits that the reliance sought to be placed on Circular 71 is misplaced and your good office has correctly computed the market value of the Property placing its reliance on Regulation 27 of the 2023-2024 Guidelines.

(viii) Our client has allegedly not disclosed the correct area of the said Land for the purpose of computing the market value and the stamp duty:

(a) The Complainants allege that our client has incorrectly shown the area of the said Land as 12,791.08 sqm, whereas the area of the said Land is allegedly 12,984.75 sqm. This is a false allegation since the area of the Land as per both the Development Agreement and the MHADA Offer Letter is 12,791.08 sqm and is not 12,984.75 sqm. The tit-bit area comprised in the Land is 2,508.50 sqm as per the Development Agreement and Offer Letter and is not 2,838.11sqm as alleged by the Complainants.

(b) Our client states that the correct area of the said Land as per the Offer Letter has been taken into account in the Development Agreement and the Adjudication Order.

(ix) The Development Agreement was executed the same day on which the Adjudication Order was obtained which allegedly demonstrates malafide intention of the signatories to the Development Agreement:

(a) This is a completely vague allegation and does not merit any response. In any event the same cannot be adjudicated by your good office under the provisions of the Stamp Act.

(x) The Offer Letter dated 29th December, 2023 was fraudulently obtained from MHADA on the basis of bogus / fraudulent resolutions of the Society, which were allegedly not approved by the members of the Society:

(a) The Complainants have alleged that the Offer Letter was fraudulently obtained from MHADA, without the consent and/or authority of the members of the Society.

(b) This is a false, incorrect and baseless allegation by the Complainants which is denied by our client. In any event, this Hon'ble Office does not have any jurisdiction to adjudicate on any alleged grievance that the Complainants may have with respect to the MHADA Offer Letter. Such alleged grievances are outside the purview of the Stamp Act.

(xi) The Complainants have alleged that our client have allegedly suppressed 'Proforma A' allegedly disclosing a larger FSI potential of the said Land, which was allegedly circulated on a 'whats-app group' of the members of the Society:

(a) Our client submits that our client is not privy to this so-called whats-app group referred to in the Complaint by the Complainants and is not aware of what details were disclosed therein. The question of any alleged



suppression of the same by the Developer in the Development Agreement does not arise.

(b) The Adjudication Order has duly computed the market value of the Property and fixed the stamp duty on the Development Agreement, basis the MHADA Offer Letter and the consideration under the Development Agreement.

(xii) The Complainants have alleged that the alleged suppression by our client allegedly causes significant losses to the Society's entitlement in the Rehab area:

(a) This allegation of the Complainants is vague and completely incorrect. Our client states that as stated above, there is no suppression by our client as alleged or at all. The Complainants have alleged that the Society has been allegedly 'cheated' of their so called 'rightful entitlement'. Our client submits that there is no loss to the Society's entitlement to the Rehab area as alleged or at all nor has the Society been cheated of 'rightful entitlement' as alleged or at all.

(b) Our client respectfully submits that any alleged grievance that the Complainants may have in respect of alleged loss of entitlement to the Society are not within the scope of jurisdiction of this Hon'ble office and this Hon'ble Office has no power / authority under the provisions of the Stamp Act to adjudicate on the same.

(xiii) The PMC appointed by the Society is allegedly hand in gloves with the Managing Committee of the Society and our client:

(a) The Complainants allege that the PMC has in its feasibility report shown higher potential than the potential shown in the Adjudication Order. Our client submits that as per the maximum FSI permitted under the regulation 33 (5) and on the basis of the terms of the Development Agreement, the maximum FSI permissible on the Land has been taken into account while computing the market value and the stamp duty.

(b) In any event, this Hon'ble Office does not have any jurisdiction to adjudicate on any alleged grievances that the Complainants may have against the managing committee of the Society and/or our client and/or the PMC. Such alleged grievances are outside the purview of the Stamp Act.

(7) Without prejudice to what has been stated hereinabove, it is respectfully submitted that your office has no authority to send the said Notice and purport to open up or reassess the market value of the said Property and the stamp duty on the Development Agreement. Our client has paid the full stamp duty on the said Development Agreement and our client denies that any purported deficit stamp duty is liable to be paid on the Development Agreement. The allegations of the Complainants are without any basis. Without prejudice to what has been stated hereinabove, your office would no doubt be aware that since your good office has adjudicated the Development Agreement and thereafter certified payment of the full stamp duty thereon by endorsement under Section 32 of the Stamp Act, your office has become functus officio and cannot now issue the Notice and re-examine/re-assess the stamp duty already paid by our client on the Development Agreement. The Hon'ble Bombay High Court has in **Sukoon Construction Pvt. Ltd. v. The Collector of Stamps & Anr. [Writ Petition (L) No.6268 of 2022]** laid down the law on this exact subject and our client places reliance on the same.



(8) Our client also strongly and vehemently objects to the conduct of the present proceedings where the Complainants are also given an audience before this Hon'ble Office, as if the present proceedings are judicial proceedings before a Court of Law. The proceedings for alleged deficit stamp duty under the Stamp Act are a pure bilateral quasi-judicial proceeding between the officers of the Revenue Department and the assessee. No third party, leave alone a motivated complainant, can be part of such proceedings and can participate in such proceedings. Our client requests you to ensure that the Complainants are not present at the hearing of the present matter on 24th July 2024 and are not permitted to participate and are not given any right of audience. Our client trusts that this Hon'ble Office will appreciate that the participation in the present proceedings, of a total stranger and non-executing party to the instrument that is subject matter of the present proceedings, is completely alien to the provisions of the Stamp Act and this Hon'ble Office does not have any powers to permit such participation by members of the public.

(9) In the above circumstances, our client respectfully submits that the Complaint is bogus and without any merit and ought not to be entertained by your good office and to be dismissed with costs.

8. Shashikant S Amin, Anvay Bhole, Ammai Lachayya Dharap यांनी त्यांचे पत्र दिनांक 29/07/2024 (संदर्भ क्र. 9) अन्वये खालीलप्रमाणे म्हणणे सादर केलेले आहे-

(1) Sir, this clarification/ written submission is filed with reference to the questions raised by Hon'ble Collector of Stamps, Mumbai, during the hearing on 24.07.2024 at your office. The Mhada Chief Officer- MHADB an (I.A.S.) officer, also filed reply to the complaint, thereby authenticating the facts and figures disclosed in the complaint filed by us, pointing out in detailed manner the total FSI entitlement on plot of the Adarsh Nagar Shramik Co-operative Housing Society Ltd. which is situated on MHADA Adarsh Nagar Layout. The reply filed by the Mhada is on the basis of provisions of the DCPR 2034 regulations. The Hon'ble Collector, in spite of the said self-explanatory reply, raised the following questions to the complainants, and sought clarification. We are submitting the clarification based on the research made by us and which is today is approved and authenticated by Mhada Chief Officer vide his letter dt. 04.07.2024, which ought not to be ignored.

(2) At the very outset we wish to bring to the notice of the Hon'ble Collector, the circular issued by the Inspector General of Stamps, the Hon'ble Chief Controlling Revenue Authority dt. 17.12.2016 bearing no. 1187. A copy of the same is attached herewith, for ready reference. It is submitted that as per the directions issued in the circular, it is directed that "Instead of levying stamp duty by considering only the title of the document received for registration, the content/facts mentioned in the document should be examined, the type of document should be studied and the type of document should be determined after considering the guidelines applicable to the said document. As the documents submitted for registration are of various types, not all aspects are covered in the guidelines. However, after studying the document in detail, it is necessary to calculate the value of the benefits of the giver and the receiver according to the principle of assessment, according to the matters mentioned in it, who is getting the benefit and what are their obligations and liabilities. If there is any ambiguity regarding the guidelines, then the relevant office's opinion/opinion regarding such documents should be mentioned and guidance should be obtained along with necessary documentary evidence."

(3) It is submitted that we have shared documentary evidence, which substantiates that Developer by playing fraud and suppressing information, the adjudication process was taken forward without studying and examining all the clauses in detail and order came to be passed. Not only this during the process of the present hearing as well substantial developments demonstrating Developer's actions of suppressing the true potential is also brought to the notice of the Hon'ble Collector as an by way of filling rejoinder on oath, however this authority has not called upon the Developer to place the correct consideration



in form of Development Rights received by the Developer on oath to your authority for proper adjudication and has merely considered the letter filed by the advocate for the Developer.

(4) It is surprising that in spite of we as common citizens brought substantial evidence to this authority thereby pointing out evasion of the Stamp Duty in the document, thereby overlooking crucial recitals and clauses, this Hon'ble authority avoiding seeking clarification of the documents which were not disputed by the Developer in their reply filed. We reiterate and confirm our complaint which is detailed and speaks of volumes of fraud and that this authority can as per the circular dt.17.12.2016, take appropriate opinion.

(5) Firstly, according to Development Control Promotion Regulation(DCPR) Regulation 33(5), which applies to all Mhada layouts, the Floor Space Index (FSI) is calculated based on the gross plot area of the subdivided plot. This includes the area under the buildings, statutory amenities provisions, Layout Open space, and internal roads. In the case of Adarsh Nagar Layout, 63000sqm is allocated for buildings of Societies on layout, while the remaining 68000 sqm is designated for statutory amenities, open spaces, and Internal roads.

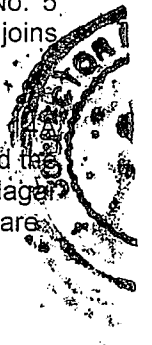
(6) If we assume that as stated by the Mhada official during the hearing on 24.07.2024, the total FSI available per tenement is 24.07 sqm, as mentioned in the Mhada layout, then 68000 sqm of land for amenities and layout space generates an FSI of 36,923.38 sqms (24.07 sqm x 1534 tenements) which is less than 1 FSI which shall be incorrect. This means that even if we consider an FSI of 1 for layout open spaces and amenities, the FSI for 68000 sqm, shall be 68000sqmts, not 36923.38sqm. As such, prorata area 24.07Sqmts doesn't consider the FSI index which is made available to the Societies as mentioned in the MHADA Reply as well that the same is separately available. The correct calculation should be 68000 sqm / 1534 tenements = 44.32 sqm which is at 1FSI only.

(7) From the aforesaid explanation, we can conclude that there is no differentiation between residential area and prorata area as defined in DCPR Regulation 2034. The only basis for calculation is the total plot area of the subdivided plot.

(8) For example, one of the subdivided plots in Adarsh Nagar is CTS No. 209, is shared by multiple tenants and not further subdivided to specify the subdivision of each tenement. According to Mhada resolution 6330, the State government of Maharashtra has taken decision regarding the disposal of lands to Housing societies on Mhada layouts. The area disposed of by Mhada to individual societies falls under the category of built-up amenities, non-buildable amenities (internal roads), and layout open spaces (LOS) as per DCPR Regulation 2034, specifically regulations 14 and 27. This rule was passed in Mhada Resolution 6260, which is also mentioned in the NOC's and Offer letters given to Building nos. 17, 41, and Adarsh Nagar Shramik Society Ltd of Adarsh Nagar Layout. As per DCPR 2034, FSI is available on the gross plot, which is further confirmed by Mhada Resolution 6422. A copy of the same is attached herewith, for ready reference. Based on these regulations, the Housing societies on Mhada layouts are entitled to the FSI prescribed under regulation 33(5) on the sublease plots and the land allotted to them by Mhada, as per the Government Resolutions mentioned above.

(9) The Adarsh Nagar Shramik Co-operative Housing Society Ltd. plot is situated on CTS No. 209, which adjoins Narayana Haldikar Road, with a width greater than 30.5 meters. As per regulation 30, the FSI for Adarsh Nagar Shramik Co-operative Housing Society Ltd. and amenities on layout open spaces and roads on CTS No. 209 (33)5 (1) para (2) is $3 + 1 = 4$. Similarly, the rest of the amenities in the Adarsh Nagar layout, located on CTS No. 5, Mahim division, which is not further subdivided, also have an FSI of 4 as this plot adjoins Annie Besant Road, which has a width greater than 30 meters.

(10) By comprehensively considering regulations 33(5), Regulation 30 note 2, DCPR (c), 14A (d), along with Mhada resolutions 5998, 6260, 6330, 6422 (subdivided plot), and the State Government of Maharashtra's policy decision, all 21 societies on Adarsh Nagar Layout, including present Adarsh Nagar Shramik Co-operative Housing Society Ltd., are



entitled to an FSI of 4 on the land under their buildings and their shareholding, as well as the land allotted to them as statutory amenities and open spaces on the Adarsh Nagar Mhada Layout. These points are further elaborated in detail in the complaint filed by us. The Questions raised to us are as follows:-

(i) The Hon'ble Collector sought clarification as to What is Prorata area ?, What is prorata FSI?, Whether Mhada is a Government and that whether their internal resolutions / decision are to be taken as law and binding on the Hon'ble Collector to take and consider the same in adjudication of the Development Agreement, Whether their reply filed in the matter should be taken as law and final potential has to be adjudicated and on what basis and/or DCPR regulation is Prorata area issued by MHADA. The Collector also sought a clarification that how Prorata area of a Layout is entitled to an FSI index multiplying factor and under which DCPR regulation, the potential working is made applicable.

Response :- With reference to the aforesaid question, we have already addressed it in detail from point no 1 to 10. Additionally, we would like to emphasize that MHADA is a public body established under the Mhada Act 1976. Resolutions passed by MHADA serve as policy decisions based on the Development Control and Promotion Regulations for Greater Mumbai 2034. In the present complaint, we have relied on resolution 5998 r/w 6260 read with 6330. It is important to note that MHADA resolution 6260, which is incorporated in all offer letters issued by MHADA, has been duly approved by the Hon'ble State Government through Government's letter no. Allotment 1107/P.No. 324/Grinibhu, resolution 6330. **A mentioned in as copy the of MHADA resolution demonstrating the same is attached herewith, for ready reference.**

During the hearing, the Hon'ble Collector sought the written opinion of MHADA Official, which will assist in re- adjudication and determining the Correct Stamp Duty Payable. Based on MHADA's reply, it is evident that the Prorata Area is entitled to the FSI index, as supported by the plans submitted with our Complaint. MHADA's reply filed on 4th July 2024 provides a comprehensive explanation of the factors related to the FSI generated on MHADA layouts, considering the approval given by State Government. In light of MHADA's reply and the circular dated 16.12.2017 issued by the Chief Controlling Authority, this Hon'ble Authority should consider the reply submitted by MHADA and accordingly value the (present and future) prorata area secured by the Developer, as well as the Fungible area made available mentioned in clauses recitals 3a and 4a of the Development Agreement, which was not valued in the earlier adjudication process.

(ii) The Hon'ble Collector raised a Question that whether the plans whichever submitted by the Developer to the Mhada or the Chief Fire Officer For NoC are approved by any of the Planning Authority? Whether it is binding on the Hon'ble Collector to consider the plans and documents produced by complainants in the adjudication process of the Development Agreement.

Response: For any project on Mhada's layout, Mhada serves as Planning Authority. However, certain provisions related to Development are still under the governance of Municipal Corporation of Greater Bombay (MCGM) as a Planning Authority. These provisions include Traffic permission, Environment Permission, Estate Permission, Fire Department permission, Sewage Department permission, and several others that fall under MCGM's Jurisdiction. Therefore, Mhada is not the final authority for Fire Permission, and the question of whether Mhada or Chief Fire Officer has approved the plans is irrelevant consideration to the Adjudication of Stamp Duty on the Development Agreement.



There is no correlation between the CFO (Chief Fire Officer) approval and Mhada's approval of plans. Both are independent planning authorities, and the permissions granted by them do not have any interdependency as per the policy guidelines defined by both authorities. If there was such a requirement, the CFO would have asked for an NOC (No Objection Certificate) from Mhada before approving the CFO plan. However, this is not a prerequisite. The authorities only require information about the proposed plan regarding the height of the building area, proposed area statement, width of roads, and building plan in order to grant approval for the Chief Fire Officer NOC. The question raised by the Collector in the meeting actually questions the validity of the CFO approval where the Developer for seeking approval has paid substantial sum of Rupees 3 crore 30 lakhs as scrutiny fees. There are no defined procedural guidelines in the Development Control Regulations, Model Building Byelaws, or any provision of the MRTP (Maharashtra Regional and Town Planning) Act governing both Mhada and BMC (Brihanmumbai Municipal Corporation). These guidelines do not state that a CFO NOC needs to be approved by Mhada before it is considered a valid document for the Developer's Permission. The CFO plan is the most important proof that the concept of prorata area FSI (Floor Space Index) secured by the Developer exists in the present case, which was being utilized, however, suppressed from the Collector of Stamps, Mumbai. Instead of raising this question to the Developer seeking clarification, the Hon'ble Collector asking the complainant about the validity of the information, the questions are raised to the Complainants. This can be answered by the Developer only as to why he did not disclose this Area Statement for which he paid substantial scrutiny fees in Stamp Duty affidavit filed. It is important to note that under the guidelines issued by the IGR, it explicitly directs that the profitability secured in the document should be examined and valued accordingly. The focus of this Authority is solely on valuing the document based on the maximum extent of benefits secured. Underutilization of the FSI is not relevant or to be considered by this Hon'ble Authority.

Moreover, it is evident from the plans submitted by the Developer that there was suppression of the extent of the FSI secured in Development Agreement, which should have been valued but was not considered as per the Circular.

(iii) The Hon'ble Collector raised a question that the reduced ASR value of the land taken for calculation of market valuation of the FSI of the Developer share in the adjudication sheet, applying guideline 17 was correct according to him and that the instances proof shared by us of another Development agreement on the Mhada layouts done by other Adjudicating offices in suburbs were not binding or guiding factor for him and called upon to clarify on the same.

Response :- The Application of Guideline No. 17 by your office, which is in respect of the valuation of the Open land valuation is not the issue in present case and that the case at hand involves the valuation of the Development Rights secured in the document through the valuation of the FSI share secured. Therefore, the valuation of the FSI secured at 85% ASR Value of Land is incorrect, and instead, the FSI should be valued at the complete 100%ASR Land value, as seen in another case involving an MHADA Layout in Bandra Reclamation project which adjudication order is produced for the reference in the rejoinder filed. Further in the present case, it is to be seen from the registered document that the Assistant Town Planner, had also applied as ASR Value @100%, however, latter on made hand corrections to the Document, to balance the Society Consideration to be shown higher and Stamp Duty be charged on the said consideration. It is important to note that if the Hon'ble Chief Controlling Revenue Authority (CCRA) intended such application of valuation, as mentioned in your guidelines, it would have been reflected in the special circular issued for MHADA plots guidelines. However, this is not the case in the present instance. An example from the Bandra Reclamation project adjudication Order demonstrates that for a plot measuring 1600 sqm, the Assistant Town Planner thereon did not follow the 95% ASR value stipulated in guideline No. 17, but rather

considered the complete 100% ASR Land value as the said office was aware that the said guideline is not applicable to the MHADA plots as in the said Case we need to value FSI, where the market rate of FSI would be much higher. As a result of not considering the ASR 100% value for the valuation of the Developer Share of the FSI, Stamp Duty has been reduced significantly. This reduction in Stamp Duty will only benefit Developer and result in a loss of Stamp Duty Revenue for the exchequer amounting to minimum of (2) two Crore Rupees. Therefore, it is crucial to consider this aspect before presenting the final report in the case.

(iv) The Hon'ble Collector raised the question that even if the Prorata Area FSI is reserved by the Developer in the Development Agreement by way of clauses 3a and 4a in the Development Agreement in question, whether he has to value the said clauses ? and that the said Prorata FSI is purchased by the Developer by paying premium to MHADA and that the same will have to be considered to be deducted from value in case if collector takes decision to value and take into consideration, applying the IGR guidelines Marathi translation in English as published and provided in the book published by the Stamp Duty Ready reckoner.

Response: In relation to the aforementioned question, it is important to note that the Developer purchases the entire FSI made available in the Development agreement, which includes the gross plot FSI and the Prorata FSI and fungible FSI. This purchase is made at a discounted premium rate of 50% of the ASR Land value. According to the DCPR regulations, the FSI is issued only upon payment of the premium to the Developers by the Planning Authority. **If we consider the Analogy that the Developer pays for the premium and that this payment should be deducted from the valuation, it will result in no revenue being generated for the State Government.** This is because the gross plot FSI and the fungible FSI are valued at 100% of the ASR value, and then the payment made to the authorities, which is issued at either 50% or 100% of the ASR Land value, is deducted. This would **leave no** amount for the authority to charge the Stamp Duty. It is important to note that the circular provides guidance on valuation considerations to determine which receipts secure the maximum value for either party involved in the transaction, and charges are applied accordingly. In this regard, Circular No. 71, though old one is the correct guidance for valuing the share secured by the Developer and the share constructed for the societies, as well as the receipts obtained. The circular specifically addresses the payment of the premium for the fungible FSI and states that it should be considered in relation to the consideration of the society's share, taking into account the Developer's expenses in procuring the cost of the FSI. Further the Marathi Translation in English of guideline No 27 in the Published Ready Reckoner Book is incorrect and that the Authority can very well compare the same with Marathi version. The valuation of Clauses 3a and 4a of the Development Agreement, which reserve the present and future prorata Area FSI per tenement and fungible FSI, should be conducted as they were not previously valued due to suppression by false declaration, though the said clause in the original record of the office has been duly underlined by the Assistant Town Planner of this Office, however, for the reasons best known to his, he has not valued the same.

(11) In the circumstances above, from the questions raised by the Hon'ble Collector in the last meeting, he has questioned whether Mhada is the approving authority for prorata distribution to the society. He has also asked whether the CFO Plan, approved by BMC, was also approved by Mhada. Both of these points are contradictory to each other, and it is unclear from the Hon'ble Collector's own questions why such concerns are raised with the Complainants, when the complainants have pointed out the complaint about evasion to save the exchequer from the loss of the substantial revenue.



- (12) It is submitted that Non-disclosure of the information of present and future prorata area as mentioned in the CFO plan has resulted in loss to exchequer of the revenue of the Stamp Duty to the tune of approximately 85 Crore Rupees.
- (13) We summarize that not considering, based on the current submissions made by us stating non-disclosure, has occasioned substantial loss to the exchequer as stated aforesaid. Without considering the current non-disclosures of the Prorata area mentioned in CFO plan in the Stamp Duty adjudication the and all points mentioned hereinabove, the loss to the State exchequer totals to Rs 100 crores approximately. Further concluding and giving the final decision on the Complaint before, without insisting the future potential prorata available for the project based on the revision of the Mhada layout, considering the above regulations mentioned herein will further result in saving of the Stamp Duty to the Developer and loss to the exchequer as stated above.
- (14) We have already given an instance of the Bandra reclamation project, where similar Non-Disclosure has taken place, which has already resulted in a huge loss to the exchequer. Ignoring this Complaint and giving a ruling in favor of the Developer will not only cause a substantial loss to the exchequer in this project but also in all future projects on Mhada layouts.
- (15) Hope the aforementioned clarifications will be helpful in taking the correct decision in the matter.
9. मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू.), मुंबई, आदर्श नगर श्रमिक को-ऑपरेटिव्ह हाऊसिंग सोसायटी लि., Oberoi Realty Limited यांच्या तर्फे Wadia Ghandy & CO, Advocates & Solicitors आणि Shashikant S Amin, Anvay Bhole, Ammai Lachayya Dharap यांचे लेखी म्हणणे, आणि महाराष्ट्र मुद्रांक अधिनियमातील तरतुदी विचारात घेता तक्रारीबाबत (संदर्भ क्र. 1 अन्वये प्राप्त तक्रार) मुददे निहाय अहवाल खालीलप्रमाणे सादर करण्यात येत आहे-

मुददा क्र. 1

(1) The present Complaint brings to your notice the deliberate suppression of the correct and entire available total potential of the land including the standard Floor Space Index (FSI) generated on the MHADA plot/lands during redevelopment undertaken by the Developers under the DCPR 33(5) in consideration thereto. Not only the Developers hand in gloves with the PMC appointed by the society and managing committee members, cheat the members of Cooperative Housing Societies by suppressing their rightful entitlement, but they also evaded Stamp Duty by concealing the actual additional potential prorata FSI available to them beyond the FSI on the plot of land generated on the basis of DCPR Regulation 33(5). Specifically, the Developers suppress additional potential FSI related to the Prorata layout FSI generated on MHADA land, as per MHADA Circulars 5998 r/w 6260, r/w 6615. This is goes unnoticed, in spite of there being clauses in the Development Agreement mentioning this additional Prorata Layout FSI being reserved by the Developers as a consideration, it remains unnoticed and unaccounted for by the concerned Collector of Stamps adjudicating the Development Agreement under submitted to him under section 31 of the Bombay Stamp Act, which obligates the concerned officer of the Government to have the document perused and prepare his valuation accordingly as to the considerations exchanged and received by the parties in the document submitted for adjudication. This suppression not only causes significant loss to the entitlement of society members in the Rehab area, but also results in substantial revenue loss to the State Government, effectively defrauding the State Government and Developer entitling to unlawful gains which are unaccounted for with the assistance of the adjudicating officer, not considering the said clauses of Prorata Layout mentioned in the Development Agreement.



या कार्यालयाचा अभिप्राय / अहवाल

(1) सन 2022-23 (2024-2025 साठी कायम) च्या वार्षिक बाजारमूल्य तक्त्यातील सर्वसाधारण मार्गदर्शक सूचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 मध्ये म्हाडा इमारतींचा पुनर्विकास प्रकल्प विकसन करारनामा अभिनिर्णय प्रकरणी मूल्यांकन करण्याच्या दिलेल्या तरतुदीनुसार मूल्यांकन केले आहे.

(अ) दिनांक 14/08/2015 रोजीच्या परिपत्रकामध्ये खालीलप्रमाणे नमुद केले आहे-

परिपत्रकातील मुद्दा क्र. 2. विकसन करारनामा दस्ताचे मुल्यांकनामध्ये मालकास (सोसायटी) जो प्रत्यक्ष / अप्रत्यक्ष मोबदला विकासकाकडून प्राप्त झाला ती रक्कम अथवा विकासकास त्या बदल्यात उपलब्ध होणा-या बांधकाम क्षेत्राचे जमीन दराने होणारे मूल्य यापैकी अधिकची रक्कम मुद्रांक शुल्क आकारणीसाठी बाजारमूल्य म्हणून विचारात घेणे आवश्यक आहे. म्हाडा इमारतीच्या पुनर्विकास प्रस्तावामध्ये म्हाडाकडे प्रिमीयम भरल्यानंतर अतिरिक्त चटई क्षेत्र उपलब्ध होणार असल्याने सदर अतिरिक्त चटई क्षेत्रापैकी काही बांधकाम क्षेत्र सादर कराराद्वारे सोसायटीस देण्याचे च उर्वरित बांधकाम क्षेत्र विकासकाने वापरण्याचे प्रस्तावित असते. अशा प्रकारच्या दस्तामध्ये सोसायटीस मिळणा-या मोबदला रक्कमेची परिगणना करताना अतिरिक्त चटई क्षेत्राच्या प्रिमीयमच्या रकमेपैकी सोसायटीस मिळणा-या मोबदला रक्कमेमध्ये समाविष्ट करणे आवश्यक आहे.

परिपत्रकातील मुद्दा क्र. 3. अशा प्रकरणी सोसायटीस मिळणा-या अतिरिक्त बांधकाम क्षेत्राचे हिश्याची प्रिमीयमची रक्कम सोसायटीस मिळणा-या मोबदल्यामध्ये समाविष्ट करावी.

सदर बाब खालील उदाहरणामध्ये स्पष्ट केली आहे-

- (i) भूखंडाचे क्षेत्र (चौ. मी.) = A
- (ii) मूळ अनुज्ञेय च. क्षे. नि. नुसार बांधकाम क्षेत्र (चौ. मी.) = B
- (iii) प्रिमीयम भरून उपलब्ध होणारे अतिरिक्त बांधकाम क्षेत्र (चौ. मी.) = C
- (iv) सोसायटीस मूळ अनुज्ञेय च. क्षे. नि. नुसार मिळणा-या बांधकाम क्षेत्राव्यतिरिक्त च. क्षे. नि. पैकी मिळणारे बांधकाम क्षेत्र (चौ. मी.) = D
- (v) एकुण प्रिमीयमची रक्कम = E
- (vi) सोसायटीस मिळणा-या अतिरिक्त बांधकाम क्षेत्र हिश्याची प्रिमीयमची रक्कम $(E / C) \times D$

त्याप्रमाणे विकासकाचे लाभात, त्यास प्राप्त होणा-या चटई क्षेत्राच्या मूल्याची परिगणना करताना म्हाडास भराच्या लागणा-या विकासकाचे प्रिमीयमचे हिस्स्याची रक्कम वजावट करावी.



(ब) दिनांक 12/11/2018 च्या परिपत्रकामध्ये खालीलप्रमाणे नमुद केले आहे-

मुंबई शहरासाठीची सुधारित विकास नियंत्रण नियमावली शासनाने मंजूर केली असून ती, दिनांक 13/11/2018 पासून अंमलात येणार आहे.

सादर नियमावलीतील नियम क्र. 33(5) मधील सुधारित तरतुदीनुसार म्हाडा इमारतीचा पुनर्विकास प्रकल्प विकसन करारनामा दस्त नोंदणी/अभिनिर्णय प्रकणी खालीलप्रमाणे मुल्यांकन करण्यात यावे-

(अ) गृहनिर्माण संस्था / सभासद यांना मिळणा-या पुनर्वसन बांधकाम क्षेत्राचे (फंजीबल चटई क्षेत्रासह) नवीन बांधकाम दराने येणारे मूल्य + रोख मोबदला + इतर स्वरूपाचा मोबदला (भाडे, कॉर्पस फंड इ.) + म्हाडास बांधून हस्तांतरीत करावयाचे क्षेत्राचे नवीन बांधकाम दराने येणारे मूल्य + पायाभूत सुविधा मूल्य + प्रिमीयम मुक्त फंजीबल चटई क्षेत्रा व्यतिरिक्त वापरण्यात येणारे फंजीबल क्षेत्राचे प्रिमीयम मूल्य.

(ब) विकासक यांना मिळणारे बांधकाम / चटई क्षेत्राचे जमीन दराने येणारे मूल्य उपरोक्त (अ) व (ब) पैकी जास्तीचे मूल्य विचारात घेऊन त्यावर मुद्रांक शुल्क आकारणी करावी.

टिप-

(i) विकास नियंत्रण नियम क्र. 33(5) नुसार भुखंड क्षेत्र व रस्त्याचे रुंदीवर आधारित अनुज्ञेय क्षेत्र निर्देशांक, पुनर्वसन क्षेत्र अनुज्ञेयता (मूळ व अतिरिक्त), प्रोत्साहनात्मक चटई क्षेत्र निर्देशांक, उर्वरित चटई क्षेत्र निर्देशांकाची विभागणी इ. बाबी तसेच नियम क्र. 31(3) नुसार अनुज्ञेय फंजीबल चटई क्षेत्र निर्देशांक, या तरतुदी विचारात घेऊन पुनर्वसन बांधकाम क्षेत्र व विकासक यांना मिळणारे बांधकाम क्षेत्र / चटई क्षेत्राचे मूल्य परिगणित करावे.

(ii) फंजीबल FSI प्रिमीयम मूल्यासाठी विकासक यांना मिळणारे बांधकाम क्षेत्र / चटई क्षेत्रासाठी भरावी लागणारी प्रिमीयम रक्कम विचारात घ्यावी.

(2) म्हाडा प्राधिकरणाने सुनावणी दरम्यान दिनांक 29/12/2023 रोजीचे Offer Letter सादर केले आहे. प्रकरणाधीन दस्त हा या कार्यालयात दिनांक 30/04/2024 रोजी अभिनिर्णयासाठी सादर करण्यात आलेला होता. दस्तातील मुददा क्र. 5(a)(ii) मध्ये नमुद केले आहे की, Offer Letter from MHADA for the redevelopment and development of the Project by the Developer and for consumption of the Project FSI. म्हणजेच विकासकाने Offer Letter म्हाडा प्राधिकरणाकडून घेणे अभिप्रेत आहे. त्यामुळे म्हाडा प्राधिकरणाकडून Offer Letter घेऊन विकासक व सहकारी संस्था यांनी पुरवणी विकसन करारनामा अभिनिर्णयासाठी सादर करणे अभिप्रेत आहे. दिनांक 29/12/2023 रोजीचे Offer Letter दस्ताचा भाग करण्यात आलेला नाही किंवा Offer Letter घेतल्याचे नमुद नाही. त्यामुळे सर्वसाधारण मार्गदर्शक सूचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व लागू आहे.



(3) सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 2

(2) The present complaint is brought to your notice in respect of one of the Development Agreement, executed by Developer Oberoi Realty Ltd, of the Complainant society, which will demonstrate aforesaid fact in detail, which the present complainants requesting the Hon'ble Authority to take cognizance of said issue brought to the notice and take immediate action on the said document mentioned referred to above registered with Sub Registrar of Assurances Worli 5 Mumbai and further to take further take appropriate actions to prevent such losses in future in other documents coming before the authority. The fact giving rise to the filing of the present complaint is as follows:-

या कार्यालयाचा अभिप्राय / अहवाल

सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब महसुलाची हानी झालेली नाही.

मुददा क्र. 3

(3) It is submitted that already the undersigned members have filed a detailed criminal complaint with the Economic Offences Wing Mumbai against the Managing Committee members of the Society, consisting of 17 individuals, Project Management Consultant (PMC) partners Mr. Nikhil Dixit and Mr. Vilas Vasant Dixit, Developer representative Mr. Pravin Mahadik and Mr. Arunkumar Kotian the authorized signatory and the MHADA officials involved, who stand accused of engaging in cheating, misrepresentation, and forgery, along with preparing and producing false, bogus and fabricated resolutions concerning the Society's governance in Redevelopment process. These actions were allegedly undertaken to illicitly progress the redevelopment project of Building Nos. 33-39, Adarsh Nagar Shramik Co-operative Housing Society Ltd., while failing to maintain transparency with the Society's members and disregarding the due process of law as required. It is further submitted that the Society's property was illicitly negotiated with the Developer by understating the true total Floor Space Index (FSI) potential of the land generated along with the Prorata FSI generated by way of the MHADA Resolutions which are applicable in the present case. This purportedly occurred through collusion with the Developer, his representatives, officials from the Maharashtra Housing and Area Development Authority (MHADA), PMC and along with managing committee of society, thereby defrauding the Society's members of their correct legitimate entitlement of the newly constructed flat premises. The said complaint is pending investigation with the Economic offences wing Mumbai and that the present complaint is filed in addition to the said complaint in respect of the cheating caused to the complainants and members and that neither it should be construed that by considering the present complaint, the complainants have waived all their rights and remedies which the Complainants have in law in respect of the illegal Development Agreement dt. 06.05.2024 executed between the Adarsh Nagar Shramik Co-operative Housing Society Ltd and Oberoi Realty Ltd.



या कार्यालयाचा अभिप्राय / अहवाल

(1) आर्थिक गून्हे शाखाकडे केलेली तक्रार ही या कार्यालयाच्या अखत्यारीत येत नाही. त्यामुळे सदर बाबीवर अभिप्राय/अहवाल देणे अभिप्रेत नाही.

(2) मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू.), मुंबई यांचे कार्यालयाचे पत्र क्र. मु. का. अ./मुं.मं./1520/2024 दिनांक 04/07/2024 (संदर्भ क्र. 4) मध्ये 12131.28 चौ. मी. इतके प्रोटाटा बांधकाम क्षेत्राचे देकारपत्र दिल्याचे नमुद केले आहे. सदर देकार पत्रात एकुण 50504.52 चौ. मी. इतके अनुज्ञेय चटई क्षेत्र निर्देशांक नमुद केले आहे. या कार्यालयाने मुल्यांकन करताना मुंबई महानगरपालिका विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार एकुण 4 चटई क्षेत्र निर्देशांक विचारात घेऊन 69071.40 चौ. मी. बांधीव इतके चटई निर्देशांक विचारात घेऊन मुल्यांकन केले आहे. त्यामुळे या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

(3) दस्तातील विवेचन हे दस्त निष्पादकावर अवलंबून असते. त्यामुळे दस्तात नमुद केलेल्या विवेचनानुसार मुल्यांकन केलेले आहे ते योग्य व बरोबर आहे. सदर विवेचन हे महाराष्ट्र मुद्रांक अधिनियमचे कलम 28 नुसार विचारात घेण्यात आलेले आहे. महाराष्ट्र मुद्रांक अधिनियमचे कलम 28 मध्ये खालील बाब नमुद करण्यात आलेली आहे-

कलम 28. शुल्कावर परिणाम होणारी तथ्ये संलेखात मांडणे

कोणत्याही संलेखाच्या शुल्क आकारणीयतेवर किंवा त्यास आकारण्यायोग्य संलेख शुल्काच्या त्या रकमेवर त्याचा परिणाम होईल असे प्रतिफल (कोणतेही असल्यास) बाजारमुल्य आणि इतर सर्व तथ्ये व परिस्थिती या बाबी, त्या संलेखात संपूर्णपणे सत्यपणे मांडण्यात येतील.

त्यामुळे दस्तात नमुद केलेल्या विवेचनानुसार केलेले मुल्यांकन व आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 4

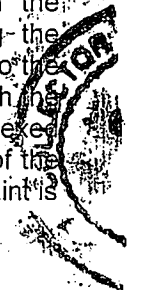
(4) It is submitted that after submitting aforesaid criminal complaint with Economic Offences Wing (EOW) Mumbai, the Complainants obtained the aforesaid executed Development Agreement Copy from the website of IGR <https://esearchigr.maharashtra.gov.in/>.

या कार्यालयाचा अभिप्राय / अहवाल

आर्थिक गून्हे शाखाकडे केलेली तक्रार ही या कार्यालयाच्या अखत्यारीत येत नाही. त्यामुळे सदर बाबीवर या कार्यालयाने अभिप्राय/अहवाल देणे अभिप्रेत नाही.

मुददा क्र. 5

(5) It is submitted that on perusal of the said executed Development Agreement, various suppressions made by the Developer Oberoi Realty Ltd. came to the notice of the undersigned, which were suppressed from the adjudicating authorities while filing the unexecuted document for adjudication under file ADJ No. 194 of 2024 in comparison to the true annexures of the Development Agreement which were circulated and informed with the members of the society which were able to be seen from the order of adjudication annexed to the Development Agreement. The complainants have applied for the entire record of the ADJ file, however, the same has not been received by us., however, the present complaint is



being filed by us, based on the online copy of the development Agreement and the other evidence that the Complainants have obtained from the authorities, where the Developer has made the applications.

या कार्यालयाचा अभिप्राय / अहवाल

पक्षकार यांनी सादर केलेली कागदपत्रे आणि मुंबई महानगरपालिका विकास नियंत्रण नियमावली 2034 नुसार अनुज्ञेय चटई क्षेत्र निर्देशांक (4.00) विचारात घेऊन या कार्यालयाने मुल्यांकन केलेले आहे. त्यामुळे दस्तात नमुद केलेल्या विवेचनानुसार केलेले मुल्यांकन व आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 6

(6) Sir, as stated above, we are the bonafide members of Adarsh Nagar Shramik Co-Operative Housing Society Limited, a Co-Operative Housing Society incorporated and registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 under Registration No. BOM(W-G/SOUTH) HSG (OH) / 3512/1988 having its registered office at Welfare Centre, Adarsh Nagar, Worli, Mumbai 400030, hereinafter referred to as "the Society".

या कार्यालयाचा अभिप्राय / अहवाल

सादर बाब ही सहकारी संस्थेशी निगडीत असल्याने या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 7

(7) It is submitted that by a Deed of Sub-Lease dated 26th March, 2007 registered with the Office of the Sub-Registrar of Assurances under Serial No.3328 of 2007 ("said MHADA Sub Lease"), MHADA sub- demised the said Land admeasuring 10,282.58 square meters that was underneath and appurtenant to the Old Residential Buildings for a term of 90 years with effect from 1st April, 1980 on the terms and conditions mentioned therein and that further by a Deed of Sale dated 26th March, 2008 registered with the Office of the Sub-Registrar of Assurances under Serial No. 3401 of 2008, MHADA conveyed and sold the Old Residential Buildings to the Society ("MHADA Sale Deed") for the consideration as mentioned therein.

या कार्यालयाचा अभिप्राय / अहवाल

सादर बाब ही सहकारी संस्था आणि म्हाडा प्राधिकरण यांच्याशी निगडीत असल्याने या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 8

(8) It is submitted that Old Residential Buildings are more than 70 years old, though, barring Building no. 38, which did not go into extensive repairs, rest all the other buildings, did undergo repairs and are stable. The Members of the Society felt that considering conveyance of the Buildings are done from the MHADA, the Society members, felt that the said entire property could be duly redeveloped with the consent of MHADA, MCGM and other authorities as permissible under the provisions of the Development Control and Promotion Regulations for Greater Mumbai, 2034 ("DCPR") and also all other applicable provisions of law, rules, regulations, byelaws and schemes of Government, MHADA, MCGM, SRA and other concerned authorities including under Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act"), by appointing a highly competent and skilled Developer with considerable experience in developing real estate projects in Mumbai City by sharing of



the Floor Space Index Potential of the land with the Developer for the newly redeveloped flats for the members. It is submitted that the said negotiations with the Developer are in form of a barter system, whereby the society shares our total FSI potential in a sharing ratio with the Developer so as to secure the members with higher carpet area flats along with the other benefits needed in the newly redeveloped flats.

या कार्यालयाचा अभिप्राय / अहवाल

सदर बाब ही सहकारी संस्था आणि विकासक यांच्याशी निगडित असल्याने या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 9

(9) It is submitted that accordingly to proceed with the said aspect of redevelopment project of Society, for proper guidance, Society managing committee had appointed M/s. Shilp Associates as its project management consultant ("Society PMC") in its General Body meeting dt. 09.08.2015, to advise the Society during the course of the redevelopment of the said property and accordingly a letter of appointment came to be issued to M/s. Shilp Associates as its project management consultant which was duly accepted by the said firm. It is submitted that during the course the said PMC, hand in gloves with the managing committee and Developer, underrepresented the members the correct total potential of the land generated on the land of the society available including the Tit bit area that is made available to the society as per the MHADA circular. The PMC submitted the feasibility report to the members, whereby the potential of the land was shown as 84964.36 Sqmts inclusive of the prorata Layout FSI generated on the said MHADA plot considering the prorata area of 30 Sqmts per tenement. It is to be submitted that Redevelopment of the society is to be done under DCPR regulation 33(5). Hereto annexed and marked as Exhibit- "A" is the copy of the Feasibility Report of the Society.

या कार्यालयाचा अभिप्राय / अहवाल

सदर बाब ही सहकारी संस्था, सहकारी संस्थेची नियुक्त समिती, विकासक आणि म्हाडा प्राधिकरण यांच्याशी निगडित असल्याने या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 10

(10) It is submitted that during the course of the redevelopment process, various illegalities came to be systematically executed by the aforesaid managing committee of society and PMC along with the Developer and his representatives for which as stated above we are constrained to file the criminal complaint with the Economic Offences wing Mumbai. It is submitted that the said PMC was not qualified to act as the PMC of the society as the Developer was his client and that the same was seen from the website of the PMC, which the complainants latter on found out. Hereto annexed and marked as Exhibit- "B" is the Copy of the online website client profile. The PMC was time and again protecting the interest of the Developer only and never disclosed the real potential of the land to the members so as to negotiate the correct legitimate entitlement of the members. The Complainants state that they have filed a complaint for professional misconduct with the Council of Architecture at Delhi for the aforesaid Professional Misconduct and that the same is pending for hearing. In the course of illegality, on the strength of the forged and fabricated documents and fabricated resolutions, the said PMC to assist the developer to secure all the gains in the project, prepared and produced plans of the newly constructed sale and rehab buildings. Hereto annexed and marked as Exhibit- "C" is the Copy of the said plans plot area FSI/ total built up area statement proforma of plans submitted with MHADA.



या कार्यालयाचा अभिप्राय / अहवाल

सदर बाब ही सहकारी संस्था, सहकारी संस्थेची नियुक्त समिती आणि विकासक यांच्याशी निगडित असल्याने या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुद्दा क्र. 11

(11) The said PMC acting on behalf of the society without there being a Development Agreement, obtained an Offer letter from the MHADA dt.23.12.2023. The said offer letter was obtained on the strength of the bogus resolutions, which were never approved by the General Body anytime. In fact, it should be noted that the Development Agreement was not entered into with the Developer by then. Hereto annexed and marked as Exhibit- "D" is the Copy of the Mhada Offer letter dt. 23.12.2023. That it is to be noted that MHADA has the facility of applying for FSI on the given plot in installment basis as and when necessary and that as such the said offer letter was applied presently for 3 FSI, however, it is to be noted that in the said offer letter, the Mhada has made available layout prorata FSI at a present prorata area of 24.07 for 504 members, which is provided at a very discounted price to the Society/Developer, which is a form of consideration that the Developer considers in the negotiations, which was deliberately concealed from the members as well when negotiating hand in gloves with the PMC. That it is to be noted that the said entitlement is of the society members, who are on the said Mhada layout which the society members in a barter mode of system, get their rehab newly constructed area. This prorata FSI has gone unaccounted in the present adjudication process, and it is stated that in almost all the redevelopment projects in Mumbai on Mhada Layouts, thereby causing huge revenue loss of Stamp Duty to the State Government.

या कार्यालयाचा अभिप्राय / अहवाल

सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही.

मुद्दा क्र. 12

(12) The said PMC, on behalf of the Developer, also submitted the proposal to the MCGM authorities' online proposal for Chief Fire officer NOC along with proposed building plans and other requisite documents and undertakings for CFO remarks and approval of the same. The said plans demonstrate total FSI generated and utilized for the Rehab portion and Sale Buildings along with Scrutiny fees paid. Hereto annexed and marked as Exhibit- "E" is the Copy of the some of the documents submitted to the MCGM CFO along with the payment receipts made to MCGM showing total built up area being built. That it should be seen that the said PMC of the Society as stated hereinabove, has given an area certificate on his letter head which is to the tune of 2,81,455.14 Sq. mts. This area if valued by the adjudicating officer while valuing the document, will demonstrate that in comparison to the value passed to the members, the consideration received by the Developer in the deal is more and that the Stamp duty ought to have been charged on the said value of the potential FSI being made available to the Developer.



या कार्यालयाचा अभिप्राय / अहवाल

(1) मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू.), मुंबई यांचे कार्यालयाचे पत्र क्र. मु. का. अ./मुं.मं./1520/2024 दिनांक 04/07/2024 (संदर्भ क्र. 4) मध्ये 50504.42 चौ. मी. इतके चटई क्षेत्र निर्देशांकाचे देकारपत्र दिल्याचे नमुद केले आहे. परंतु तक्रारदार 281455.14 चौ. मी. इतके चटई क्षेत्र मिळणार असे नमुद केले आहे. सदर मिळकतीचे नियोजन प्राधिकरण हे म्हाडा असल्याने सदर बाब ही म्हाडा प्राधिकरणाच्या अखत्यारीत असल्याने 281455.14 चौ. मी. इतके चटई क्षेत्र, अनुज्ञेय होणार किंवा कसे यावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(2) पक्षकार यांनी सादर केलेली कागदपत्रे आणि मुंबई महानगरपालिका विकास नियंत्रण नियमावली 2034 नुसार अनुज्ञेय चटई क्षेत्र निर्देशांक (4.00) विचारात घेऊन या कार्यालयाने 69071.40 चौ. मी. इतके चटई क्षेत्र निर्देशांक परिगणित करून मुल्यांकन केलेले आहे. त्यामुळे दस्तात नमुद केलेल्या विवेचनानुसार केलेले मुल्यांकन व आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 13

(13) That when the Development Agreement came to be circulated to the members of the society for discussions, the members were circulated with a proforma A along with other Annexures of the Development Agreement. The said document was circulated to all the members physically as well as by soft copy to members of Society on what's app. We are herewith submitting the proof of the same whereby one of the managing committee member Advocate Shri Sahadev Bhoga forwarded the same to the members of the society on what's app group named "Adarsh Nagar 33-39 Bldg." consisting of some members of the society, which demonstrates the said proforma was circulated and shown as the annexure in the Development agreement to the members. It is however, submitted that when we see final executed Development Agreement executed, the same is not seen as annexure and it appears that the same is deliberately suppressed and removed with the intention to suppress the said document, which discloses a more potential area than the area considered in the present for adjudication with the deliberate intention to evade the payment of Stamp Duty to the Government by the officials. Hereto annexed and marked as Exhibit-"F" is the Copy of the Proforma A and what's app communication forwarding the same. That it is to be seen that the said table shall show how the prorata has been mentioned as 45 Sq. mts and the area of FSI it generates and the 35% fungible FSI thereon.

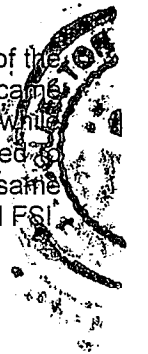
या कार्यालयाचा अभिप्राय / अहवाल

(1) दस्तात नमुद केलेले विवेचनानुसार या कार्यालयाने केलेले मुल्यांकन योग्य व बरोबर आहे.

(2) Whatsapp Group वर प्रसारित केलेली कागदपत्रे किंवा इतर माहिती ही बाब सहकारी संस्था, सहकारी संस्थेची नियुक्त समिती आणि सहकारी संस्थेचे सभासद यांच्यातील असल्याने सदर बाबी विषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 14

(14) That the undersigned members, as the PMC did not provide the correct details of the actual land potential FSI generated, the Complainants themselves researched and came across various Mhada resolutions, which are made applicable to the MHADA layouts while redevelopment is proposed by the society which were seen from the Offer letter issued to the society dt. 23.12.2023. On going through the said resolutions and comparing the same with last sanctioned Layout plan of Adarsh Nagar, as per the said resolutions, Additional FSI



is made available to all the tenements on the Adarsh Nagar Layout in prorata of the amenities plot and reservations on the said layout in form of layout prorata area and layout prorata FSI made available at subsidized rates to the Developer/ Society in redevelopment project. Accordingly, the undersigned by interpreting the said resolutions along with correlating the said calculations with another project executed on Mhada layout using said circulars of the MHADA, have prepared a chart showing the actual prorata area entitlement on the Adarsh Nagar Layout to each tenement and that the layout FSI being made available and that furthermore the actual total potential FSI generated as per MHADA resolutions 6260 on the said plot of land admeasuring 12791 Sqmts of the society is approximately 1.91.162.81 Sqmts. Hereto annexed and marked as Exhibit- "G" is the Copy of the Chart FSI prepared by the complainants. Hereto annexed and marked as Exhibit- "H" is the Copy of the Circulars of the MHADA applicable. That it is to be noted that the present society is consisting of 504 member on the said plot of land and that total members on the Adarsh Nagar layout is 1534 members and as such it is to be noted that the present society represents 1/3 members on the said layout thereby entitling such huge Prorata FSI, which the Developer due such huge size of the plot can very well utilize the same efficiently and that it should be considered in the value.

या कार्यालयाचा अभिप्राय / अहवाल

(1) PMC किंवा सहकारी संस्थेची नियुक्त समितीने सहकारी संस्थेच्या सभासादांना माहिती प्रदान करणे किंवा कसे ही बाब या कार्यालयाशी निगडित नसल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(2) मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू.), मुंबई यांचे कार्यालयाचे पत्र क्र. मु. का. अ./मुं.मं./1520/2024 दिनांक 04/07/2024 (संदर्भ क्र. 4) मध्ये 50504.42 चौ. मी. इतके चटई क्षेत्र निर्देशांकाचे देकारपत्र दिल्याचे नमुद केले आहे. तक्रारदार यांनी मुददा क्र. 12 मध्ये 281455.14 चौ. मी. इतके चटई क्षेत्र मिळणार असे नमुद केले आहे. परंतु प्रस्तुत मुददयामध्ये 191162.81 चौ. मी. इतके चटई क्षेत्र निर्देशांक मिळणार असे नमुद केले आहे. दोन्ही मुददयामध्ये अनुज्ञेय चटई क्षेत्र निर्देशांकाबाबत तफावत दिसून येत आहे. तथापि, सदर मिळकतीचे नियोजन प्राधिकरण हे म्हाडा असल्याने सदर बाब ही म्हाडा प्राधिकरणाच्या अखत्यारीत असल्याने 191162.81 चौ. मी. इतके चटई क्षेत्र, अनुज्ञेय होणार किंवा कसे यावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 15

(15) That CRZ came into existence on 09.02.1991 and on 09.02.1991, the sanctioned plan of MCGM of Mumbai was based on DCR 1967 amended till 18.02.1991.

आणि

मुददा क्र. 16

(16) On the date of CRZ notification the regulation applicable on Adarsh Nagar plot was DCR 1967 amended till 18.02.1991. The DCR 1991 came into existence on March 1991 was not applicable to Adarsh Nagar plot for FSI purposes because of CRZ notification. That thereafter the entire Fungible Area concept came to be introduced after 19.02.1991 and was not applicable to the plot of Adarsh Nagar till 2018. The CRZ notification 1991 was governed by MCZM plan of 1991, and this plan got revised in 2018. Subsequently, in the year 2018, CRZ regulations were modified, and the development restrictions was reduced from 500 meters to 50 meters of High tide line as a result of which the entire Adarsh Nagar layout got



out of CRZ restrictions and the applicable DCR regulations has now changed from 1967 to 1991 and 1991 has subsequently replaced with the DCPR 2034. As the result of the aforesaid facts all the FSI restrictions as mentioned in 1967 has been relaxed and the entire layout is governed by DCPR 2034. MHADA last sanctioned Adarsh Nagar Layout has not taken into consideration Maharashtra Coastal Zone plan amended in 2018-19 and last updated CRZ notification as the 50meter line is not visible on the layout. The Layout is still reflecting the CRZ line as a 500-meter line which needs to be rectified in the layout plan to reflect the accurate area statement along with the prorata area statement inclusive of TDR/DRC generated on the reservations/amenities. However, MHADA officials without rectifying their layout plans are approving the Proposals submitted by the Developers and issuing NOC by considering the entire layout as being out of CRZ, which if seen compared to the last sanctioned layout of Adarsh Nagar will be contrary.

या कार्यालयाचा अभिप्राय / अहवाल

मुददयामध्ये नमुद केलेली बाब ही म्हाडा प्राधिकरणाशी संबंधित असल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 17

(17) That the said old sanction Layout though has shown the prorata area as 24.07 Sqmts per tenement when CRZ was applicable, however, the said MHADA authority in past has granted prorata area to one of the executed projects of Building No. 17 in the very same Adarsh Nagar Layout which is much more than 24.07 Smts. The documents showing the said Prorata made available to the said society at 1.596 FSI is attached for the reference of this authority. Hereto annexed and marked as Exhibit- "I" is the Copy of the NOC Documents of Building No. 17. That to substantiate that the statement prepared by complainants is correct one as per the Mhada resolutions applicable, we are hereby providing NOC issued to one of the Society which is executed project in the same Adarsh Nagar Layout of Building no. 17, which is consisting of 23 members, which has received for a small plot of land admeasuring 809.36 Sqmts plus a Tit Bit area of 325 Sqmts has generated a Prorata layout FSI of 1500 Sqmts. If we divide the said 1500 Sqmts by 23 members then we get per member prorata FSI entitlement = 65.21 Sqmts at 1.596 FSI and that per member prorata area will be 65.21/1.596-40.85 sqmts.

या कार्यालयाचा अभिप्राय / अहवाल

मुददयामध्ये नमुद केलेली बाब ही म्हाडा प्राधिकरणाशी संबंधित असल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 18

(18) That it is to be noted that at the FSI of 1.596, per member prorata FSI entitlement is 65.21 Sqmts then on the present plot of land the FSI is permissible is of 4 and that the amount of the actual prorata FSI which is generated and entitlement of the 35% fungible area thereon as per the regulations. That further to demonstrate the Prorata FSI is also entitled to 35% fungible area thereon, we have attached a NOC of project of the Bandra Reclamation, whereby from the NOC letter and the Payment sheet annexed hereto it will be clear that the Layout prorata FSI is also entitled for the fungible 35% area admissible which is granted by the MHADA officials in the said project which is a MHADA Layout under, 33(5) DCPR. That it is to be seen that not only is the Mhada layout generating the Prorata Layout area distributed per tenement, however, FSI is generated by multiplied by the FSI index available on the respective plot of land, the same is also eligible for the 35% fungible area computed with the respective FSI available on the respective plot of land. This Potential FSI is made available by the MHADA to the Developer at a very discounted price at 50% ready.

reckoner value the same can be seen from the MHADA offer letter of the Adarsh Nagar Shramik Co-operative Housing Society Ltd. To demonstrate, we are submitting the payment sheet and the offer letter showing how the prorata FSI is generated on the said basis, which will authenticate that that said computation of the potential of the land prepared by complainants undersigned is correct. Hereto annexed and marked as Exhibit. "J" is the Copy of the payment sheet and offer letter of Bandra project. That further the present offer letter of the Adarsh Nagar society issued by the MHADA obtained illegally by the Managing Committee members may be seen that whereby the Mhada officials have granted prorata Layout FSI of 1 only on prorata area available per tenement and that on subsequent applications of the Society or the Developer, the further FSI area shall be released which is the practice and accordingly the said aspect is retained by the clause 3a and 4a of the aforesaid Development Agreement dt. 06.05.2024 by the Developer and that as such the adjudication of the value of consideration done by the Adjudication officer is defective and cannot be said to be correct without considering the said value.

या कार्यालयाचा अभिप्राय / अहवाल

(1) मुददयामध्ये नमुद केलेली बाब ही म्हाडा प्राधिकरणाशी संबंधित असल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(2) पक्षकार यांनी सादर केलेली कागदपत्रे आणि मुंबई महानगरपालिका विकास नियंत्रण नियमावली 2034 नुसार अनुज्ञेय चटई क्षेत्र निर्देशांक (4.00) विचारात घेऊन या कार्यालयाने 69071.40 चौ. मी. इतके चटई क्षेत्र निर्देशांक परिगणित करून मुल्यांकन केलेले आहे. त्यामुळे दस्तात नमुद केलेल्या विवेचनानुसार केलेले मुल्यांकन व आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 19

(19) That further it should be noted that as per clause 3a of the Development Agreement, the same reads as hereunder :-

3. GENERAL CONDITIONS TO BE FOLLOWED BY THE DEVELOPER FOR THE CONSTRUCTION OF THE SOCIETY BUILDINGS

(a) The Developer presently estimates to consume a minimum of 4.00 FSI (computed on gross plot area of the Land) plus Fungible FSI thereon plus entire Pro Rata FSI per Member (available today or in future) plus Fungible FSI thereon, on the Land under Regulation 33(5) of DCPR 2034. However, only if the Government amends Regulation 33(5) of DCPR 2034 and increases the permissible FSI above 4.00 and the Developer chooses to utilize the incremental FSI over and above 4.00 FSI, then, the Developer shall pay the incremental Hardship allowance for the Members to the Society in the manner stated at Clause 4(a) below.

या कार्यालयाचा अभिप्राय / अहवाल

(1) पक्षकार यांनी सादर केलेली कागदपत्रे आणि मुंबई महानगरपालिका विकास नियंत्रण नियमावली 2034 नुसार अनुज्ञेय चटई क्षेत्र निर्देशांक (4.00) विचारात घेऊन या कार्यालयाने 69071.40 चौ. मी. इतके चटई क्षेत्र निर्देशांक परिगणित करून मुल्यांकन केलेले आहे. त्यामुळे दस्तात नमुद केलेल्या विवेचनानुसार केलेले मुल्यांकन व आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.



(2) सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही.

मुददा क्र. 20

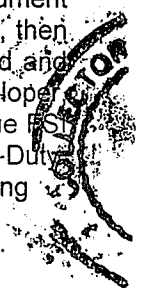
(20) That from the above it must be seen that the Developer has taken over from the Society its entire potential that the society members had in form of entitlement from MHADA, in the Development Agreement, which is not considered by the adjudicating officer and that further the same aspects and calculations are in the chart submitted by us, which further authenticates the chart submitted by the present complainants. It is submitted that although the duty of the adjudicating officer (Collector of Stamps) preparing the valuation report is to peruse the clauses minutely. the said clause has not been considered and/overlooked by the said officer adjudicating the present Development Agreement (and for that matter in almost all Development Agreements adjudicated it appears that similar procedure is adopted) and further though having power of conducting inquiry etc. as per the registration circulars and rules issued thereto, the said officer for the reasons best known to him, proceeded blindly on the basis of the check list and affidavit submitted by the Developer Oberoi Realty Ltd and proceeded to adjudicate the said document withing 7 days of its submission to the Collector of Stamps for adjudication, thereby causing a loss to the Government may be to the tune of Rs. 80-85 crores approximately which needs to be freshly adjudicated based on the documents submitted above.

या कार्यालयाचा अभिप्राय / अहवाल

मुंबई गृहनिर्माण व क्षेत्रविकास मंडळ (म्हाडाचा घटक), वांद्रे(पू.), मुंबई यांचे कार्यालयाचे देकारपत्र दस्ताचा भाग करण्यात आलेले नाही. सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही. त्यामुळे तक्रारदार यांनी रु. 80-85 कोटी इतके मुद्रांक शुल्क कमी आकारल्याचा घेतलेल्या आक्षेप हा चुकीचा आहे.

मुददा क्र. 21

(21) That the complainants have prepared a chart based on the aforesaid Mhada resolutions which shows the actual land potential of the plot of the society and that what is the correct Total FSI generated on the said society plot of land as per the MHADA resolutions stated hereinabove. If the said plot of land is compared with the document submitted by the PMC with the CFO website in respect of the total gross built up area, then the same will show that not only the complainants have been systematically deceived and cheated of their property and that the same has been systematically parted with Developer but it will also show that the Government has also been cheated by suppression of True FSI potential received by the Developer, with the intention of evasion of the Stamp Duty thereby causing unlawful loss to the members and secure unlawful gains to the Managing



committee, PMC and the Developer and that also said act further causing loss to the Government. That the aforesaid cheating to the members and the authority has been done with in connivance of the aforesaid persons and also with the connivance of the MHADA officials, who though under the Mhada resolutions clause 3B of Resolution 6260, are obligated to inform to the society their respective potential, however, for their own vested interest to be settled with the Developers and hand in gloves with the PMC, the said information is never shared with the societies at all on MHADA Layouts in the Mumbai area and elsewhere, thereby a huge FSI generated in the large MHADA layouts go to the kitty of the Developer at a subsidized amounts and that the respective members of the society are not compensated with the correct legitimate fair entitlement and that further the same illegalities continue at the time of adjudication of the Development Agreement and that there is also deliberate evasion of the stamp duty causing loss to the Government.

या कार्यालयाचा अभिप्राय / अहवाल

सदर मुददयामध्ये नमुद केलेली बाब ही म्हाडा प्राधिकरणाशी संबंधित असल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही. सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही.

मुददा क्र. 22

(22) That after the adjudication done with from the office of the Collector of Stamps, it is to be noted that the same came to be registered on the very same day of the adjudication order dt. 06.05.2024, this demonstrates the malafides of the persons signatories to the document were holding. Hereto annexed and marked as Exhibit- "K" is the Copy of the Development Agreement.

या कार्यालयाचा अभिप्राय / अहवाल

प्रकरणाधीन दस्त हा महाराष्ट्र मुद्रांक अधिनियमचे कलम 31 अन्वये अभिनिर्णित केलेला आहे. त्यामुळे तक्रारदार यांनी उपस्थित केलेली बाब ही चुकीची आहे.

मुददा क्र. 23

(23) That further it is to be noted that the circulars of the department are applicable for adjudication are not considered by the adjudication officer and that in the adjudication order, the Ld. Collector has considered the Circular bearing no. 27, which in the present case is not applicable and that further the Ld. Collector to assist the Developer in lowering the value of FSI has applied an Circular for valuation of the ASR value at 85% which was never applicable. It is submitted that the circular applicable to the present case of the Development Agreement of the plots situated in the MHADA Layout is circular no. 71, which is not at all considered by the Ld. Collector and that the Ld. Authority for assisting the Developer has pick and chosen all the circular as to suit its needs. Hereto annexed and marked as Exhibit- "L" is the Copy of the circular bearing no. 71 dt. 12.11.2018. applicable of the authorities for adjudication. That if the circulars are interpreted in true sense, then it should be seen that the entire consideration obtained by the parties should be considered and that then the highest must be taken for computation of the Stamp Duty @5% which is not done in the present case not only due to suppression of the correct potential from the authorities,



however, it is seen that the Ld. Collector or its subordinates who must have prepared its valuation, have applied their circular, which was not at all applicable to the said plot of land and reduced the ASR rate to 85% value.

या कार्यालयाचा अभिप्राय / अहवाल

(1) मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. जा.क्र. का.15/परिपत्रक/मुंबई शहर/स. क्र. 17/1025 दिनांक 12/11/2018 अन्वये स्थूल जमिनीचे मुल्यांकन करण्याची तरतुद दिलेली आहे. सदर परिपत्रकात खालीलप्रमाणे निर्देश दिलेले आहेत-

मुंबई शहरासाठी सुधारित विकास नियंत्रण नियमावली शासनाने मंजूर केली असून, ती दि. 13/11/2018 पासून अंमलात येणार आहे. सदर विकास नियंत्रण नियमावलीतील तरतूदीनुसार, संपूर्ण भूखंड क्षेत्रावर चटई क्षेत्र निर्देशांक अनुज्ञेय होणार आहे. तथापि, मनोरंजनात्मक खुली जागा सोडणे बंधनकारक असल्याने, विकासावर येणारी मर्यादा विचारात घेऊन, स्थूल जमिनीच्या मूल्यांकनाबाबत, मुंबई शहरासाठीच्या मार्गदर्शक सुचना क्र. 17 मध्ये खालीलप्रमाणे बदल करण्यात येत आहे-

17. स्थूल जमिनीचे मुल्यांकन

- (अ) भूखंडाचे क्षेत्र 1000 चौ. मी. पर्यंत असल्यास, पूर्ण दराने मुल्यांकन करण्यात यावे.
 (ब) भूखंडाचे क्षेत्र 1001 चौ. मी. ते 2500 चौ. मी. पर्यंत असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 95% दराने मुल्यांकन करण्यात यावे.
 (क) भूखंडाचे क्षेत्र 2501 चौ. मी. ते 10000 चौ. मी. पर्यंत असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 90% दराने मुल्यांकन करण्यात यावे.
 (ड) भूखंडाचे क्षेत्र 10001 चौ. मी. व त्यापेक्षा जास्त असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 85% दराने मुल्यांकन करण्यात यावे.

सदर परिपत्रक दि. 13/11/2018 पासून अंमलात येईल.

दस्तात नमुद जमिनीचे क्षेत्र हे 10001 चौ. मी. व त्यापेक्षा जास्त असल्याने जमीन दराच्या 85% दर विचारात घेऊन केलेले मुल्यांकन योग्य आहे. त्यामुळे तक्रारदार यांनी उपस्थित केलेला मुददा चुकीचा आहे.

(2) सन 2022-23 (2024-2025 साठी कायम) च्या वार्षिक बाजारमूल्य तक्त्यातील सर्वसाधारण मार्गदर्शक सुचना क्र. 27 मध्ये म्हाडा इमारतींचा पुनर्विकास प्रकल्प विकसन करारनामा अभिनिर्णय प्रकरणी मूल्यांकन करण्याच्या दिलेल्या तरतूदीनुसार मुल्यांकन केले आहे. सदर तरतुद खालीलप्रमाणे-

- (अ) गृहनिर्माण संस्था / सभासद यांना मिळणा-या पुनर्वसन बांधकाम क्षेत्राचे (फंजीबल चटई क्षेत्रासह) नवीन बांधकाम दराने येणारे मूल्य + रोख मोबदला + इतर स्वरूपाचा मोबदला (भाडे, कॉर्पस फंड इ.) + म्हाडास बांधून हस्तांतरित करावयाचे क्षेत्राचे नवीन बांधकाम दराने येणारे मूल्य + पायाभूत सुविधा मूल्य + प्रिमीयम मुक्त फंजीबल चटई क्षेत्राचे व्यतिरिक्त वापरण्यात येणारे फंजीबल क्षेत्राचे प्रिमीयम मूल्य.



(ब) विकासक यांना मिळणारे बांधकाम / चटई क्षेत्राचे जमीन दराने येणारे मूल्य

उपरोक्त (अ) व (ब) पैकी जास्तीचे मूल्य विचारात घेऊन त्यावर मुद्रांक शुल्क आकारणी करावी.

टिप-

(i) विकास नियंत्रण नियम क्र. 33(5) नुसार भुखंड क्षेत्र व रस्त्याचे रुंदीवर आधारित अनुज्ञेय क्षेत्र निर्देशांक, पुनर्वसन क्षेत्र अनुज्ञेयता (मूळ व अतिरिक्त), प्रोत्साहनात्मक चटई क्षेत्र निर्देशांक, उर्वरित चटई क्षेत्र निर्देशांकाची विभागणी इ. बाबी तसेच नियम क्र. 31(3) नुसार अनुज्ञेय फंजीबल चटई क्षेत्र निर्देशांक, या तरतुदी विचारात घेऊन पुनर्वसन बांधकाम क्षेत्र व विकासक यांना मिळणारे बांधकाम क्षेत्र / चटई क्षेत्राचे मूल्य परिगणित करावे.

(ii) फंजीबल FSI प्रिमीयम मूल्यासाठी विकासक यांना मिळणारे बांधकाम क्षेत्र / चटई क्षेत्रासाठी भरावी लागणारी प्रिमीयम रक्कम विचारात घ्यावी.

सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही. त्यामुळे तक्रारदार यांनी उपस्थित केलेला मुददा चुकीचा आहे.

मुददा क्र. 24

(24) That when the demarcation and site physical measurements of the property land was done by MHADA, the area of the Plot which was seen was 12984.75Sqmts, which can be seen from the document issued by the MHADA and that the very same measurements are utilized in the plans submitted in Mhada and shown in Exhibit C annexed hereinabove and that the executed development agreement records different area. That the said document mentions the area of TIT bit area as to the extent 2838.11Sqmts, however the executed development agreement mentions the TIT Bit area of 2508.50Sqmts and that the developer has taken the said benefit of the area in the plans submitted to MHADA shown in Exhibit C above and plans annexed hereto below. Hereto annexed and marked as Exhibit- "M" is the Copy of the Demarcation letter dt. 20.12.2023.

या कार्यालयाचा अभिप्राय / अहवाल

सदर मुददयामध्ये नमुद केलेली बाब ही सहकारी संस्था आणि म्हाडा प्राधिकरणाशी संबंधित असल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 25

(25) That the Complainants are also attaching the Adarsh Nagar Layout plan and the plans submitted to MHADA for the offer letter by the Society/ Developer to demonstrate the aforesaid facts narrated above. Hereto annexed and marked as Exhibit- "N"-colly is the Copy of the plans of new buildings and Hereto annexed and marked as Exhibit- "O" is the copy of the Adarsh Nagar Layout.



या कार्यालयाचा अभिप्राय / अहवाल

सदर मुददयामध्ये नमुद केलेली बाब ही सहकारी संस्था आणि म्हाडा प्राधिकरणाशी संबंधित असल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 26

(26) That complainants state that apart from the fact that the complainants have been cheated by the Developer in respect of the aforesaid understating of the actual potential FSI of the Land, the Complainants state that the State Government is also misrepresented of the FSI generated on the land, thereby causing the huge loss to the State Government as well, which the Complaints place before the authority to take appropriate action on the following grounds and evidence for your considerations:-

(a) The document of the feasibility report of the PMC will reflect that the potential of the land is much more than taken in adjudication order valuation report annexed to the Development agreement. Ex-A.

या कार्यालयाचा अभिप्राय / अहवाल

सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही. उपस्थित केलेला मुददा हा PMC, सहकारी संस्था यांच्याशी निगडित असल्याने सदर मुददयावर अभिप्राय देणे अभिप्रेत नाही.

(b) That further the Plans submitted to the MHADA for approval/ offer letter, the Built-up area statement and chart will demonstrate that the potential generated and the factors concealed from the authorities in comparison to the area considered for adjudication of balance FSI available to the Developer in the Order of adjudication/valuation report. Ex-C.

या कार्यालयाचा अभिप्राय / अहवाल

उपस्थित केलेला मुददा हा म्हाडा प्राधिकरणाशी निगडित असल्याने असल्याने सदर मुददयावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(c) That the proforma A, which was circulated to the members, has been deliberately concealed from the Development Agreement submitted for adjudication, thereby to mislead the authorities in respect of the correct balance FSI available to the Developer as a consideration in comparison to the considered adjudicated balance FSI available to the Developer in the Order of adjudication /valuation report. Ex-F.



या कार्यालयाचा अभिप्राय / अहवाल

सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही. तथापि, उपस्थित केलेला मुददा हा सहकारी संस्थेशी निगडीत असल्याने सदर मुददयावर अभिप्राय देणे अभिप्रेत नाही.

(d) That complainants have on the basis of another project executed in the layout and that further FSI being made available at discounted price by MHADA to the Developers is being shown by production of the other project payment sheet and NOC. Ex-I in comparison to the considered adjudicated balance FSI available to the Developer in the Order of adjudication/valuation report. Ex-

या कार्यालयाचा अभिप्राय / अहवाल

सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही. तथापि, उपस्थित केलेला मुददा हा विकासकाशी निगडीत असल्याने सदर मुददयावर अभिप्राय देणे अभिप्रेत नाही.

(e) That it should be further seen that the NOC and offer letter issued by the MHADA include a condition in the offer letter, whereby it states that applicable stamp duty imposed on the allotment of the FSI has to be borne by the Applicant, however, at the time of adjudication, the same is not disclosed and that as such the same goes to the kitty of the Developer without paying of the stamp duty thereon.

या कार्यालयाचा अभिप्राय / अहवाल

सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 अन्वये या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही. संलेखासोबत म्हाडा प्राधिकरणाकडील Offer Letter दस्तासोबत सादर करण्यात आलेले नाही. तथापि, उपस्थित केलेला मुददा हा सहाकारी संस्था आणि विकासकाशी निगडीत असल्याने सदर मुददयावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(f) That we have produced MHADA circulars that are applicable and that demonstrate additional Prorata FSI being made available on the MHADA Layouts and that the entitlement of the 35% Fungible FSI thereon. Ex-H.



या कार्यालयाचा अभिप्राय / अहवाल

उपस्थित केलेला मुददा हा म्हाडा प्राधिकरणाशी निगडीत असल्याने असल्याने सदर मुददयावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(g) That the Complainants have prepared the chart which can be authenticated by the Mhada resolutions read with the other project NOC issue and further the very same Adarsh Nagar Shramik Society offer letter issued by MHADA which show over and above the basic FSI, the initial Layout Prorata FSI granted to them initially, which is concealed from this authority, Ex-G, Ex-D and EX-J.

या कार्यालयाचा अभिप्राय / अहवाल

उपस्थित केलेला मुददा हा म्हाडा प्राधिकरणाशी निगडीत असल्याने असल्याने सदर मुददयावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(h) That further it should be seen that the Developer has submitted the plans with the MCGM and that the very same PMC has issued a certificate to the Chief Fire officer, which states the total Built up area of the Buildings on the said plot to be 281455.54 Sq mts, this document at Ex E will demonstrate the extent of suppression of actual potential of the land received by the Developer in consideration from the authorities to the extent has been concealed from the authorities thereby evading stamp duty payable on the document.

या कार्यालयाचा अभिप्राय / अहवाल

उपस्थित केलेला मुददा हा PMC, सहकारी संस्था आणि बृहन्मुंबई महानगरपालिका यांच्याशी निगडीत असल्याने सदर मुददयावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(i) That it is to be seen that seen that Section 28 of the Bombay stamp Act 1958, provides that the consideration if any the market value and all other facts and circumstances which affecting the chargeability of any instrument with the duty or the amount of the duty with which it is chargeable shall be fully and truly set forth therein, however, in the present case the Developer Oberoi Realty Ltd., who presented the instrument for adjudication, in the present case suppressed the correct facts and further the documents submitted by the complainants show the actual correct facts and circumstances that affect chargeability of the instrument submitted for the adjudication and as such the same proves that the adjudication Order dt. 06.05.2024 is illegal improper and bad and that the same needs to be quashed and set aside and that a revised adjudication considering the aforesaid facts have to be done by the Collector of Stamps. As such there is deliberate violations of the provisions of the Stamp Act which are punishable under the Act.

या कार्यालयाचा अभिप्राय / अहवाल

दस्ताची वैधता तपासण्याचे अधिकार या कार्यालयाला नाहीत. दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सूचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने केलेले मुल्यांकन



आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. सबब मुद्रांक शुल्काची कमी आकारणी झालेली नाही.

(j) That it ought to have been seen that the collector adjudicating the stamps under section 31 had powers under the Maharashtra Stamp determination of True Market value of property rules 1995, Rule 6 provide for a detailed powers of the Collector to call for any information or record from any public office, officer or any authority under State Government or any local authority, record statement from any member of the public, officer or authority under the State Government or any local authority and that in the present case the same has not been followed whereby the Collector could have called for the information from the Mhada Authorities, MHADA is an apex public body constituted under MHADA ACT 1976, established in 1977 under Housing Department of Government of Maharashtra which is the authority under the State Government and take appropriate information in respect of the actual potential FSI available on the subject property in the instrument submitted to the Collector for adjudication under section 31.

या कार्यालयाचा अभिप्राय / अहवाल

महाराष्ट्र मुद्रांक अधिनियमचे कलम 31 मध्ये अभिनिर्णयासाठी दस्त सादर केल्यानंतर करावी लागणारी कार्यवाही विशद केली आहे. त्यानुसारच दस्त अभिनिर्णित केलेला आहे. त्यामळे तक्रारदार यांनी उपस्थित केलेली बाब चुकीची आहे.

(k) That non-exercising powers under rule 6 of the Maharashtra Stamp Determination of True Market Value of Property Rules 1995 has caused loss of revenue to the State Government as the Developer Oberoi Realty Ltd. has evaded payment of stamp duty on the correct consideration that it has received in the subject instrument Development Agreement submitted for adjudication.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सूचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. त्यामुळे शासनाच्या महसुलाची हानी झालेली नाही.

(l) That information from the MHADA authorities could have been called for assessing the correct value of consideration received by the parties, which has not been done in the present case.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सूचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र.



का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

(m) That there is collusion of the various other authorities involved in perpetuating the said illegality of under representation of the FSI consideration received under Redevelopment and that latter on the said amount of consideration goes unaccounted in the kitty of the Developer, thereby causing huge revenue loss to the Government Authorities and authorities only taking note of the same only when the same is brought to the notice of the authorities.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे. त्यामुळे शासनाच्या महसुलाची हानी झालेली नाही.

(n) That not only this, the Ld. Collector has also not considered the clause of 8 (uu) of the Development Agreement, which mentions that about the TDR and DRC rights to be taken and utilized in future, the same ought to have been valued as per circular of the Department of IGR guidelines issued time to time.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. सदर मुल्यांकन करताना 4 इतके चटई क्षेत्र निर्देशांक विचारात घेऊन मुल्यांकन केलेले आहे. सदर 4 चटई क्षेत्र निर्देशांकामध्ये मुळ चटई क्षेत्र निर्देशांक, प्रिमीयम, टीडीआर इत्यादी बाबी समाविष्ट आहेत. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

(o) That the order of the adjudication dt. 06.05.2024, shows non- application of mind from the fact that the adjudicated values have handwritten corrections and that if the same are recalculated, it can be seen that the calculations are also incorrect, thereby showing non-application of mind and doing the calculations in hurried manner for the reasons best known to the Collector to favor the Developer.



या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. मुल्यांकन टंकलिखित असावे आणि हस्ताक्षरीत नसावे असे बंधन नाही. त्यामुळे तक्रारदार यांनी उपस्थित केलेला मुददा चुकीचा आहे.

(p) That it ought to be seen that the Ld. Collector has considered the IGR circulars which were not applicable to the case and has hurriedly made the calculations. The Ld. Collector has considered 85% rate ASR rate of the land as per circular 21, it is submitted that the said circular, is not at all applicable to the present case as the said circular is applicable for other category of lands as the circular applicable in present case is circular number 71 issued by IGR dt. 12.11.2018, which is not at all considered.

या कार्यालयाचा अभिप्राय / अहवाल

(1) मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. जा.क्र. का.15/परिपत्रक/मुंबई शहर/स. क्र. 17/1025 दिनांक 12/11/2018 अन्वये स्थूल जमिनीचे मुल्यांकन करण्याची तरतुद दिलेली आहे. सदर परिपत्रकात खालीलप्रमाणे निर्देश दिलेले आहेत-

मुंबई शहरासाठी सुधारित विकास नियंत्रण नियमावली शासनाने मंजूर केली असून, ती दि. 13/11/2018 पासून अंमलात येणार आहे. सदर विकास नियंत्रण नियमावलीतील तरतुदीनुसार, संपूर्ण भूखंड क्षेत्रावर चटई क्षेत्र निर्देशांक अनुज्ञेय होणार आहे. तथापि, मनोरंजनात्मक खुली जागा सोडणे बंधनकारक असल्याने, विकासावर येणारी मर्यादा विचारात घेऊन, स्थूल जमिनीच्या मूल्यांकनाबाबत, मुंबई शहरासाठीच्या मार्गदर्शक सुचना क्र. 17 मध्ये खालीलप्रमाणे बदल करण्यात येत आहे-

17. स्थूल जमिनीचे मुल्यांकन

- (अ) भूखंडाचे क्षेत्र 1000 चौ. मी. पर्यंत असल्यास, पूर्ण दराने मुल्यांकन करण्यात यावे.
- (ब) भूखंडाचे क्षेत्र 1001 चौ. मी. ते 2500 चौ. मी. पर्यंत असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 95% दराने मुल्यांकन करण्यात यावे.
- (क) भूखंडाचे क्षेत्र 2501 चौ. मी. ते 10000 चौ. मी. पर्यंत असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 90% दराने मुल्यांकन करण्यात यावे.
- (ड) भूखंडाचे क्षेत्र 10001 चौ. मी. व त्यापेक्षा जास्त असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 85% दराने मुल्यांकन करण्यात यावे.

सदर परिपत्रक दि. 13/11/2018 पासून अंमलात येईल.



दस्तात नमुद जमिनीचे क्षेत्र हे 10001 चौ. मी. व त्यापेक्षा जास्त असल्याने जमीन दराच्या 85% दर विचारात घेऊन केलेले मुल्यांकन योग्य आहे. त्यामुळे तक्रारदार यांनी उपस्थित केलेला मुददा चुकीचा आहे.

(q) That the demarcation letter issued by MHADA was also suppressed from authorities apart from the plans prepared and submitted to the authorities produced at Exhibit M compared with executed development agreement will demonstrate the suppression of the actual plot area received in consideration.

या कार्यालयाचा अभिप्राय / अहवाल

उपस्थित केलेला मुददा हा म्हाडा प्राधिकरणाशी निगडित असल्याने असल्याने सदर मुददयावर या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

(r) That it is to be seen that Stamp duty is charged on valuation of the considerations received by the parties and at the time of Development Agreement, at one side considering the entire potential FSI in all forms generated on the land being made available to the developer multiplied with the ASR rate of the land and the same should be compared with the cost of the acquisition paid by the Developer to the society members and whichever is higher value of consideration, should be taken as the value for computation to charge the Stamp duty @5% and that this is as per circular no 71 issued by the Chief Controlling Revenue Authority.. which is not done in the present case.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 27

(27) In the circumstances above, it is most humbly submitted that aforesaid circumstances, warrant immediate action on the complaint presented to this authority and as such the Complainants have approached to this authority with a request to take appropriate action on the said document and all the persons involved in the same.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक



12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 28

(28) The Complainants request your good office to kindly look into this matter and also provide us with an opportunity of hearing and that if needed we shall appoint our advocate to represent our case and explain the facts and as such, we request you to give us the notice of hearing in advance.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 29

(29) In the circumstances above, it is most humbly prayed to the authority as hereunder:-

(a) That this Hon'ble Authority may be pleased to call for all the record and proceedings of the case bearing no ADJ/194/2024 and impugned Judgement and Order dt. 06.05.2024 passed by the Collector of Stamps Mumbai and after perusing the legality, validity and propriety, be pleased to quash and set aside the Adjudication Order dt. 06.05.2024 and further be pleased to direct the impounding of the executed Development Agreement dt. 06.05.2024 bearing no. 7332 of 2024 registered with Office No.5.

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दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

(b) That this Hon'ble Authority may further be pleased to direct the Collector of Stamps, a fresh adjudication of the executed Development Agreement dt. 06.05.2024 vide case file ADJ/194/2024 document by taking recourse to the rule 6 of the Maharashtra Stamp (Determination of True Market Value of Property) Rules 1995 and after recording statements of the MHADA, MCGM officers and other or any other officers involved and necessary and all the documents placed on record by the Complainants by this complaint, be pleased to adjudicate the fresh valuation of the consideration in the document ADJ/194/2024 and calculate the fresh Stamp Duty on the executed Development Agreement dt. 06.05.2024 and direct the collector to



recover the evaded deficit stamp duty along with the applicable penalty under the Bombay Stamp Act 1958.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. तसेच महाराष्ट्र मुद्रांक अधिनियमचे कलम 31 मधील तरतुदीनुसार प्रकरण क्र. Adj/194/2024 हे महाराष्ट्र मुद्रांक अधिनियमचे कलम 53(अ) ला अधिन राहून प्रमाणित करून दिलेले असून अभिनिर्णयाची कार्यवाही पूर्ण करण्यात आलेली आहे. त्यानुसार या कार्यालयाने केलेली कार्यवाही योग्य व बरोबर आहे.

(c) This Hon'ble Authority may be further pleased to initiate criminal prosecution against all the persons in involved in the process for undervaluation/ under representation of the Consideration (FSI potential) in the document bearing no. 7332 of 2024 registered with Sub Registrar of Assurance 5 as per the Bombay Stamp Act 1958.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

(d) Pending hearing and final disposal of the present Complaint, this Hon'ble Authority may be pleased to exercise power under section 33A or any other powers under the act available for impounding the document, be pleased to forthwith impound the document bearing no. 7332 of 2024 registered with Sub Registrar of Assurance 5 with this office.

या कार्यालयाचा अभिप्राय / अहवाल

दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.



(e) Any other order in the interest of Justice as the case may require.

या कार्यालयाचा अभिप्राय / अहवाल

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10. Shashikant S Amin, Anvay Bhole, Ammai Lachayya Dharap यांचे दिनांक 29/07/2024 रोजीचे (संदर्भ क्र. 9) लेखी म्हणणे आणि महाराष्ट्र मुद्रांक अधिनियमातील तरतुदी विचारात घेता सदर मुददयाबाबत मुददे निहाय अहवाल खालीलप्रमाणे सादर करण्यात येत आहे-

मुददा क्र. 1

(1) Sir, this clarification/ written submission is filed with reference to the questions raised by Hon'ble Collector of Stamps, Mumbai, during the hearing on 24.07.2024 at your office. The Mhada Chief Officer- MHADB an (I.A.S.) officer, also filed reply to the complaint, thereby authenticating the facts and figures disclosed in the complaint filed by us, pointing out in detailed manner the total FSI entitlement on plot of the Adarsh Nagar Shramik Co-operative Housing Society Ltd. which is situated on MHADA Adarsh Nagar Layout. The reply filed by the Mhada is on the basis of provisions of the DCPR 2034 regulations. The Hon'ble Collector, in spite of the said self-explanatory reply, raised the following questions to the complainants, and sought clarification. We are submitting the clarification based on the research made by us and which is today is approved and authenticated by Mhada Chief Officer vide his letter dt. 04.07.2024, which ought not to be ignored.

आणि

मुददा क्र. 2

(2) At the very outset we wish to bring to the notice of the Hon'ble Collector, the circular issued by the Inspector General of Stamps, the Hon'ble Chief Controlling Revenue Authority dt. 17.12.2016 bearing no. 1187. A copy of the same is attached herewith, for ready reference. It is submitted that as per the directions issued in the circular, it is directed that "Instead of levying stamp duty by considering only the title of the document received for registration, the content/facts mentioned in the document should be examined, the type of document should be studied and the type of document should be determined after considering the guidelines applicable to the said document. As the documents submitted for registration are of various types, not all aspects are covered in the guidelines. However, after studying the document in detail, it is necessary to calculate the value of the benefits of the giver and the receiver according to the principle of assessment, according to the matters mentioned in it, who is getting the benefit and what are their obligations and liabilities. If there is any ambiguity regarding the guidelines, then the relevant office's opinion/opinion regarding such documents should be mentioned and guidance should be obtained along with necessary documentary evidence."



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मुददा क्र. 3

(3) It is submitted that we have shared documentary evidence, which substantiates that Developer by playing fraud and suppressing information, the adjudication process was taken forward without studying and examining all the clauses in detail and order came to be passed. Not only this during the process of the present hearing as well substantial developments demonstrating Developer's actions of suppressing the true potential is also brought to the notice of the Hon'ble Collector as an by way of filling rejoinder on oath, however this authority has not called upon the Developer to place the correct consideration in form of Development Rights received by the Developer on oath to your authority for proper adjudication and has merely considered the letter filed by the advocate for the Developer.

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दस्ताची वैधता तपासण्याचे अधिकार या कार्यालयाला नाहीत. दस्तात नमुद केलेले विवेचन हे दस्त निष्पादकावर अवलंबून असते. दस्तात नमुद केलेल्या विवेचनानुसार, दस्तात नमुद केलेल्या विवेचनानुसार, सर्वसाधारण मार्गदर्शक सुचना क्र. 27, मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. म्हाडाप्रिमीयम/विकसन करारनामा/मुल्यांकन/850 दिनांक 14/08/2015 आणि मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

मुददा क्र. 4

(4) It is surprising that in spite of we as common citizens brought substantial evidence to this authority thereby pointing out evasion of the Stamp Duty in the document, thereby overlooking crucial recitals and clauses, this Hon'ble authority avoiding seeking clarification of the documents which were not disputed by the Developer in their reply filed. We reiterate and confirm our complaint which is detailed and speaks of volumes of fraud and that this authority can as per the circular dt.17.12.2016, take appropriate opinion.



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मुददा क्र. 5

(5) Firstly, according to Development Control Promotion Regulation(DCPR) Regulation 33(5), which applies to all Mhada layouts, the Floor Space Index (FSI) is calculated based on the gross plot area of the subdivided plot. This includes the area under the buildings, statutory amenities provisions, Layout Open space, and internal roads. In the case of Adarsh Nagar Layout, 63000 sqm is allocated for buildings of Societies on layout, while the remaining 68000 sqm is designated for statutory amenities, open spaces, and Internal roads.

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सदर बाब ही म्हाडा प्राधिकरण आणि सहकारी संस्था यांच्याशी निगडित असल्याने सदर बाबीविषयी या कार्यालयाने अभिप्राय देणे अभिप्रेत नाही.

मुददा क्र. 6

(6) If we assume that as stated by the Mhada official during the hearing on 24.07.2024, the total FSI available per tenement is 24.07 sqm, as mentioned in the Mhada layout, then 68000 sqm of land for amenities and layout space generates an FSI of 36,923.38 sqms (24.07 sqm x 1534 tenements) which is less than 1 FSI which shall be incorrect. This means that even if we consider an FSI of 1 for layout open spaces and amenities, the FSI for 68000 sqm, shall be 68000 sqmts, not 36923.38sqm. As such, prorata area 24.07 Sqmts doesn't consider the FSI index which is made available to the Societies as mentioned in the MHADA Reply as well that the same is separately available. The correct calculation should be 68000 sqm / 1534 tenements = 44.32 sqm which is at 1FSI only.

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मुददा क्र. 7

(7) From the aforesaid explanation, we can conclude that there is no differentiation between residential area and prorata area as defined in DCPR Regulation 2034. The only basis for calculation is the total plot area of the subdivided plot.

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मुददा क्र. 8

(8) For example, one of the subdivided plots in Adarsh Nagar is CTS No. 209, is shared by multiple tenants and not further subdivided to specify the subdivision of each tenement. According to Mhada resolution 6330, the State government of Maharashtra has taken decision regarding the disposal of lands to Housing societies on Mhada layouts. The area disposed of by Mhada to individual societies falls under the category of built-up amenities, non-buildable amenities (internal roads), and layout open spaces (LOS) as per DCPR Regulation 2034, specifically regulations 14 and 27. This rule was passed in Mhada Resolution 6260, which is also mentioned in the NOC's and Offer letters given to Building nos. 17, 41, and Adarsh Nagar Shramik Society Ltd of Adarsh Nagar Layout. As per DCPR 2034, FSI is available on the gross plot, which is further confirmed by Mhada Resolution 6422. A copy of the same is attached herewith, for ready reference. Based on these regulations, the Housing societies on Mhada layouts are entitled to the FSI prescribed under regulation 33(5) on the sublease plots and the land allotted to them by Mhada, as per the Government Resolutions mentioned above.

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मुददा क्र. 9

(9) The Adarsh Nagar Shramik Co-operative Housing Society Ltd. plot is situated on CTS No. 209, which adjoins Narayana Haldikar Road, with a width greater than 30.5 meters. As per regulation 30, the FSI for Adarsh Nagar Shramik Co-operative Housing Society Ltd. and amenities on layout open spaces and roads on CTS No. 209 (33)5 (1) para (2) is $3 + 1 = 4$. Similarly, the rest of the amenities in the Adarsh Nagar layout, located on CTS No. 5 Mahim division, which is not further subdivided, also have an FSI of 4 as this plot adjoins Annie Besant Road, which has a width greater than 30 meters.

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विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार 4 चटई क्षेत्र निर्देशांक विचारात घेऊन या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.



मुददा क्र. 10

(10) By comprehensively considering regulations 33(5), Regulation 30 note 2, DCPR 14A (c), 14A (d), along with Mhada resolutions 5998, 6260, 6330, 6422 (subdivided plot), and the State Government of Maharashtra's policy decision, all 21 societies on Adarsh Nagar Layout, including present Adarsh Nagar Shramik Co-operative Housing Society Ltd., are entitled to an FSI of 4 on the land under their buildings and their shareholding, as well as the land allotted to them as statutory amenities and open spaces on the Adarsh Nagar Mhada Layout. These points are further elaborated in detail in the complaint filed by us. The Questions raised to us are as follows:-

(i) The Hon'ble Collector sought clarification as to What is Prorata area ?, What is prorata FSI?, Whether Mhada is a Government and that whether their internal resolutions / decision are to be taken as law and binding on the Hon'ble Collector to take and consider the same in adjudication of the Development Agreement, Whether their reply filed in the matter should be taken as law and final potential has to be adjudicated and on what basis and/or DCPR regulation is Prorata area issued by MHADA. The Collector also sought a clarification that how Prorata area of a Layout is entitled to an FSI index multiplying factor and under which DCPR regulation, the potential working is made applicable.

Response :- With reference to the aforesaid question, we have already addressed it in detail from point no 1 to 10. Additionally, we would like to emphasize that MHADA is a public body established under the Mhada Act 1976. Resolutions passed by MHADA serve as policy decisions based on the Development Control and Promotion Regulations for Greater Mumbai 2034. In the present complaint, we have relied on resolution 5998 r/w 6260 read with 6330. It is important to note that MHADA resolution 6260, which is incorporated in all offer letters issued by MHADA, has been duly approved by the Hon'ble State Government through Government's letter no. Allotment 1107/P.No. 324/Grinibhu, resolution 6330. A mentioned in as copy the of MHADA resolution demonstrating the same is attached herewith, for ready reference.

During the hearing, the Hon'ble Collector sought the written opinion of MHADA Official, which will assist in re- adjudication and determining the Correct Stamp Duty Payable. Based on MHADA's reply, it is evident that the Prorata Area is entitled to the FSI index, as supported by the plans submitted with our Complaint. MHADA's reply filed on 4th July 2024 provides a comprehensive explanation of the factors related to the FSI generated on MHADA layouts, considering the approval given by State Government. In light of MHADA's reply and the circular dated 16.12.2017 issued by the Chief Controlling Authority, this Hon'ble Authority should consider the reply submitted by MHADA and accordingly value the (present and future) prorata area secured by the Developer, as well as the Fungible area made available mentioned in clauses recitals 3a and 4a of the Development Agreement, which was not valued in the earlier adjudication process.

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(ii) The Hon'ble Collector raised a Question that whether the plans whichever submitted by the Developer to the Mhada or the Chief Fire Office For NoC are approved by any of the Planning Authority? Whether it is binding on the Hon'ble Collector to consider the plans and documents produced by complainants in the adjudication process of the Development Agreement.

Response: For any project on Mhada's layout, Mhada serves as Planning Authority. However, certain provisions related to Development are still under the governance of Municipal Corporation of Greater Bombay (MCGM) as a Planning Authority. These provisions include Traffic permission, Environment Permission, Estate Permission, Fire Department permission, Sewage Department permission, and several others that fall under MCGM's Jurisdiction. Therefore, Mhada is not the final authority for Fire Permission, and the question of whether Mhada or Chief Fire Officer has approved the plans is irrelevant consideration to the Adjudication of Stamp Duty on the Development Agreement.

There is no correlation between the CFO (Chief Fire Officer) approval and Mhada's approval of plans. Both are independent planning authorities, and the permissions granted by them do not have any interdependency as per the policy guidelines defined by both authorities. If there was such a requirement, the CFO would have asked for an NOC (No Objection Certificate) from Mhada before approving the CFO plan. However, this is not a prerequisite. The authorities only require information about the proposed plan regarding the height of the building area, proposed area statement, width of roads, and building plan in order to grant approval for the Chief Fire Officer NOC. The question raised by the Collector in the meeting actually questions the validity of the CFO approval where the Developer for seeking approval has paid substantial sum of Rupees 3 crore 30 lakhs as scrutiny fees. There are no defined procedural guidelines in the Development Control Regulations, Model Building Byelaws, or any provision of the MRTTP (Maharashtra Regional and Town Planning) Act governing both Mhada and BMC (Brihanmumbai Municipal Corporation). These guidelines do not state that a CFO NOC needs to be approved by Mhada before it is considered a valid document for the Developer's Permission. The CFO plan is the most important proof that the concept of prorata area FSI (Floor Space Index) secured by the Developer exists in the present case, which was being utilized, however, suppressed from the Collector of Stamps, Mumbai. Instead of raising this question to the Developer seeking clarification, the Hon'ble Collector asking the complainant about the validity of the information, the questions are raised to the Complainants. This can be answered by the Developer only as to why he did not disclose this Area Statement for which he paid substantial scrutiny fees in Stamp Duty affidavit filed. It is important to note that under the guidelines issued by the IGR, it explicitly directs that the profitability secured in the document should be examined and valued accordingly. The focus of this Authority is solely on valuing the document based on the maximum extent of benefits secured. Underutilization of the FSI is not relevant or to be considered by this Hon'ble Authority.

Moreover, it is evident from the plans submitted by the Developer that there was suppression of the extent of the FSI secured in Development Agreement, which should have been valued but was not considered as per the Circular.

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का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

(iii) The Hon'ble Collector raised a question that the reduced ASR value of the land taken for calculation of market valuation of the FSI of the Developer share in the adjudication sheet, applying guideline 17 was correct according to him and that the instances proof shared by us of another Development agreement on the Mhada layouts done by other Adjudicating offices in suburbs were not binding or guiding factor for him and called upon to clarify on the same.

Response :- The Application of Guideline No. 17 by your office, which is in respect of the valuation of the Open land valuation is not the issue in present case and that the case at hand involves the valuation of the Development Rights secured in the document through the valuation of the FSI share secured. Therefore, the valuation of the FSI secured at 85% ASR Value of Land is incorrect, and instead, the FSI should be valued at the complete 100%ASR Land value, as seen in another case involving an MHADA Layout in Bandra Reclamation project which adjudication order is produced for the reference in the rejoinder filed. Further in the present case, it is to be seen from the registered document that the Assistant Town Planner, had also applied as ASR Value @100%, however, latter on made hand corrections to the Document, to balance the Society Consideration to be shown higher and Stamp Duty be charged on the said consideration. It is important to note that if the Hon'ble Chief Controlling Revenue Authority (CCRA) intended such application of valuation as mentioned in your guidelines, it would have been reflected in the special circular issued for MHADA plots guidelines. However, this is not the case in the present instance. An example from the Bandra Reclamation project adjudication Order, demonstrates that for a plot measuring 1600 sqm, the Assistant Town Planner, thereon did not follow the 95% ASR value stipulated in guideline No. 17, but rather considered the complete 100% ASR Land value as the said office was aware that the said guideline is not applicable to the MHADA plots as in the said Case we need to value FSI, where the market rate of FSI would be much higher. As a result of not considering the ASR 100% value for the valuation of the Developer Share of the FSI, Stamp Duty has been reduced significantly. This reduction in Stamp Duty will only benefit Developer and result in a loss of Stamp Duty Revenue for the exchequer amounting to minimum of (2) two Crore Rupees. Therefore, it is crucial to consider this aspect before presenting the final report in the case.

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मा. नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. जा.क्र. का.15/परिपत्रक/मुंबई शहर/स. क्र. 17/1025 दिनांक 12/11/2018 अन्वये स्थूल जमिनीचे मुल्यांकन करण्याची तरतुद दिलेली आहे. सदर परिपत्रकात खालीलप्रमाणे निर्देश दिलेले आहेत- मुंबई शहरासाठी सुधारित विकास नियंत्रण नियमावली शासनाने मंजूर केली असून, ती दि. 13/11/2018 पासून अंमलात येणार आहे. सदर विकास नियंत्रण नियमावलीतील तरतुदीनुसार, संपूर्ण भूखंड क्षेत्रावर चटई क्षेत्र निर्देशांक अनुज्ञेय होणार आहे. तथापि, मनोरंजनात्मक खुली जागा सोडणे बंधनकारक असल्याने, विकासावर येणारी मर्यादा विचारात घेऊन, स्थूल जमिनीच्या मूल्यांकनाबाबत, मुंबई शहरासाठीच्या मार्गदर्शक सुचना क्र. 17 मध्ये खालीलप्रमाणे बदल करण्यात येत आहे-



17. स्थल जमिनीचे मुल्यांकन

- (अ) भूखंडाचे क्षेत्र 1000 चौ. मी. पर्यंत असल्यास, पूर्ण दराने मुल्यांकन करण्यात यावे.
- (ब) भूखंडाचे क्षेत्र 1001 चौ. मी. ते 2500 चौ. मी. पर्यंत असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 95% दराने मुल्यांकन करण्यात यावे.
- (क) भूखंडाचे क्षेत्र 2501 चौ. मी. ते 10000 चौ. मी. पर्यंत असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 90% दराने मुल्यांकन करण्यात यावे.
- (ड) भूखंडाचे क्षेत्र 10001 चौ. मी. व त्यापेक्षा जास्त असल्यास, वार्षिक मूल्यदर तक्त्यातील जमीन दराचे 85% दराने मुल्यांकन करण्यात यावे.

सदर परिपत्रक दि. 13/11/2018 पासून अंमलात येईल.

दस्तात नमुद जमिनीचे क्षेत्र हे 10001 चौ. मी. व त्यापेक्षा जास्त असल्याने जमीन दराच्या 85% दर विचारात घेऊन केलेले मुल्यांकन योग्य आहे.

(iv) The Hon'ble Collector raised the question that even if the Prorata Area FSI is reserved by the Developer in the Development Agreement by way of clauses 3a and 4a in the Development Agreement in question, whether he has to value the said clauses ? and that the said Prorata FSI is purchased by the Developer by paying premium to MHADA and that the same will have to be considered to be deducted from value in case if collector takes decision to value and take into consideration, applying the IGR guidelines Marathi translation in English as published and provided in the book published by the Stamp Duty Ready reckoner.

Response: In relation to the aforementioned question, it is important to note that the Developer purchases the entire FSI made available in the Development agreement, which includes the gross plot FSI and the Prorata FSI and fungible FSI. This purchase is made at a discounted premium rate of 50% of the ASR Land value. According to the DCPR regulations, the FSI is issued only upon payment of the premium to the Developers by the Planning Authority. If we consider the Analogy that the Developer pays for the premium and that this payment should be deducted from the valuation, it will result in no revenue being generated for the State Government. This is because the gross plot FSI and the fungible FSI are valued at 100% of the ASR value, and then the payment made to the authorities, which is issued at either 50% or 100% of the ASR Land value, is deducted. This would leave no amount for the authority to charge the Stamp Duty. It is important to note that the circular provides guidance on valuation considerations to determine which receipts secure the maximum value for either party involved in the transaction, and charges are applied accordingly. In this regard, Circular No. 71, though old one is the correct guidance for valuing the share secured by the Developer and the share constructed for the societies, as well as the receipts obtained. The circular specifically addresses the payment of the premium for the fungible FSI and states that it should be considered in relation to the consideration of the society's share, taking into account the Developer's expenses in procuring the cost of the FSI. Further the Marathi Translation in English of guideline No 27 in the Published Ready Reckoner Book is incorrect and that the Authority can very well compare the same with Marathi version. The valuation of Clauses 3a and 4a of the Development Agreement, which reserve the present and future prorata Area FSI per tenement and fungible FSI, should be conducted as they were not previously valued due to suppression by false declaration, though the said clause in the original record of the office has been duly underlined by the Assistant Town Planner of this Office, however, for the reasons best known to his, he has not valued the same.



या कार्यालयाचा अभिप्राय / अहवाल

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मुददा क्र. 11

(11) In the circumstances above, from the questions raised by the Hon'ble Collector in the last meeting, he has questioned whether Mhada is the approving authority for prorata distribution to the society. He has also asked whether the CFO Plan, approved by BMC, was also approved by Mhada. Both of these points are contradictory to each other, and it is unclear from the Hon'ble Collector's own questions why such concerns are raised with the Complainants, when the complainants have pointed out the complaint about evasion to save the exchequer from the loss of the substantial revenue.

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मुददा क्र. 12

(12) It is submitted that Non-disclosure of the information of present and future prorata area as mentioned in the CFO plan has resulted in loss to exchequer of the revenue of the Stamp Duty to the tune of approximately 85 Crore Rupees.

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मुददा क्र. 13

(13) We summarize that not considering, based on the current submissions made by us stating non-disclosure, has occasioned substantial loss to the exchequer as stated aforesaid. Without considering the current non-disclosures of the Prorata area mentioned in CFO plan in the Stamp Duty adjudication the and all points mentioned hereinabove, the loss to the State exchequer totals to Rs 100 crores approximately. Further concluding and giving the final decision on the Complaint before, without insisting the future potential prorata available for the project based on the revision of the Mhada layout, considering the above regulations mentioned herein will further result in saving of the Stamp Duty to the Developer and loss to the exchequer as stated above.

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मुददा क्र. 14

(14) We have already given an instance of the Bandra reclamation project, where similar Non-Disclosure has taken place, which has already resulted in a huge loss to the exchequer. Ignoring this Complaint and giving a ruling in favor of the Developer will not only cause a substantial loss to the exchequer in this project but also in all future projects on Mhada layouts.

या कार्यालयाचा अभिप्राय / अहवाल

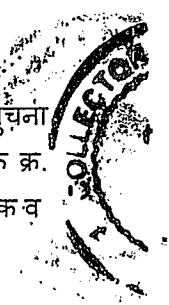
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मुददा क्र. 15

(15) Hope the aforementioned clarifications will be helpful in taking the correct decision in the matter.

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मुद्रांक नियंत्रक, महाराष्ट्र राज्य, पुणे यांचे कार्यालयाचे परिपत्रक क्र. का.15/परिपत्रक/म्हाडा पुनर्विकास प्रकल्प/1023 दिनांक 12/11/2018 आणि विकास नियंत्रण नियमावली 2034 मधील तरतुदीनुसार या कार्यालयाने मुल्यांकन केलेले आहे. त्यानुसार या कार्यालयाने केलेले मुल्यांकन आणि आकारणी केलेले मुद्रांक शुल्क योग्य व बरोबर आहे.

11. उपरोक्तनुसार अहवाल सविनय सादर.

आपला विश्वासू,

(कृष्णा जाधव)

मुद्रांक जिल्हाधिकारी
मुंबई

प्रत-

पोलिस उप-आयुक्त
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पोउआ/आगुवि/2024 दिनांक 23/09/2024 ला
अनुसरून प्रत माहितीस्तव सविनय सादर.
- प्रत माहितीस्तव व पुढील कार्यवाहीस्तव रवाना.
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